

# **CUSTOMS CODE OF THE REPUBLIC OF ALBANIA**

## **TITLE I**

### **GENERAL PROVISIONS**

#### **CHAPTER 1**

##### **SCOPE AND BASIC DEFINITIONS**

###### Article 1

Customs rules shall consist of this Code, the international Customs related rules with regard to the conventions adhered, Implementing Provisions of this Code and other rules related to the Customs activity.

###### Article 2

The customs activity ensures the protection of the interests of the Republic of Albania, concerning the imports, exports and goods in transit, regardless of the means of transport with respect to international shipments, border crossing and the free circulation of goods, persons and their luggage.

###### Article 3

The customs territory shall include the land territory, the territorial waters, the inland waters and the airspace of the Republic of Albania.

###### Article 4

The customs line is constituted by the sea coast the coasts of the bordering lakes and rivers and the land borders with other states.

###### Article 5

1. The customs area includes the premises where the customs authorities exercise their activity, as well as all the areas where those authorities exercise a control and supervision.
2. The customs areas are established at the check border crossing points and at other points of the customs territory.
3. The establishment, territorial extension and the classification of permanent and temporarily customs areas are determined by the Council of Ministers upon the proposal of the Minister of Finance.

###### Article 6

1. The land surveillance area of customs is constituted by the territory between the land borders line up to 10 kilometers inward. Along the coasts this land surveillance area is established up to 5 kilometers from the coasts towards the land.

2. The sea surveillance area of customs is constituted by the sea zone from the coasts up to the external limit of the territorial waters and internal waters..

#### Article 7

Customs authorities means the authorities responsible for applying customs rules, as well as other normative acts.

#### Article 8

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

(1) 'Person' means:

- a) a natural person;
- b) a legal person;
- c) all other persons recognised by the legislation in force.

(2) 'Persons established in the Republic of Albania' means:

- a) in the case of a natural person or persons referred to in point 1(c), any person who is normally resident in Albania;
- b) in the case of a legal person, any person who has in the Republic of Albania a registered office, central headquarters or a permanent business establishment.

3) 'Customs Administration' means the structural organisation of customs authorities.

4) 'Customs office' means any office at which all or some of the formalities laid down by customs rules may be completed.

5) 'Decision' means any official act by the customs authorities pertaining to customs rules giving a ruling on a particular case, such act having normative effects on one or more specific or identifiable persons.

6) 'Customs status' means the status of goods as Albanian or non-Albanian goods.

7) 'Albanian goods' means goods:

- a) wholly obtained or produced in the customs territory of the Republic of Albania under the conditions referred to in article 29 and not incorporating goods imported from other countries or territories;
- b) imported from other countries or territories, which have been released for free circulation;

- c) obtained or produced in the customs territory of the Republic of Albania, either from goods referred to in the paragraph (b) alone, or from goods referred to both in subparagraph (a) and (b) above.
- 8) 'Non-Albanian goods' means goods other than those referred in subparagraph 7.
- 9) 'Customs debt' means the obligation on a person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation) which apply to specific goods under the provisions of the Republic of Albania in force.
- 10) 'Import duties' means customs duties and other charges having an effect equivalent to customs duties payable on the importation of goods.
- 11) 'Export duties' means customs duties and other charges having an effect equivalent to customs duties payable on the exportation of goods.
- 12) 'Debtor' means any person liable for payment of a customs debt.
- 13) 'Supervision by the customs authorities' means action taken in general by those authorities with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed. The supervision of the land surveillance area is done by the inland customs authorities and the supervision of the sea surveillance area is done by the maritime customs authorities.
- 14) 'Control by the customs authorities' means the performance of specific acts such as examining goods, verifying the existence and the authenticity of documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official inquiries and other similar acts with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed, in the customs territory of the Republic of Albania.
- (15) 'Customs approved treatment or use of goods' means:
- (a) the placing of goods under a customs procedure;
  - (b) their entry into a free zone or free warehouse;
  - (c) their re-exportation from the customs territory of the Republic of Albania;
  - (d) their destruction;
  - (e) their abandonment to the Exchequer.
- (16) 'Customs procedure' means:
- (a) release for free circulation;
  - (b) transit;
  - (c) customs warehousing;
  - (d) inward processing;
  - (e) processing under customs control;
  - (f) temporary importation;
  - (g) outward processing;
  - (h) exportation.

17) 'Customs declaration' means the act whereby a person indicates, in the prescribed form and manner, the wish to place goods under a given customs procedure.

18) 'Day of acceptance of declaration at Customs' means the moment when the declaration is presented at the Customs and is accepted by the Customs office.

19) 'Declarant' means the person making the customs declaration in his own name or the person in whose name a customs declaration is made.

20) 'Presentation of goods at customs' means the notification to the customs authorities, in the manner laid down, of the arrival of goods at the customs office or at any place designated or approved by the customs authorities.

21) 'Release of goods' means the act whereby the customs authorities make goods available for the purposes stipulated by the customs procedure under which they are placed.

22) 'Holder of the procedure' means the person on whose behalf the customs declaration was made or the person to whom the rights and obligations of the above mentioned person in respect of a customs procedure have been transferred.

23) 'Holder of the authorisation' means the person to whom an authorisation has been granted.

## CHAPTER 2

### ORGANISATION OF CUSTOMS ADMINISTRATION, OF PERSONNEL AND CUSTOMS ACTIVITIES

#### S e c t i o n 1

##### Organisation of the Central and Local Customs Administration

###### Article 9

1. The Customs Administration comprises the Directorate General, Regional Centres and customs offices. It is subordinate to and under the supervision of the Ministry of Finance.
2. The Regional Centers are subordinate to and under the supervision of the Directorate General of Customs. They are comprised of one or many customs offices over which they exercise control.
3. The competence and the organisation of the Customs Administration are established in the implementing provisions of the Customs Code.

4. Upon the proposal of the Minister of Finance the Council of Ministers, may amend the Implementing Provisions of this Code, concerning the competence and organisational structure of the Customs Administration.

#### Article 10

1. The opening hours of the Customs offices is determined in the Implementing Provisions of this Code.

2. At the customs offices of land and sea borders and in the airports the border crossing service is provided for every day, public holidays included, 24 hours per day, with all the controls and formalities provided for by the present Code being fulfilled.

3. In order to cover the customs activity, the Director General may set out working shifts or may authorise the payment of the hours worked over the normal daily working hours.

4. The Director General may introduce a different time-table of the working hours, or may reduce the opening hours of the offices, whenever the working needs so require.

### S e c t i o n 2

#### Formalities, controls, surveillance and powers of customs authorities

#### Article 11

1. Goods may cross the customs line of the land and sea border and in airports only at the state border crossing points where there are customs areas determined by the customs authorities.

2. The loading, unloading, embarking, discharge and transshipment of goods through the customs line and in airports must be carried out with the permission of the customs authorities and according to the modalities established by them.

3. The customs authorities are responsible for:

- a) carrying out all the formalities determined in the present Code for the goods entering or leaving the Albanian customs territory, according to the rules provided for in the Implementing Provisions;
- b) determining and collecting the customs duties legally due;
- c) preventing, determining and repressing the smuggling activity, offenses and illicit traffic of prohibited goods;
- d) ascertaining and verifying violations of the provisions of the this Code, as provided for in Title VIII;
- e) preparing and signing of international agreements and conventions in customs matters;
- f) prepare, store and distribute the statistical data of foreign trade upon criteria established by the dispositions in force;
- g) supervising goods in that are under the customs supervision, in the entire customs territory of the Republic of Albania;

4. In order to guarantee the observance of the provisions established by the present Code and other rules whose application is a duty of the customs authorities, the customs officers exercise control on any goods, means of transport, and passengers crossing the customs line in the customs areas and along the land and sea borderline, the inland waterways, in territorial waters and in airspace which are under customs surveillance.

5. At the land and sea border crossing points and in the airports, as well as at the exit of the inland customs offices a verification of the goods and means of transport leaving the customs areas, will be organised in order to check the accordance of the quantity and quality of the goods transported with the customs documents accompanying them. If there are not any differences, the customs officers charged with such service will put on the customs documents the stamp that shows their regularity. Otherwise they will draw up the appropriate written report, which will be submitted to the Head of the customs office for the further formalities.

6. Such service will be carried out by the customs authorities, when necessary, also through controls of the means of transport along the roads, where such means move. In such a case, the customs officers, to whom the service of stopping the vehicles has been assigned, must make use of the appropriate road sign provided by the Directorate General of Customs and must show to the driver their identity card. In case of irregularities, the customs officers will escort the vehicle to the nearest customs office, where they will draw up the appropriate written report, which will be submitted to the Head of the customs office for the further formalities.

7. When other authorities, operating in the customs territory of Albania, have suspicions or become aware of information with regard to violations of the provisions of this Code, the Implementing Provisions or other normative acts whose application is assigned to the customs, they must inform immediately the customs office which is competent in that territory. The latter will carry out all the appropriate verifications and formalities, including the information to the Judicial Authorities, according to the procedures provided for in Title VIII of this Code.

8. Where there are reasonable doubts on traffic of drugs, arms, or other crimes of economic or financial character, the competent police authorities may stop the vehicles which are subject of the customs formalities, sealed by the customs authorities. In this case, the means of transport will be accompanied to the nearest customs office territorially competent, where the seal will be removed and where the above mentioned police authorities in the presence of the customs authorities may carry out all the controls deemed necessary. These authorities in collaboration with the customs authorities will prepare the written report, will lodge it with the judicial authorities if it is the case in accordance with the provisions of the Criminal Procedure Code.

## Article 12

1. Except for the cases of force majeure duly certified, and except for the transit procedure and release of goods for free circulation, the customs declaration must be presented at the competent customs offices of the location where the person and the economic operator is situated.

2. The Director General, making an exception to the rule expressed in the previous paragraph, when the circumstances require the application of specific controls, may decide that the customs formalities regarding some categories of goods may be concentrated at the border crossing office, or in one or more inland customs offices.

3. The Heads of the customs offices, for the needs of the trade and upon request of the economic operators, may allow that some of the customs controls to be carried out at the premises of the declarants, or in other places proposed from them, considered suitable by the customs authorities to perform all the necessary controls. The declarant will be charged with the costs of the above said service, which will be established by provision of the Director General of Customs, taking into account the hours spent in the control and the distance of the premises from the customs office.

## S e c t i o n 3

### Organisation chart, employment and working interrelations of Customs Administration personnel

#### Article 13

1. On the date when the present Code and its implementing provisions enter into force, the Minister of Finance upon the proposal of the Director General of Customs, will establish the organisation chart of the central and local offices, in order to guarantee, on one hand, the protection of the Albanian State fiscal interests, and on the other hand, an organisation suitable to the dynamism and peculiarity of the customs activity.
2. Upon the proposal of the Director General of Customs, the Minister of Finance may modify the content of the organisation chart.
3. In the organisation chart the personnel, according to its tasks is divided in high level officials, senior customs officers, customs officers, and other customs personnel categorized in the implementing provisions of the present Code.
4. The tasks and functions assigned to the aforementioned categories, as well as the modalities of passage from a lower to a higher career rank will be established in the Implementing Provisions of this Code.

#### Article 14

1. The General Director of Customs is proposed by the Minister of Finance and is appointed upon decision of the Council of Ministers.
2. The personnel of the Customs Administration is employed through public test, **according to the procedures established by the law of the civil service and the acts implementing that law, as well as other specific provisions regulating the functioning of the General Directorate of Customs** laid down by the Minister of Finance, based on the proposal of the Director General of Customs.
3. The auxiliary personnel is employed on a nominal basis by the General Director of Customs.

#### Article 15

1. The General Directorate of Customs is given 2% of the annual customs income, save for the incomes referred to in Article 298 of the present Code, to be used for investments, improvement of the working and living conditions of the Customs Administration personnel as well as their rewards.

2. Without prejudice to all rules relating to the public employees, considering the peculiarity of the work performed, as well as the difficulties faced while carrying on their tasks, the personnel of the Customs Administration may be conferred an incentive payment, taking into account the following criteria:

- a) the work performed in the land, sea and airport border customs offices;
- b) the services of high danger for the person;
- c) the ascertaining of violations of the Customs Code and its Implementing Provisions;
- d) the efficiency at working.

2. The General Director of Customs, establishes the criteria for the delivery of the incentive payments between the Customs Administration personnel.

#### Article 16

1. The customs personnel that conducts controls and verifications, whilst carrying out their tasks, enjoy the status of the Judiciary Police. This personnel wears the service uniform and at the discretion of the Director General may be provided with weapons. In the events that service needs make it necessary to work without wearing a uniform, the customs personnel must show the Identity Card, issued by the General Directorate of Customs.

2. The providing with weapons and their use by the customs personnel is done in accordance with the dispositions in force regarding the carriage of guns and the status of the Police authorities.

3. Customs personnel are not allowed to accept directly or indirectly, rewards in cash or kind for the customs services conducted. Customs officers are not allowed, to carry on any kind of trading or advising activity incompatible with the completion of the customs activity.

4. Customs personnel must keep the professional secret regarding all activities related to the performance of his tasks.

5. Without prejudice to the provisions contained in the Penal Code, the Director General decides the disciplinary measures to be taken in case of violation of what is set in this article, according to the dispositions in force in this respect.

### CHAPTER 3

#### SUNDRY GENERAL PROVISIONS RELATING IN PARTICULAR TO THE RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO CUSTOMS RULES



## Section 1

### Right of representation

#### Article 17

1. Under the conditions set forth in Article 89 (2), any person may appoint a representative in his dealings with the customs authorities to perform the acts and formalities laid down by customs rules.
2. Such representation may be:
  - a) direct, in which case the representative shall act in the name of and on behalf of another person, or
  - b) indirect, in which case the representative shall act in his own name but on behalf of another person.
3. Save in the cases referred to in article 89 (2) (b) and (3), the representative must be established within the Republic of Albania.
4. The representative must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and whether he is empowered to act as a representative.
5. The customs authorities require from any person stating that he is acting in the name of or on behalf of another person to produce evidence of his power to act as a representative.
6. A representative, according to the conditions laid down in this Article, may also be the customs agent licensed as such by the General Directorate of Customs. The conditions of awarding and removing the license are determined in the Implementing Provisions of this Code.

## Section 2

### Decisions related to the application of customs rules

#### Article 18

1. Where a person requests that the customs authorities take a decision related to the application of customs rules, that person shall supply all the information and documents required by customs authorities in order to take a decision.
2. Such decision shall be taken and notified to the applicant at the earliest opportunity and before the end of the limit time, determined in accordance with the existing provisions.
3. Decisions taken and notified to the applicant by the customs authorities in writing which either reject requests or are detrimental to the persons to whom they are addressed shall set out the

grounds on which they are based. They shall refer to the right of appeal provided for in article 19 and 20.

4. Decisions taken and notified to the applicant shall be immediately enforced by customs authorities. In cases where the disputed decision requires payment of import duties or export duties, suspension of implementation of that decision shall be subject to the existence or lodging of a guarantee.

#### Article 19

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

- a) the applicant knew or should reasonably have known that the information supplied was incorrect or incomplete, and
- b) such decision could not have been taken on the basis of correct or complete information.

2. The persons to whom the decision was addressed shall be notified of its annulment.

3. Annuling shall take effect from the date on which the annulling decision was taken. Annuling can be effected only within the period of time the authorization is valid.

4. The person concerned may appeal against the decision of annulment of authorization at the General Directory of Customs, within 10 days from the day of notification. The General Director of Customs will reply within 10 days on acceptance or denial of the appeal. In the event the General Director does not reply within this term, the request will be presumed to have been accepted.

#### Article 20

1. A decision favourable to the person concerned, shall be revoked or amended where, in cases other than those referred to in Article 19, one or more of the conditions laid down for its issue were no longer fulfilled.

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

3. The person to whom the decision is addressed shall be notified of its revocation or amendment.

4. The revocation or amendment of the decision shall take effect from the date of notification.

5. The person concerned may appeal against the revocation or amendment of the decision at the General Directorate of Customs within 10 days from the notification. The General Director of Customs shall reply within 10 days on the acceptance or denial of the appeal. In the event the General Director does not reply within this term, the request will be presumed to have been accepted.

### Section 3

## Information

### Article 21

1. Any person may request information concerning the application of customs legislation from the customs authorities. Such a request may be refused where it does not relate to an ongoing import or export operation
2. The information shall be supplied to the applicant free of charge. However, where special costs are incurred by the customs authorities, for example as a result of analyses or expert reports on goods, or the return of the goods to the applicant, he is charged the relevant amount.

### Article 22

1. The customs authorities shall issue binding tariff information upon written request.
2. Binding tariff information shall be binding on the customs authorities as against the holder of the information only in respect of the tariff classification of goods. Binding tariff information shall be binding on the customs authorities only for goods on which customs formalities are completed after the date on which the information was supplied by them.
3. The holder of such information must prove that the goods declared correspond to those described in the information in every respect.
4. The binding tariff information will be valid for 6 years. By way of derogation from article 19, binding tariff information shall be annulled where it is based on inaccurate or incomplete information from the applicant.
5. Binding tariff information shall cease to be valid:
  - a) the information no longer conforms to the law laid down thereby;
  - b) where it is no longer compatible with the explanatory notes of a classification opinion or an amendment to the Nomenclature of the Harmonised Commodity Description and Coding System adopted by the World Customs Organisation. In that case the date on which binding tariff information ceases to be valid shall be the date of publication of the said measures;
  - c) the holder of information is notified of its withdrawal, revocation or amendment.
6. The tariff classification is done by the General Directorate of Customs and it is binding and can be changed only upon the decision of the Nomenclature Commission at the World Customs Organisation

## S e c t i o n 4

### Other provisions

## Article 23

The customs authorities, in accordance with the conditions laid down by the provisions in force, carry out all the controls they deem necessary to ensure that customs legislation is correctly applied.

## Article 24

For the purposes of applying customs rules, any person directly or indirectly concerned in the operations concerned for the purposes of trade of goods shall provide the customs authorities with all the required documents and information, irrespective of the medium used, and all the necessary assistance at their request and by any time limit prescribed.

## Article 25

All information which is by nature confidential or which is provided on a confidential basis shall be covered by the obligation of professional secrecy. It shall not be disclosed by the customs authorities without the express permission of the person or authority providing it. The communication of information shall be permitted where the customs authorities may be obliged or authorized to do so, pursuant to the provisions in force, particularly in respect of data protection, or in connection with legal proceedings.

## Article 26

1. The persons concerned shall keep the documents referred to in Article 24 for the purposes of control by the customs authorities, for the period of five calendar years, irrespective of the medium used. That period shall run from the end of the year in which:

- a) in the case of goods released for free circulation or goods declared for export, from the end of the year in which the declarations for release for free circulation or export are accepted;
- b) in the case of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, from the end of the year in which they cease to be subject to customs supervision;
- c) in the case of goods placed under another customs procedure, from the end of the year in which the customs procedure concerned is completed;
- d) in the case of goods placed in a free zone or free warehouse, from the end of the year on which they leave the undertaking concerned.

2. However the documents shall be kept beyond the time limit of five years, according to provisions laid down in other legal provisions, in the following cases:

- a) where a check carried out by the customs authorities in respect of a customs debt shows that the relevant entry in the accounts has to be corrected;
- b) where the communication to the debtor is as a result of an act that could give rise to criminal court proceedings that the customs authorities could not determine the exact amount legally due.

Article 27

The value of foreign currencies in Albanian Lek to be applied within the framework of customs law shall be calculated at the exchange rate published from the Bank of Albania.

## **TITLE II**

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

#### **CHAPTER 1**

#### **CUSTOMS TARIFF AND TARIFF CLASSIFICATION OF GOODS**

Article 28

1. Duties legally owed where a customs debt is incurred shall be based on the Customs Tariff of the Republic of Albania.
2. The other measures prescribed by provisions governing specific fields relating to trade in goods shall, where appropriate, be applied according to the tariff classification of those goods.
3. The Customs Tariff of the Republic of Albania shall comprise:
  - a) the nomenclature of goods based on the harmonized system;
  - b) any other nomenclature which is wholly or partly based on the harmonised system or which adds any subdivisions to this system and which is established by other provisions governing specific fields with a view to the application of tariff measures related to trade in goods;
  - c) the rates and other charges normally applicable to goods covered by the nomenclature based on the harmonized system as regards to customs duties;
  - d) the preferential tariff measures contained in agreements which the Republic of Albania has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;
  - e) autonomous suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;
  - f) other tariff measures provided for by other Albanian legislation.
4. The measures referred to in subparagraph 3 (d) and (e) shall apply to the declarant's request instead of those provided for in subparagraph 3 (c) where the goods concerned fulfill the conditions

laid down by those first-mentioned measures. An application may be made after the event provided that the relevant conditions are fulfilled.

5. Where application of the measures referred to in paragraph 3 (d) and (e) is restricted to a certain volume of imports, it shall cease:

- a) in the case of tariff quotas, as soon as the stipulated limit on the volume of imports is reached;
- b) in the case of tariff ceilings, by specific ruling set forth in normative acts.

6. The tariff classification of goods shall be the determination, according to the rules in force, of:

- a) the subheading of the nomenclature based on the harmonised system or the subheading of any other nomenclature referred to in paragraph 3 (b); or
- b) the subheading of any other nomenclature which is wholly or partly based on the nomenclature based on the harmonised system or which adds any subdivisions to it, and which is established by other provisions governing specific fields with a view to the application of measures other than tariff measures relating to trade in goods ,

under which the aforesaid goods are to be classified.

## CHAPTER 2

### ORIGIN OF GOODS

#### Section 1

#### Non-preferential origin

##### Article 29

1. Goods originating in a country shall be those wholly obtained or produced in that country.
2. The expression “goods wholly obtained in a country” means:
  - a) mineral products extracted within that country;
  - b) vegetable products harvested therein;
  - c) live animals born and raised therein;
  - d) products derived from live animals raised therein;
  - e) products of hunting or fishing carried on therein;
  - f) products of sea fishing and other products taken from the sea outside a country’s territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country;
  - g) goods obtained or produced on board factory ships from the products referred to in subparagraph (f), originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;

- h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;
- j) goods which are produced exclusively from goods referred to in subparagraphs (a) to (i) or their derivatives at any stage of production.

3. For the purposes of paragraph 2 the expression 'country' covers also the territorial waters of that country.

#### Article 30

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

#### Article 31

1. Customs rules may require that a document must be produced as proof of the origin of goods.
2. The Chambers of Commerce issues the certificate of non-preferential origin of goods.
3. Notwithstanding the production of this document, the customs authorities, in the event of serious doubts, require any additional proof to ensure that the indication of origin does comply with the rules laid down by the relevant legislation.
4. The rules of non preferential origin determine the conditions that the goods must meet to be considered originating from a certain country. The formalities of issuance of the certificate of non preferential origin are described in the Implementing Provisions.

### S e c t i o n 2

#### Preferential origin of goods

#### Article 32

1. The rules on preferential origin shall lay down the conditions governing acquisition of origin which goods must fulfill in order to benefit from the preferential measures contained in agreements which the Republic of Albania has completed with certain countries or groups of countries.
2. Customs authorities are entitled to issue the certificate of preferential origin of goods.
3. Rules regarding preferential origin as well as the formalities of issuance of the certificates of preferential origin are described in the Implementing Provisions.

## CHAPTER 3

### VALUE OF GOODS FOR CUSTOMS PURPOSES

#### Article 33

The provisions of this Chapter shall determine the customs value for the purposes of applying the Customs Tariff of the Republic of Albania and non-tariff measures laid down by other provisions governing specific fields related to trade of goods.

#### Article 34

1. The customs value of imported goods shall be the transaction value, which is the price actually paid or payable for the goods when sold for export to the customs territory of the Republic of Albania, adjusted, where necessary, in accordance with Articles 37 and 38, provided:

- a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
  - i. are imposed or required by a law or by the public authorities in the Republic of Albania,
  - ii. do not substantially affect the value of the goods;
- b) that the sale or price is not subject to some condition or consideration for which a value may not be determined with respect to the goods being valued;
- c) that 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 may be made in accordance with Article 37; and
- d) that the buyer and seller are not related, or, where the buyer and seller are related, the transaction value is acceptable for customs purposes under paragraph 2.

2 (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs authorities have grounds for considering that the relationship influenced the price, they shall communicate their grounds to the declarant and he shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be notified in writing;

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:



- i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to the Republic of Albania,
- ii) the customs value of identical or similar goods, as determined under Article 35 (2) (c);
- iii) the customs value of identical or similar goods, as determined under Article 35 (2) (d).

In applying the foregoing criteria, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 37 and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

(c) The criteria set forth in subparagraph (b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said subparagraph.

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

b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 37, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

## Article 35

1. Where the customs value may not be determined under Article 34, it is to be determined by proceeding sequentially through subparagraphs (a), (b), (c) and (d) of paragraph 2 to the first subparagraph under which it may be determined, subject to the provisions that the order of application of subparagraphs (c) and (d) shall be reversed if the declarant so requests; it is only when such value may not be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph may be applied.

2. The customs value determined under this Article shall be:

- a) the transaction value of identical goods sold for export to the Republic of Albania and exported at or about the same time as the goods being valued;
- b) the transaction value of similar goods sold for export to the Republic of Albania and exported at or about the same time as the goods being valued;
- c) the value based on the unit price at which the imported goods for identical or similar imported goods are sold within the Republic of Albania in the greatest aggregate quantity to persons not related to the sellers;
- d) the computed value, consisting of the sum of:
  - i) the cost or value of materials and fabrication or other processing employed in producing the imported goods,

- ii) 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 exportation for export to the Republic of Albania,
- iii) the cost or value of the items referred to in Article 37 (1) (e).

3. Any further conditions and rules for the application of paragraph 2 above shall be determined in the Implementing Provisions.

#### Article 36

1. Where the customs value of imported goods may not be determined under Articles 34 or 35, it shall be determined on the basis of data available in the Republic of Albania, using reasonable means, in accordance with:

- a) the agreement for the application of Article 7 of the General Agreement on Tariffs and Trade;
- b) Article 7 of the General Agreement on Tariffs and Trade;
- c) dispositions of this Chapter.

2. No customs value shall be determined under paragraph 1 on the basis of:

- a) the selling price in the Republic of Albania of goods produced in the Republic of Albania;
- b) a system which foresees for the acceptance for customs purposes of the higher of two alternative values;
- c) the price of goods on the domestic market of the country of exportation;
- d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with Article 35 (2) (d);
- e) prices for export to another country ;
- f) minimum customs values; or
- g) arbitrary or fictitious values.

#### Article 37

1. In determining the customs value under Article 34, there shall be added to the price actually paid or payable for the imported goods:

- a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
  - i) commissions and brokerage, except the buying commissions,
  - ii) the cost of containers which is treated as being one, for customs purposes, with the goods in question,
  - iii) the cost of packing, whether for labor or materials;
- b) the value apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
  - i) materials, components, parts and similar items incorporated in the imported goods,
  - ii) tools, dies, molds and similar items used in the production of the imported goods,

- iii) materials consumed in the production of the imported goods,
- iv) engineering work, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Republic of Albania and necessary for the production of the imported goods;

- c) royalties and license 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;
- d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- e) (i) the cost of transport and insurance of the imported goods, and  
(ii) loading and handling charges associated with the transport of the imported goods,

to the place of introduction into the customs territory of the Republic of Albania.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

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

4. For the purpose of this Chapter, the term 'buying commission' means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.

5. Notwithstanding paragraph 1 (c):

- a) charges for the right to reproduce the imported goods in the Republic of Albania shall not be added to the price actually paid or payable for the imported goods in determining the customs value, and
- b) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods, if such payments are not a condition of the sale for export to the Republic of Albania of the goods.

#### Article 38

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

- a) charges for the transport of goods after their arrival at the place of introduction into the customs territory of the Republic of Albania;
- b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;
- c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer may demonstrate that:
  - i. such goods are actually sold at the price declared as the price actually paid or payable, and

- ii. 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;
- d) charges for the right to reproduce imported goods in the Republic of Albania;
- e) buying commissions;
- f) import duties or other charges payable in the Republic of Albania by reason of the importation or sale of the goods.

#### Article 39

Specific rules may be laid down in dispositions enacted by the Minister of Finance to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions.

#### Article 40

1. The provisions of this Chapter shall be without prejudice to the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.
2. By way of derogation from Articles 34, 35 and 36, the customs value of perishable goods usually delivered on consignment may, at the request of the declarant, be determined under simplified rules.
3. When there is a need to determine the customs value of goods and it is expressed in a currency other than Albanian Lek, the rate of exchange shall be calculated at the exchange rate published by the Bank of Albania on the day mentioned in Article 92.

## **TITLE III**

### **PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA UNTIL THEY ARE ASSIGNED A CUSTOMS-APPROVED TREATMENT OR USE**

#### CHAPTER 1

#### ENTRY OF GOODS I INTO THE CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA

#### Article 41

1. “ Moment of entry” is considered the moment when the goods or means of transport cross the state border of the Republic of Albania.

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

3. They shall remain under such supervision for as long as necessary to determine their customs status, if appropriate, and in the case of non-Albanian goods and without prejudice to Article 105 (1), until their customs status is changed, they enter a free zone or free warehouse or they are re-exported, or destroyed or abandoned to the exchequer.

#### Article 42

1. Goods brought into the customs territory of the Republic of Albania shall be conveyed by the person bringing them into the Republic of Albania without delay, by the route specified by the customs authorities and in accordance with their instructions, if any:

- a) to the customs office designated by the customs authorities or to any other place designated or approved by those authorities; or,
- b) to a free zone, if the goods are to be brought into that free zone direct by sea, air or land.

2. Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of the Republic of Albania, among other things as a result of transshipment, shall become responsible for compliance with the obligations laid down in paragraph 1.

3. Paragraph 1(a) shall not preclude implementation of any provisions in force with respect to tourist traffic, frontier traffic, postal traffic or traffic of negligible economic importance, on condition that customs supervision and customs control possibilities are not thereby jeopardized.

4. Paragraph 1 shall not apply to goods on board vessels or aircraft crossing the territorial sea or airspace of the Republic of Albania without having as their destination a port or airport situated in the Republic of Albania.

#### Article 43

1. Where, by reason of unforeseeable circumstances or force majeure, the obligation laid down in Article 42 (1) cannot be complied with, the person bound by that obligation or any other person acting in his name shall inform the customs authority of the situation without delay. Where the unforeseeable circumstances or force majeure do not result in total loss of the goods, the customs authorities shall also be informed of precise location of goods.

2. Where by reason of unforeseeable circumstances or force majeure, a vessel or aircraft covered by Article 42 (4) is forced to put into port or land temporarily in the customs territory of the Republic of Albania and the obligation laid down in Article 42 (1) cannot be complied with, the person bringing the vessel or aircraft into the customs territory of the Republic of Albania or any other person acting in his name shall inform the customs authorities of the situation without delay.

3. The customs authorities shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1 as well as those on board a vessel or

aircraft in the circumstances specified in paragraph 2 and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the authorities.

## Chapter 2

### **SPECIAL PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA CONSIGNED BY AIR, SEA OR RAIL AND PASSENGER AND POSTAL TRAFFIC.**

#### A. General Provisions

##### Article 44

Where goods are brought into the customs territory of the Republic of Albania from a foreign country by sea or air, and are consigned under cover of a single transport document by the same mode of transport, without transshipment, to another port or airport in the Republic of Albania, they shall be presented at customs, within the meaning of Article 65 of the present Code, only at the port or airport where they are unloaded or transshipped.

#### B. Air Traffic

##### Article 45

Aircraft, entering the airspace of the Republic of Albania may fly in airways designated by the authority for international traffic, and may land and take off from international airports approved for air traffic with foreign countries.

##### Article 46

1. Aircraft, aircraft and cabin crew, crew luggage, passengers, passenger baggage, and goods shall be subject to customs supervision at the first airport of arrival in the Republic of Albania.
2. Representatives of the aircraft and all persons concerned with the control of goods imported by air shall be subject to customs supervision.
3. The part of an airport authorized for international traffic shall be subject to customs supervision.
4. An authorized person shall lodge to the customs office a manifest or similar documents on all goods being carried, as soon as the aircraft lands at an authorized airport.
5. Aircraft should refrain from throwing goods whilst flying.

##### Article 47

The following need not to present a manifest at the customs authorities:

- a) aircraft flying from one airport to another in the Republic of Albania without any stops at an airport outside the republic of Albania;
- b) military aircraft;
- c) private aircraft for personal use when such means does not carry goods subject to customs control.

#### Article 48

1. The customs authorities of arrival shall carry out customs supervision of the aircraft immediately on landing and conduct any controls and formalities applicable to:

- a) the cabin and baggage of the crew;
- b) passengers baggage and hand luggage.

2. Hand luggage referred to in paragraph 1 of this Article means any item which crew members or passengers carry into the space of the aircraft which is designated for passengers.

#### Article 49

Customs supervision of an aircraft, crew, cabin crew, passengers and their luggage, and goods departing to a destination outside the territory of the Republic of Albania shall be carried out at the airport authorized for international departures.

#### Article 50

1. If an aircraft has to land at an airport not authorized for receiving international air traffic, the captain of the aircraft shall inform the nearest customs authority which shall place the aircraft, crew, and passengers under customs supervision.

2. The captain of an aircraft, may require to take on fuel during the flight only in an emergency. On landing the aircraft, the captain shall inform the customs authorities and indicate accurately the place where the fuel was taken on.

### C. Maritime and Water Traffic

#### Article 51

1. Vessels carrying goods brought into the customs territory of the Republic of Albania may only call ports approved for international traffic.

2. When authorized, vessels referred to in paragraph 1 of this Article may also call at other points where the captain of the vessel shall inform the nearest customs office or the nearest government authority, which shall report immediately to the nearest customs authority.

#### Article 52

1. Vessels carrying goods brought into the customs authority of Albania and sailing in the customs border zone at sea, on navigable lakes or rivers shall carry a manifest unless provided otherwise.

2. The manifest shall be a document in which the captain of the vessel or a person authorized by the captain of the vessel enters the total cargo loaded on the vessel.
3. Another document or collection of documents containing the information prescribed for the manifest may be accepted as a manifest in the context of paragraph 1 and 2 of this Article.
4. The following vessels need not carry a manifest:
  - a) vessels carrying Albanian goods or goods brought into the customs territory of the Republic of Albania which have not been presented yet to customs authorities and for which they carry other appropriate documents;
  - b) vessels used for scientific purposes;
  - c) fishing vessels used only for fishing;
  - d) vessels of farmers used solely in their occupation;
  - e) sports vessels and private boats.

#### Article 53

1. Within 24 hours after the arrival of the vessel the captain of the vessel shall declare the vessel and the goods.
2. The vessel and the goods shall be declared by presentation of a manifest.
3. The goods shall be unloaded under customs supervision on the basis of the manifest or part of the manifest.
4. Domestic and foreign vessels shall lodge a notification of importation and transit of goods for goods brought into the customs territory of the Republic of Albania that are to be unloaded.

#### Article 54

1. Customs supervision shall begin immediately after the medical, phytosanitary, and veterinary inspection of the vessel.
2. When a vessel has arrived the customs authorities shall conduct an inspection of the vessel.
3. Inspection of the vessel may be performed while the vessel is at anchor.

#### Article 55

1. Transshipment of goods from one vessel to another shall be approved by the customs authorities and shall be carried out under customs supervision.
2. Goods which are transhipped from one vessel to another without the approval of the customs authorities, shall be reported with a statement from the competent seaport or harbor authority as to the reasons for the transshipment.



3. The competent customs authorities that receive the report will make sure that there are no customs violations involved. In that case, they will take the appropriate decisions according to what is provided for in Title VIII of the Code.

#### Article 56

1. Vessels arriving from abroad by lakes and rivers or departing abroad shall report to the border customs office the customs formalities to be carried out.

2. The customs formalities may also be carried out while the vessel is navigating a border lake or river.

3. The captain of a vessel arriving from abroad by lake or river shall lodge a notice of importation and transit of goods to the border customs office.

4. The export customs office shall verify that the customs markings are undamaged and that the goods on the vessel conform to the export declaration.

#### Article 57

Foreign vessels in transit which call at an Albanian lake or river port to take fuel, food, or other supplies, but not to take on or unload cargo, are exempt from customs inspection and shall only be placed under customs supervision.

#### Article 58

1. Albanian vessels in scheduled service in the customs border zone at sea or on border lakes or rivers:

- a) do not need a manifest;
- b) may serve seaports and lake or river ports which are not open to domestic if they are indicated in the vessel's sailing schedule;
- c) may load, unload, and transship cargo and passengers without customs supervision.

2. The license for such sailing shall be issued by the customs office with jurisdiction over the vessel's home port.

### D. Rail Traffic

#### Article 59

1. The railway company shall make the records held at the accounting offices available to the Customs Administration.

2. The railway company which accepts the goods for transport accompanied by a consignment note shall be responsible body for customs formalities.

3. In the transport of passengers by railway, the customs authorities will carry out all the controls in the land railway border crossing points on the passengers and their luggage, as well as in the conducting cabins, personnel and their luggage.

## E. Postal Goods

### Article 60

1. All mail containing consignments for commercial purposes of an aggregate value exceeding the threshold laid down by the provisions in force issued by the Minister of Finance, as well as mail containing goods for commercial purposes are subject to a customs declaration.
2. Postal goods shall be accepted and delivered between a foreign post office and the Albanian post office under customs supervision. In case of quickened consignments, the General Director of Customs may authorize immediate release of goods towards a guarantee and lodging of the appropriate general or periodical declaration.
3. The exchange post office shall forward all mail shipments containing goods brought in the customs territory of the Republic of Albania under customs supervision to the post office where the goods shall be controlled with respect to security and protection.
4. Postal shipments shall remain under customs supervision while customs formalities are completed in the post office.

### Article 61

The following postal consignments shall be considered to have been declared:

- a) postcards and letters containing personal messages only;
- b) printed matter not liable for import duties;
- c) braille letters; and
- d) all other consignments sent by letter or parcel post which are exempt from the obligation to be conveyed to customs in accordance with the provisions pursuant to Article 42 (3) of this code.

### Article 62

The customs authorities shall prescribe, in conformity with this Code the conditions, restrictions and the manner under which the measures of customs supervision may be conducted on postal shipments sent abroad and subject to control by those authorities.

## F. Passenger Traffic

### Article 63

For the purposes of this Chapter, “passenger” means:

#### A. on entry:

1. any person temporarily entering the customs territory of the Republic of Albania, and normally resident there, and

2. any person returning to the customs territory of the Republic of Albania where he is normally resident, after having been temporarily in a foreign country;

B. on exit

1. any person temporarily leaving the customs territory of the Republic of Albania where he is normally resident, and
2. any person leaving the customs territory of the Republic of Albania after a temporary stay, not normally resident there.

Article 64

1. While entering or leaving the Republic of Albania, the passenger shall declare and at the customs authority's request show all goods being carried.
2. In order to check the declaration referred to in paragraph 1 of this article, the customs authority may, if necessary, control the goods which the passenger is carrying.
3. Goods carried by diplomatic couriers on the basis of a diplomatic courier's letter shall not be subject to customs control. The members of the Parliament, their luggage and the mail addressed to them will not be subject to customs control. **This provision is valid also for any other person who by way of any other disposition in force are recognized to be eligible for this exemption.**

## CHAPTER 3

### PRESENTATION OF GOODS TO CUSTOMS

Article 65

Goods which pursuant to Article 42 (1) (a), arrive at the customs office or other place designated or approved by the customs authorities shall be presented at customs by the person who brought the goods into the customs territory of the Republic of Albania or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry.

Article 66

Article 65 shall not preclude the implementation of rules in force related to goods carried by travelers.

Article 67

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

## CHAPTER 4

### SUMMARY DECLARATION AND UNLOADING OF GOODS PRESENTED AT CUSTOMS

#### Article 68

1. Subject to Article 70, goods presented to customs within the meaning of Article 65 shall be covered by a summary declaration.
2. The summary declaration shall be lodged once the goods have been presented at customs. The customs authorities may, however, allow a period for lodging the declaration which shall not extend beyond the first working day following the day on which the goods are presented at customs.

#### Article 69

1. The summary declaration shall be made in the form corresponding to the model prescribed by the customs authorities. However, the customs authorities may permit the use, as a summary declaration, of any commercial or official document which contains the particulars necessary for identification of the goods.
2. The summary declaration shall be lodged by:
  - a) the person who brought the goods into the customs territory of the Republic of Albania or by any person who assumes responsibility for carriage of the goods following such entry; or
  - b) the person in whose name the persons referred to in subparagraph (a) acted.

#### Article 70

Without prejudice to the provisions governing goods imported by travelers and consignments by letter and parcel post, the customs authorities may waive the lodging of a summary declaration on condition that this does not jeopardize customs supervision of the goods, where, prior to the expiry of the period referred to in Article 68, the formalities necessary for the goods to be assigned a customs-approved treatment or use are carried out.

#### Article 71

1. Goods shall be unloaded or transhipped from the means of transport carrying them solely with the permission of the customs authorities in places designated or approved by those customs authorities. However, such permission shall not be required in the event of the imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs authorities shall be informed accordingly forthwith.
2. For the purpose of inspecting goods and the means of transport carrying them, the customs authorities may at any time require goods to be unloaded and unpacked.

## Article 72

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

## CHAPTER 5

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

## Article 73

Non-Albanian goods presented at customs shall be assigned a customs-approved treatment or use authorized for such non-Albanian goods.

## Article 74

1. Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within:
  - a) 20 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
  - b) 10 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.
2. Where circumstances so warrant, the customs authorities may set a shorter period or authorize an extension of the periods referred to in paragraph 1. Such extension shall not, however, exceed the genuine requirements which are justified by the circumstances.

## CHAPTER 6

### TEMPORARY STORAGE OF GOODS

## Article 75

Until such time as they are assigned a customs-approved treatment or use, goods presented to customs shall, following such presentation, have the status of goods in temporary storage. Such goods shall hereinafter be described as “goods in temporary storage”.

## Article 76

1. Goods in temporary storage shall be stored in customs areas or any other places approved by the customs authorities.
2. The customs authorities may require the person holding the goods to provide security with a view to ensuring payment of any customs debt on importation which may arise under Articles 218 or 219.

#### Article 77

Without prejudice to the provisions of Article 67, 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.

#### Article 78

1. The customs authorities shall without delay take all measures necessary, including the sale of the goods, to regularize the situation of goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use are not initiated within the periods determined in accordance with Article 74.
2. The customs authorities may, at the risk and expense of the person holding them, have the goods in question transferred to a special place, which is under their supervision, until the situation of the goods is regularized.

### CHAPTER 7

#### PROVISIONS APPLICABLE TO NON-ALBANIAN GOODS WHICH HAVE MOVED UNDER A TRANSIT PROCEDURE

#### Article 79

Article 42, with the exception of paragraph 1(a) thereof, and Articles 43 and 65 to 78 shall not apply when goods already placed under a transit procedure are brought into the customs territory of the Republic of Albania.

#### Article 80

Once non-Albanian goods which have moved under a transit procedure reach their destination in the customs territory of the Republic of Albania and have been presented to customs in accordance with the rules governing transit, Articles 68 to 78 shall apply.

### CHAPTER 8

#### OTHER PROVISIONS

#### Article 81

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

#### Article 82

1. Where customs authorities find that goods have been brought unauthorized into the customs territory of the Republic of Albania or have been withheld from customs surveillance, they shall take any measures necessary, including sale of the goods, in order to regularize their situation.

2. As soon as the Albanian goods that circulate under transit procedure reach their destination in the customs territory of the Republic of Albania irregularly or having avoided the customs surveillance, the customs authorities take all the measures necessary, sale of goods included, in order to regulate their status.

3. The customs authorities upon request of the holder of a trademark or patent of production or other rights, specified in the Implementing Provisions, may prohibit their release in free circulation, the exportation, the re exportation and their placing under the suspensive procedure of the goods that are recognized to be counterfeited usurpated, according to the procedure provided for in the Implementing Provisions.

## **TITLE IV**

### **CUSTOMS-APPROVED TREATMENT OR USE**

#### **CHAPTER 1**

##### **GENERAL**

###### **Article 83**

1. Save as otherwise provided, goods may at any time and under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature or quantity, or their country of origin, consignment or destination.

2. Paragraph 1 does not preclude the imposition of prohibitions or restrictions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property. **The list of goods that are prohibited is laid down and updated by the Council of Ministers.**

#### **CHAPTER 2**

### **CUSTOMS PROCEDURES**

#### **Section 1**

##### **Placing of goods under a customs procedure**

###### **Article 84**

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

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

#### Article 85

Specific rules are included in the Implementing Provisions or provisions enacted by the Minister of Finance upon the proposal of the General Director of Customs, which determine the competence of customs authorities and of various customs offices, taking account of the nature of the goods and the customs procedure under which they are to be placed.

#### Article 86

The customs declaration shall be made:

- a) in writing ; or
- b) using data-processing techniques where provided for by other provisions laid down; or
- c) by an oral declaration, or any other act by which the person responsible for the goods expresses his will to place goods under a Customs regime in case this possibility is provided for in the acts issued by the Minister of Finance.

### Declaration in writing

#### Article 87

1. Declarations in writing shall be made on a form corresponding to the official specimen prescribed for that purpose. They shall be signed and contain all the particulars necessary for implementation of the provisions governing the customs procedure for which the goods are declared.

2. The declaration shall be accompanied by all the documents required for implementation of the provisions governing the customs procedure for which the goods are declared.

#### Article 88

Declarations which comply with the conditions laid down in Article 87 shall be accepted by the customs authorities immediately, provided that the goods to which they refer are presented to customs.

#### Article 89

1. Subject to Article 17, a customs declaration may be made by any person who is able to present the goods in question or to have them presented to the competent customs authority, together



with all the documents which are required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.

2. However,

- a) where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person himself or the person who acts on his behalf;
- b) the declarant must be established in the Republic of Albania. However, the conditions regarding establishment in the Republic of Albania shall not apply to persons who make a declaration for transit through the Albania Customs territory with destination a third country or make temporary importation declarations.

3. Paragraph 2 (b) shall not preclude the application by the Republic of Albania of bilateral agreements concluded with another country or with group of countries, under which citizens of such countries may make customs declarations in the territory of the Republic of Albania.

#### Article 90

1. The declarant shall, at his request, be authorized to amend one or more of the particulars of the declaration after it has been accepted by customs. The amendment shall not have the effect of rendering the declaration applicable to goods other than those originally covered.

2. However, no amendment shall be permitted where authorisation is requested after the customs authorities:

- a) have informed the declarant that they intend to examine the goods; or,
- b) have established that the particulars in question are incorrect; or,
- c) have released the goods.

#### Article 91

1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted where the declarant provides proof that goods were declared in error for the customs procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified. Nevertheless, where the customs authorities have informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted until after the examination has taken place.

2. The declaration shall not be invalidated after the goods have been released, except as otherwise provided by legal acts enforced by the Minister of Finance.

3. Invalidation of the declaration shall be without prejudice to the application of the penal provisions in force.

#### Article 92

Save as otherwise expressly provided, the date to be used for the purposes of all the provisions governing the customs procedure for which the goods are declared shall be the date of acceptance of the declaration by the customs authorities.

#### Article 93

For the verification of the declarations which they have accepted, the customs authorities may:

- a) examine the documents covering the declaration and the documents accompanying it. The customs authorities may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration;
- b) examine the goods and take samples for analysis or for detailed examination.

#### Article 94

1. Transport of the goods to the places where they are to be examined and samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.

2. The declarant shall be entitled to be present when the goods are examined and when samples are taken. Where they deem it appropriate, the customs authorities shall require the declarant to be present or represented when the goods are examined or samples are taken in order to provide them with the assistance necessary to facilitate such examination or taking of samples.

#### Article 95

1. Where only part of the goods covered by a declaration are examined, the results of the partial examination shall be taken to apply to all the goods covered by that declaration. However, the declarant may request a further examination of the goods if he considers that the results of the partial examination are not valid as regards the remainder of the goods declared.

2. For the purposes of paragraph 1, where a declaration form covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

#### Article 96

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

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

#### Article 97

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

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

#### Article 98

1. Without prejudice to Article 99, where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the customs authorities shall release the goods as soon as the particulars in the declaration have been verified or accepted without verification.

2. All the goods covered by the same declaration shall be released at the same time. For the purposes of this paragraph, where a declaration form covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

#### Article 99

1. Where acceptance of a customs declaration gives rise to a customs debt, the goods covered by the declaration shall not be released unless the customs debt has been paid or secured. However, without prejudice to paragraph 2, this provision shall not apply to the temporary importation procedure with partial relief from import duties.

2. Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs authorities require the provision of a security, the said goods shall not be released for the customs procedure in question until such security is provided.

#### Article 100

Any necessary measures, including confiscation and sale, shall be taken to deal with goods which:

a) may not be released because:

- i. it has not been possible to undertake or continue examination of the goods within the period prescribed by the customs authorities for reasons attributable to the declarant; or,
- ii. the documents which must be produced before the goods may be placed under the customs procedure requested have not been produced; or,
- iii. payments or security which should have been made or provided in respect of import duties or export duties, as the case may be, have not been made or provided within the period prescribed; or,
- iv. they are subject to bans or restrictions;

b) are not removed within 10 days from their release.

## B. Other declarations

### Article 101

Where the customs declaration is made by means of a data-processing technique within the meaning of Article 86 (b), or by an oral declaration within the meaning of Article 86 (c), Articles 87 to 100 shall apply mutatis mutandis without prejudice to the principles set out therein.

## C. Examination Of Post-Clearance Declarations

### Article 102

1. The customs authorities may, on their own initiative or at the request of the declarant, amend the declaration after release of the goods.
2. The customs authorities may, after releasing the goods and in order to satisfy themselves as to the accuracy of the particulars contained in the declaration, inspect the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document and data for business purposes. Those authorities may also examine the goods where it is still possible for them to be produced.
3. Where revision of the declaration or post-clearance examination indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs authorities shall, in accordance with any provisions laid down, take the measures necessary to regularize the situation, taking account of the new information available to them.

## Section 2

### Release for free circulation

#### Article 103

1. Release for free circulation shall confer on non-Albanian goods the customs status of Albanian goods.
2. It shall entail application of commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any import duties.

#### Article 104

Where a consignment is made up of goods falling within different tariff classifications, and dealing with each of those goods in accordance with its tariff classification for the purpose of drawing up the declaration would entail a burden of work and expense disproportionate to the import duties chargeable, the customs authorities may, at the request of the declarant, agree that import

duties be charged on the whole consignment on the basis of the tariff classification of the goods which are subject to the highest rate of import duty.

#### Article 105

1. Where goods are released for free circulation at a reduced or zero rate of duty on account of their end-use, they shall remain under customs supervision. This Customs supervision shall end when the conditions laid down for granting such a reduced or zero rate of duty cease to apply, where the goods are exported or destroyed or where the use of the goods for the purposes other than those laid down for the application of the reduced or zero rate of duty is permitted subject to payment of the duties due.
2. Articles 111 and 113 shall apply mutatis mutandis to the goods referred to in paragraph 1.

#### Article 106

Goods released for free circulation shall lose their customs status as Albanian goods where:

- a) the declaration for release for free circulation is invalidated after release in accordance with Article 91, or
- b) the import duties payable on those goods are repaid or remitted:
  - i. under the inward processing procedure in the form of the draw back system;  
or
  - ii. in respect of defective goods or goods which fail to comply with the terms of the contract, pursuant to Article 251; or
  - iii. in situations of the type referred to in Article 252 where reimbursement or remission is conditional upon the goods being exported or re-exported or being assigned an equivalent customs-approved treatment or use .

### Section 3

Suspense arrangements and customs procedures with economic impact

#### A. Provisions Common to Several Procedures

#### Article 107

1. In Articles 108 to 113:
  - a) where the term 'procedure' is used, it is understood as applying, in the case of non-Albanian goods, to the following arrangements:
    - i. transit;
    - ii. customs warehousing;
    - iii. inward processing in the form of a system of suspension;

- iv. processing under customs control;
  - v. temporary importation;
- b) where the term ‘customs procedure with economic impact’ is used, it is understood as applying to the following arrangements:
- i. customs warehousing;
  - ii. inward processing;
  - iii. processing under customs control;
  - iv. temporary importation;
  - v. outward processing.

2. ‘Import goods’ means goods placed under a suspensive procedure and goods, which, under the inward processing procedure in the form of drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Article 146.

3. ‘Goods in unaltered state’ means import goods which, under the inward processing procedure or the procedures for processing under customs control, have undergone no form of processing.

#### Article 108

The use of any customs procedures with economic impact shall be conditional upon authorisation being issued by the customs authorities.

#### Article 109

Without prejudice to the additional special conditions governing the procedure in question, the authorisation referred to in Article 108 and that referred to in Article 123 shall be granted only:

- a) to persons who offer every guarantee necessary for the proper conduct of the operations;
- b) where the customs authorities may supervise and monitor the procedure.

#### Article 110

1. The conditions under which the procedure in question is used shall be set out in the authorisation.

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

#### Article 111

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

2. The Minister of Finance may enact special provisions, concerning the provision of guarantee in the context of a specific suspensive arrangement.

## Article 112

1. A suspensive arrangement with economic impact shall be discharged when a new customs-approved treatment or use is assigned either to the goods placed under that arrangement or to compensating or processed products placed under it.
2. The customs authorities shall take all the measures necessary to regularise the position of goods in respect of which a procedure has not been discharged under the conditions prescribed.

## Article 113

The rights and obligations of the holder of a customs procedure with economic impact may, on the conditions laid down by the customs authorities, be transferred successively to other persons who fulfills any conditions laid down in order to benefit from the procedure in question.

## B. Transit

### I. General provisions

## Article 114

1. The transit procedure shall allow the movement from one point to another within the customs territory of the Republic of Albania of:
  - a) non-Albanian goods, without such goods being subject to import duties and other charges or to commercial policy measures;
  - b) Albanian goods which are subject to measures involving their export to other countries and in respect of which the corresponding customs formalities for export have been carried out.
2. Movement as referred to in paragraph 1 shall take place:
  - a) under the transit procedure; or
  - b) under cover of a TIR carnet (TIR Convention) provided that such movement:
    - i) began or is to end outside the Republic of Albania;
    - ii) relates to consignments of goods which must be unloaded in the customs territory of the Republic of Albania and which are conveyed with goods to be unloaded in another country; or
  - c) under cover of an ATA carnet (ATA Convention) used as a transit document; or
  - d) by post (including parcel post).
3. The transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under a customs procedure with economic impact.

## Article 115

The transit procedure shall end when the goods and the corresponding documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.

## II. Specific provisions related to transit

### Article 116

The transit procedure shall apply to goods passing through the territory of another country only if:

- a) provision is made to that effect under an international agreement; or
- b) carriage of goods through that country is effected under cover of a single transport document drawn up in the customs territory of the Republic of Albania; in such case the operation of that procedure shall be suspended in the territory of the other country.

### Article 117

1. Subject to Article 118, the principal shall provide a guarantee in order to ensure payment of any customs debt or other charges which may be incurred in respect of the goods.

2. Except in cases to be determined where necessary in provisions enacted by the Minister of Finance, no guarantee need be furnished for:

- a) journeys by sea and air;
- b) the carriage by pipeline;
- c) operations carried out by public railway companies.

### Article 118

1. Any person satisfying the conditions laid down in paragraph 2 may, subject to the limits laid down in paragraph 3, obtain from the customs authorities a guarantee waiver for transit operations carried out by him.

2. The guarantee waiver referred to in paragraph 1 shall be granted only to persons:

- a) who are established in the Republic of Albania;
- b) who are regular users of the transit procedure;
- c) whose financial situation is such that they can meet their commitments;
- d) who have not committed any serious infringement of customs or fiscal laws; and
- e) who, in accordance with the determined specimen form, undertake to pay, upon the first application in writing by the customs authorities, any sums claimed in respect of their transit operations.

3. The guarantee waiver granted in accordance with paragraphs 1 and 2 shall not apply to transit operations involving goods:



- a) of total value exceeding an amount determined in accordance with provisions laid down enacted by the Minister of Finance; or
- b) which present increased risks on account of the level of import duties, to which they are subject in the Republic of Albania.

4. The General Directorate of Customs which grants the waiver shall issue to each person obtaining it one or more copies of a guarantee waiver certificate.

#### Article 119

1. The principal shall be the subject of the transit procedure. He shall be responsible for:
  - a) presentation of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs authorities to ensure identification;
  - b) observance of the provisions related to the transit procedure.
2. Notwithstanding the principal's obligations referred to in paragraph 1, the carrier or recipient of goods knowing they are moving under transit shall also be responsible for presentation of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs authorities to ensure identification.

#### Article 120

1. The detailed rules for the operation of the said procedure and the respective exemptions shall be determined in provisions laid down in the Implementing Provisions.
2. Provided that the implementation of measures applying to goods is guaranteed, the Minister of Finance is entitled to establish simplified procedures in certain circumstances for goods not required to move on the territory of another country.

### C. Customs warehouses

#### Article 121

1. The customs warehousing procedure shall allow the storage in a customs warehouses of the:
  - a) non-Albanian goods, without such goods being subject to import duties or commercial policy measures;
  - b) Albanian goods, where legislation governing specific fields provides that their being placed in a customs warehouse shall attract the application of measures normally attaching to the export of such goods.
2. 'Customs warehouse' means any place approved by and under the supervision of the customs authorities where goods may be stored under the conditions laid down.

3. Cases in which the goods referred to in paragraph 1 may be placed under the customs warehousing procedure without being stored in a customs warehouse shall be determined by the provisions in force.

#### Article 122

1. A customs warehouse may be either a public warehouse or a private warehouse:
  - a) 'public warehouse' means a customs warehouse available for use by any person for the warehousing of goods;
  - b) 'private warehouse' means a customs warehouse reserved only for the warehousing of goods by the warehousekeeper.
2. 'The warehousekeeper' is the person authorised to operate the customs warehouse.
3. 'The depositor' shall be the person bound by the declaration placing the goods under the customs warehousing procedure or to whom the rights and obligations of such a person have been transferred.

#### Article 123

1. Operation and use of a customs warehouse shall be subject to the issue of an authorisation by the customs authorities, unless the said authorities operate the customs warehouse themselves.
2. Any person wishing to operate a customs warehouse must make a request in writing containing the information required for granting the authorization, in particular demonstrating that an economic need for warehousing exists. The authorization shall lay down the conditions for operating the customs warehouse.
3. The authorisation shall be issued only to persons established in the Republic of Albania.

#### Article 124

The warehouse keeper shall be responsible for:

- a) ensuring that while the goods are in the customs warehouse they are not removed from customs supervision;
- b) fulfilling the obligations that arise from the storage of goods covered by the customs warehousing procedure; and
- c) complying with the particular conditions specified in the authorisation.

#### Article 125

1. By way of derogation from Article 124, where the authorisation concerns a public warehouse, it may provide that the responsibilities referred to in Article 124 (a) and/or (b) devolve exclusively upon the depositor.
2. The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure.

#### Article 126

The rights and obligations of a warehousekeeper may, with the agreement of the customs authorities, be transferred to another person.

#### Article 127

Without prejudice to Article 111, the customs authorities may require that the warehousekeeper provide a guarantee in connection with the responsibilities specified in Article 124.

#### Article 128

1. The person designated by the customs authorities shall keep stock records of all the goods placed under the customs warehousing procedure in a form approved by those authorities. Stock records are not necessary where a public warehouse is operated by the customs authorities.
2. Subject to the application of Article 109, the customs authorities may dispense with stock records where the responsibilities referred to in Article 124 (a) and/or (b) lie exclusively with the depositor and the goods are placed under that procedure on the basis of a written declaration forming part of the normal procedure.

#### Article 129

1. Where an economic need exists and customs supervision is not adversely affected thereby, the customs authorities may allow:
  - a) Albanian goods other than those referred to in Article 121 (1) (b) to be stored on the premises of a customs warehouse;
  - b) non-Albanian goods to be processed on the premises of a customs warehouse under the inward processing procedure, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined in provisions laid down by the Minister of Finance;
  - c) non-Albanian goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined in provisions laid down by the Minister of Finance.
2. In the cases referred to in paragraph 1, the goods shall not be subject to the customs warehousing procedure.
3. The customs authorities may require the goods referred to in paragraph 1 to be entered in the stock records provided for in Article 128.

#### Article 130

Goods placed under the customs warehousing procedure shall be entered in the stock records provided for in Article 128 as soon as they are brought into the customs warehouse.

#### Article 131

1. The goods may remain under the customs warehousing procedure for a period up to twelve months. The customs authorities, on the depositor's request, may accept an extension for a of another year.
2. However, where exceptional circumstances so warrant, the customs authorities may set , within reasonable limits, a shorter time limit by which the depositor must assign the goods a new customs-approved treatment or use.

#### Article 132

1. Import goods may undergo the usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.
2. The list of the forms of handling referred to in this paragraph shall be included in the implementing provisions of this Code. The Minister of Finance is entitled to make any necessary changes to the list.
3. The forms of handling provided for in paragraph 1 must be authorised in advance by the customs authorities, which shall lay down the conditions under which they may take place.

#### Article 133

1. Where circumstances so warrant, goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal must be authorized in advance by the customs authorities, who shall stipulate the conditions on which it may take place.
2. While they are outside the customs warehouse the goods may undergo the forms of handling referred to in Article 132 on the conditions set out therein.

#### Article 134

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

#### Article 135

1. Where a customs debt is incurred in respect of import goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs need not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.
2. Where the said goods have undergone the usual forms of handling within the meaning of article 132, the nature of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into account for the goods, at the time referred to in Article 209, if they had not undergone such handling.

3. However, derogation from paragraph 2 shall be determined in provisions laid down by the Minister of Finance, if necessary.

## D. Inward Processing

### I. General

#### Article 136

1. Without prejudice to Article 137, the inward processing procedure shall allow the following goods to be used in the customs territory of the Republic of Albania in one or more processing operations:

- a) non-Albanian goods intended for re-export from the customs territory of the Republic of Albania in the form of compensating products, without such goods being subject to import duties or commercial policy measures;
- b) goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory of the Republic of Albania in the form of compensating products.

2. The following expressions shall have the following meanings:

- a) suspension system: the inward processing relief arrangements as provided for in paragraph 1 (a);
- b) drawback system: the inward processing relief arrangements as provided for in paragraph 1 (b);
- c) processing operations:
  - i. the working of goods, including erecting or assembling them or fitting them to other goods;
  - ii. the processing of goods;
  - iii. the repair of goods, including restoring them and putting them in order; and
  - iv. the use of certain goods defined in provisions laid down in the Implementing Provision, which are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process;
- d) compensating products: all products resulting from processing operations;
- e) rate of yield: the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

## II. Grant of the authorisation

#### Article 137

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

#### Article 138

The authorisation shall be granted only:

- a) to persons established in the Republic of Albania. However, the authorisation may be granted to persons established outside the country in respect of imports of a non-commercial nature;
- b) where, without prejudice to the use of goods referred to in the last indent of Article 136(2)(c)(iv), the import goods can be identified in the compensating products.
- c) where the inward processing procedure may help create the most favourable conditions for the export or re-export of compensating products, provided that the essential interests of Albanian producers are not adversely affected (economic conditions).

### III. Operation of the procedure

#### Article 139

1. The customs authorities shall specify the period within which the compensating products must have been exported or re-exported or assigned another customs-approved treatment or use. That period shall take account of the time required to carry out the processing operations and dispose of the compensating products.
2. The period shall run from the date on which the non-Albanian goods are placed under the inward processing procedure. The customs authorities may grant an extension on submission of a duly substantiated request by the holder of the authorisation.

#### Article 140

1. The customs authorities shall set either the rate of yield of the operation or where appropriate, the method of determining such rate. The rate of yield shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.
2. Where circumstances so warrant and, in particular, in the case of processing operation customarily carried out under clearly defined technical conditions involving goods of substantially uniform characteristics and resulting in the production of compensating products of uniform quality, standard rate of yield may be set by the Minister of Finance, on the basis of actual data previously ascertained.

#### Article 141

The cases in which and the conditions under which goods in the unaltered state or compensating products shall be considered to have been released for free circulation may be determined in provisions enacted by the Minister of Finance.

## Article 142

1. Subject to Article 143, where a customs debt is incurred, the amount of such debt shall be determined on the basis of the taxation elements appropriate to the import goods at the time of acceptance of the declaration of placing of these goods under the inward processing procedure.
2. If at the time referred to in paragraph 1 the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the same time of acceptance of the declaration of release for free circulation.

## Article 143

By way of derogation from Article 142, compensating products:

- a) shall be subject to import duties calculated in accordance with the rules applicable to the customs procedure in question or to free zones or free warehouses where they have been placed under a suspensive arrangement or in a free zone or free warehouse;  
However,
  - i. the person concerned may request that duty be assessed in accordance with Article 142;
  - ii. in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duty and other charges levied shall be at least equal to the amount calculated in accordance with Article 142.
- b) may be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control where the import goods could have been under that procedure;
- c) shall enjoy favourable tariff treatment owing to the special use for which they are intended, where provision is made for such treatment in the case of identical imported goods;
- d) shall be admitted free of import duty where such duty - free provision is made in the case of identical goods imported in accordance with Article 199.

## IV. Processing operations in a foreign country

### Article 144

1. Some or all of the compensating products or goods in the unaltered state may be temporarily exported for the purpose of further processing in a foreign country if the customs authority so authorises, in accordance with the conditions laid down in the outward processing provisions.

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

- a) import duties on the compensating products or goods in the unaltered state referred to in paragraph 1, calculated in accordance with Articles 142 and 143; and
- b) import duties on products re-imported after processing in a foreign country, the amount of which shall be calculated in accordance with the provisions related to the outward processing procedure, on the same conditions as would have applied had the products exported under the latter procedure been released for free circulation before such export took place.

## V. Special provisions relating to the drawback system

### Article 145

1. The drawback system may be used for all goods, with the exception of those which, at the time the declaration of release for free circulation is accepted:

- a) are subject to quantitative import restrictions;
- b) might within quotas, qualify for a preferential tariff measure or an autonomous suspensive measure within the meaning of Article 28 (3) (d) and (e).

2. Moreover, the drawback system may be used only if no export refund has been set for the compensating products at the time the declaration of release for free circulation of the import goods is accepted.

3. Permission to use the drawback system shall be granted only if no export refund has been set for the compensating products at the time the declaration of exportation of the compensating products is accepted.

### Article 146

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

2. The said authorisation shall be attached to the declaration of release for free circulation.

### Article 147

Under the drawback system, Articles 141, 142 and 143 (c) shall not apply.

### Article 148

Temporary exportation of compensating products carried out as provided for in Article 144 (1) shall not be considered to be exportation within the meaning of Article 149 except where such products are not re-imported into the Republic of Albania within the period prescribed.

### Article 149



1. The holder of the authorisation may ask for the import duty to be repaid or remitted where he can establish to the satisfaction of the customs authorities that compensating products obtained from import goods released for free circulation under the drawback system have been either:

- a) exported; or
- b) placed, with a view to being subsequently re-exported under the transit procedure, the customs warehousing procedure, the temporary importation procedure or the inward processing procedure (suspensive arrangement), or in a free zone or free warehouse,

provided all conditions for use of the procedure have also been fulfilled.

2. For the purposes of being assigned a customs-approved treatment or use referred to in the second indent of paragraph 1, compensating products shall be considered to be non-Albanian goods.

3. The period within which the application for repayment must be made shall be determined in provisions enacted by the Minister of Finance.

4. Compensating products placed under a customs procedure or in a free zone or free warehouse in accordance with the provisions of paragraph 1 shall be released for free circulation only where authorised by the customs authorities, which shall grant such authorisation where circumstances so warrant. In this case, and without prejudice to Article 143 (a), the amount of import duties repaid or remitted shall be considered to constitute the amount of the customs debt.

## E. Processing under customs control

### Article 150

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

### Article 151

The list of cases in which the procedure for processing under customs control may be used shall be determined in the Implementing Provisions of this Code.

### Article 152

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

### Article 153

Authorisation shall be granted only:

- a) to persons established in the Republic of Albania;

- b) where the import goods can be identified in the processed products;
- c) cases where the goods cannot be economically restored after processing to their description or state as it was when they were placed under the procedure;
- d) where use of the procedure cannot result in circumvention of the effect of the rules concerning origin and quantitative restrictions applicable to the imported goods;
- e) where the necessary conditions for the procedure to help create or maintain a processing activity in the Republic of Albania without adversely affecting the essential interests of Albanian producers of similar goods (economic conditions) are fulfilled.

#### Article 154

Articles 139 and 140 shall apply *mutatis mutandis*.

#### Article 155

Where a customs debt is incurred in respect of goods in the unaltered state or of products that are at an intermediate stage of processing as compared with that provided for in the authorisation, the amount of that debt shall be determined on the basis of the items of charge elements appropriate to the import goods at the time of acceptance of the declaration relating to the placing of the goods under the procedure for processing under customs control.

#### Article 156

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

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

### F. Temporary importation

#### Article 157

1. The temporary importation procedure shall allow the use in the customs territory of the Republic of Albania, with total or partial relief from import duties and without their being subject to commercial policy measures, of non-Albanian goods intended for re-export without having undergone any change except normal depreciation due to the use made of them.

#### Article 158

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

#### Article 159

1. The customs authorities shall refuse to authorise use of the temporary importation procedure where it is impossible to ensure that the import goods may be identified.
2. However, the customs authorities may authorise use of the temporary importation procedure without ensuring that the goods may be identified where, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure.

#### Article 160

1. The customs authorities shall determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. Such period must be long enough for the objective of authorised use to be achieved.
2. Without prejudice to the special periods laid down in accordance with Article 161, the period during which goods may remain under the temporary importation procedure shall be 12 months. The customs authorities may, at a duly substantiated request of the person concerned, extend the periods referred to in this paragraph and paragraph 1 for a maximum period of another 12 months in order to permit the authorised use.
3. However, where exceptional circumstances so warrant, the customs authorities may, within reasonable limits, determine shorter periods with the agreement of the person concerned.

#### Article 161

The cases and the special conditions under which the temporary importation procedure may be used with total relief from import duties shall be determined in the Implementing Provisions of this Code.

#### Article 162

1. Use of the temporary importation procedure with partial relief from import duties shall be granted in respect of goods which, while remaining the property of a person established in a foreign country, are not covered by the provisions adopted in accordance with Article 161 or which are covered by such provisions but do not fulfill all the conditions provided for therein for the grant of temporary importation with total relief.
2. The list of goods in respect of which the temporary importation procedure with partial relief from import duties may not be used shall be drawn up in the implementing provisions of this Code.

#### Article 163

1. The amount of import duties payable in respect of goods placed under the temporary importation procedure with partial relief from import duties shall be set at 3%, for every month or fraction of a month during which the goods have been placed under the temporary importation procedure with partial relief, of the amount of duties which would have been payable on the said goods had they been released for free circulation on the date on which they were placed under the temporary importation procedure.
2. The amount of import duties to be charged shall not exceed that amount which would have been charged if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation procedure, leaving out of account any interest which may be applicable.
3. Transfer of the rights and obligations deriving from the temporary importation procedure pursuant to Article 113 shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.
4. Where the transfer referred to in paragraph 3 is made with partial relief for both persons authorised to use the procedure during the same month, the holder of the initial authorisation shall be liable to pay the amount of import duties due for the whole of that month.

#### Article 164

1. Where a customs debt is incurred in respect of import goods, the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods at the time of acceptance of the declaration of their placing under the temporary importation procedure. However, where the provisions of Article 161 so provide, the amount of the debt shall be determined on the basis of the taxation elements appropriate to the goods in question at the time referred to in Article 229.
2. Where, for a reason other than the placing of goods under the temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the said procedure, the amount of that debt shall be equal to the difference between the amount of duties calculated pursuant to paragraph 1 and that payable pursuant to Article 163.

### G. Outward processing

#### I. General

#### Article 165

1. The outward processing procedure shall, without prejudice to the provisions governing specific fields relating to the standard exchange system laid down in Articles 174 to 179 or to Article 144, allow Albanian goods to be exported temporarily from the customs territory of the Republic of Albania in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.

2. Temporary exportation of Albanian goods shall entail the application of export duties, commercial policy measures and other formalities for the exit of Albanian goods from the customs territory of the Republic of Albania.

3. The following definitions shall apply:

- a) 'temporary export goods' means goods placed under the outward processing procedure;
- b) 'processing operations' means the operations referred to in Article 136 (2) (c ) first, second and third indents;
- c) 'compensating products' means all products resulting from processing operations;
- d) 'rate of yield' means the quantity or percentage of compensating products obtained from the processing of a given quantity of temporary export goods.

#### Article 166

1. The outward processing procedure shall not be open to Albanian goods:

- a) whose export gives rise to repayment or remission of import duties;
- b) which, prior to export, were released for free circulation with total relief from import duties by virtue of end use, for as long as the conditions for granting such relief continue to apply;
- c) whose export gives rise to the granting of export refunds.

2. However, derogation from the second case of paragraph 1 (b) may be determined in provisions enacted by the Minister of Finance.

## II. Grant of the authorisation

#### Article 167

1. Authorisation to use the outward processing procedure shall be issued at the request of the person who arranges for the processing operations to be carried out.

2. By way of derogation from paragraph 1, authorisation to use the outward processing procedure may be granted to another person in respect of goods of Albanian origin within the meaning of Title II, Chapter 2, Section 1, where the processing operation consists in incorporating those goods into goods obtained outside the Republic of Albania and imported as compensating products, provided that use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of Albanian producers of products identical or similar to the imported compensating products.

3. The cases in which and the arrangements under which the preceding subparagraph shall apply shall be determined in the Implementing Provisions of this Code.

#### Article 168

Authorisation shall be granted only:

- a) to persons established in the Republic of Albania;

- b) where it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods. The cases in which derogation from this subparagraph may apply and the conditions under which such derogation shall apply shall be determined in the Implementing Provisions of this Code;
- c) where authorisation to use the outward processing procedure is not liable seriously to harm the essential interests of Albanian processors (economic conditions).

### III. Operation of the procedure

#### Article 169

1. The customs authorities shall specify the period within which the compensating products must be re-imported into the customs territory of the Republic of Albania. They may extend that period on submission of a duly substantiated request by the holder of the authorisation.
2. The customs authorities shall set either the rate of yield of the operation or, where necessary, the method of determining that rate.

#### Article 170

1. The total or partial relief from import duties provided for in Article 171 (1) shall be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:
  - a) the holder of the authorisation, or
  - b) any other person established in the Republic of Albania provided that that person has obtained the consent of the holder of the authorization and the conditions of the authorisation are fulfilled.
2. The total or partial relief from import duties provided for in Article 171 shall not be granted where one of the conditions or obligations relating to the outward processing procedure is not fulfilled, unless it is established that the failures have no significant effect on the correct operation of the said procedure.

#### Article 171

1. The total or partial relief from import duties provided for in Article 165 shall be effected by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into the customs territory of the Republic of Albania from the country in which they underwent the processing operation or last processing operation.
2. The amount to be deducted pursuant to paragraph 1 shall be calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration relating to the release for free circulation of the compensating products. The value of the temporary export goods shall be that taken into account for those goods in determining the customs value of the compensating products in

accordance with Article 37 (1) (b) (i) or, if the value may not be determined in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means. However,

- a) certain charges determined in provisions enacted by the Minister of Finance shall not be taken into account in calculating the amount to be deducted;
- b) where, prior to being placed under the outward processing procedure, the temporary export goods were released for free circulation at a reduced rate by virtue of their end use, and for as long as conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the amount of import duties actually levied when the goods were released for free circulation.

3. Where temporary export goods could qualify on their release for free circulation for a reduced or zero rate of duty by virtue of their end use, that rate shall be taken into account provided that the goods underwent operations consistent with such an end-use in the country where the processing operation or last operation took place.

4. Where compensating products qualify for a preferential tariff measure within the meaning of Article 28 (3) (d) and the measure exists for goods falling in the same tariff classification as the temporary export goods, the rate of import duty to be taken into account in establishing the amount to be deducted pursuant to paragraph 1 shall be that which would apply if the temporary export goods fulfilled the conditions under which that preferential measure may be applied.

5. This Article shall be without prejudice to the application of provisions adopted or liable to be adopted in the context of trade between the Republic of Albania and other countries, which provide for relief from import duties in respect of certain compensating products.

#### Article 172

1. Where the purpose of the processing operation is the repair of the temporary export goods, they shall be released for free circulation with total relief from import duties where it is established to the satisfaction of the customs authorities that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

2. Paragraph 1 shall not apply where account was taken of the defect at the time when the goods in question were first released for free circulation.

#### Article 173

Where the purpose of the processing operation is the repair of temporary export goods and such repair is carried out in return for payment, the partial relief from import duties provided for in Article 165 shall be granted by establishing the amount of the duties applicable on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of release for free circulation of those products and taking into account as the customs value an amount equal to the repair costs, provided that those costs represent the only consideration provided by the holder of the authorization and are not influenced by any links between that holder and the operator.

## IV. Outward processing with use of the standard exchange system

### Article 174

1. Under the conditions laid down in this section IV which are applicable in addition to the preceding provisions, the standard exchange system shall permit an imported product, hereinafter referred to as a 'replacement product', to replace a compensating product.
2. The customs authorities shall allow the standard exchange system to be used where the processing operation involves the repair of Albanian goods.
3. Without prejudice to Article 179, the provisions applicable to compensating products shall also apply to replacement products.
4. The customs authorities shall, under the conditions they lay down, permit replacement products to be imported before the temporary export goods are exported (prior importation). In the event of prior importation of a replacement, security shall be provided to cover the amount of the import duties.

### Article 175

1. Replacement products shall have the same tariff classification, be of the same commercial quality and possess the same technical characteristics as the temporary export goods had the latter undergone the repair in question.
2. Where the temporary export goods have been used before export, the replacement products must also have been used and may not be new products. The customs authorities may, however, grant derogation from this rule if the replacement product has been supplied free of charge either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

### Article 176

Standard exchange shall be authorized only where it is possible to verify that the conditions laid down in Article 175 are fulfilled.

### Article 177

1. In the case of prior importation, the export goods shall be temporarily exported within a period of two months from the date of acceptance by the customs authorities of the declaration relating to the release of the replacement products for free circulation.
2. However, where exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned, extend within reasonable limits the period referred to in paragraph 1.

### Article 178



In the case of prior importation and where Article 171 is applied, the amount to be deducted shall be determined on the basis of the items of charge applicable to the temporary export goods on the date of acceptance of the declaration placing them under the procedure.

#### Article 179

Article 167(2) and Article 168(b) shall not apply in the context of standard exchange.

### V. Other provisions

#### Article 180

The procedure provided for within the framework of outward processing shall also be applicable for the purposes of implementing non-tariff commercial policy measures.

#### Section 4

#### Export

#### Article 181

1. The export procedure shall allow Albanian goods to leave the customs territory of the Republic of Albania. Exportation shall entail the application of exit formalities including commercial policy measures and, where appropriate, export duties.
2. With the exception of goods placed under the outward processing procedure, all Albanian goods intended for export shall be placed under the export procedure.
3. The case in which and the conditions under which goods leaving the customs territory of the Republic of Albania are not subject to an export declaration shall be determined in the Implementing Provisions of this Code and provisions enacted by the Minister of Finance, if necessary.
4. The export declaration must be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment. Derogation shall be determined in the provisions enacted by the Minister of Finance, if necessary.

#### Article 182

Release for export shall be granted on condition that the goods in question leave the customs territory of the Republic of Albania in the same condition as when the export declaration was accepted.

### CHAPTER 3

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

## Section 1

### Free zones and free warehouses

#### A. General

##### Article 183

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

- a) non-Albanian goods are considered, for the purpose of import duties and commercial policy import measures, as not being on Albanian customs territory, provided they are not released for free circulation or placed under another customs procedure or used or consumed under conditions other than those provided for in customs legislation;
- b) Albanian goods for which such provision is made under legislation governing specific fields qualify, by virtue of being placed in a free zone or free warehouse, for measures normally attaching to the export of goods.

##### Article 184

1. The Council of Ministers may designate parts of the customs territory of the Republic of Albania as free zones or authorize the establishment of free warehouses. The construction of any building in a free zone shall require the prior approval of the Council of Ministers.
2. The Council of Ministers shall determine the area covered by each free zone.
3. Free zones shall be carefully defined and enclosed. The Council of Ministers shall define the entry and exit points of each free zone. The Minister of Finance shall define the entry and exit points of each free warehouse.

##### Article 185

1. The perimeter and the entry and exit points of free zones and free warehouses shall be subject to supervision by the customs authorities.
2. Persons and means of transport entering or leaving a free zone or free warehouse may be subjected to a customs check.
3. Access to a free zone or free warehouse may be denied to persons who do not provide every guarantee necessary for compliance with the rules provided for in this Code.
4. When goods enter or leave a free warehouse, a copy of the transport document which shall accompany those goods, shall be handed to the customs authority. When goods enter or leave a free zone, a copy of the transport document which shall accompany those goods, shall be kept to the disposal of the customs authority. The customs authorities may check goods entering, leaving or

remaining in a free zone or free warehouse. Where such checks are required, the goods shall be made available to those authorities.

## B. Placing of goods in free zones or free warehouses

### Article 186

1. Both Albanian and non-Albanian goods may be placed in a free zone or free warehouse.
2. However, the customs authorities may require that goods which present a danger or are likely to spoil other goods or which, for other reasons, require special facilities be placed in premises specially equipped to receive them.

### Article 187

1. Without prejudice to Article 185 (4), goods entering a free zone or free warehouse need not be presented to the customs authorities, nor need a customs declaration be lodged.
2. Goods shall be presented to the customs authorities and undergo the prescribed customs formalities only where:
  - a) they have been placed under a customs procedure which is discharged when they enter a free zone or free warehouse; however, where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;
  - b) they have been placed in a free zone or free warehouse on the authority of a decision to grant repayment or remission of import duties;
  - c) they qualify for the measures referred to in Article 183 (b).
3. Customs authorities shall require goods subject to export duties or to other export provisions to be notified to them.
4. At the request of the party concerned, the customs authorities shall certify the Albanian or non-Albanian status of goods placed in a free zone or free warehouse.

## C. Operation of free zones and free warehouses

### Article 188

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

### Article 189

1. Any industrial, commercial or service activity shall, under the conditions laid down in this Code, be authorized in a free zone or free warehouse. The carrying on of such activities shall be notified in advance to the customs authorities.

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

3. The customs authorities may prevent persons who do not provide the necessary guarantees of compliance with the provisions laid down in this Code from carrying on an activity in a free zone or free warehouse.

#### Article 190

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

- a) be released for free circulation under the conditions laid down by that procedure and by Article 194;
- b) undergo the usual forms of handling referred to in Article 132 (1) without authorisation;
- c) be placed under the inward processing procedure under the conditions laid down by that procedure;
- d) be placed under the procedure for processing under customs control under the conditions laid down by that procedure;
- e) be placed under the temporary importation procedure under the conditions laid down under that procedure;
- f) be abandoned in accordance with Article 197;
- g) be destroyed, provided that the person concerned supplies the customs authorities with all information they judge necessary.

2. Where goods are placed under one of the procedures referred to in paragraph 1 (c), (d) or (e) the customs authorities shall, in so far as is necessary to take account of the operating and customs supervision conditions of the free zones or free warehouses, adapt the control arrangements laid down.

#### Article 191

1. Where Article 190 is not applied, non-Albanian goods and the Albanian goods referred to in Article 183 (b) shall not be consumed or used in free zones or in free warehouses.

2. Without prejudice to the provisions applicable to supplies or stores, where the procedure concerned so provides, paragraph 1 shall not preclude the use or consumption of goods the release for free circulation or temporary importation of which would not entail application of import duties or measures under commercial policy. In that event, no declaration of release for free circulation or temporary importation shall be required. Such declaration shall, however, be required if such goods are to be charged against a quota or ceiling.

#### Article 192

1. All persons carrying on an activity involving the storage, working or processing, or sale or purchase, of goods in a free zone or free warehouse shall keep stock records in a form approved by the customs authorities. Goods shall be entered in the stock records as soon as they are brought into

the premises of such person. The stock records must enable the customs authorities to identify the goods, and must record their movements.

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

#### D. Exit of goods from free zones or free warehouses

##### Article 193

1. Without prejudice to special provisions adopted under customs legislation governing specific fields, goods leaving a free zone or free warehouse may be:

- a) exported or re-exported from the customs territory of the Republic of Albania, or
- b) brought into another part of the customs territory of the Republic of Albania.

2. The provisions of Title III, with the exception of Articles 73 to 78 where Albanian goods are concerned, shall apply to goods brought into other parts of that territory except in the case of goods which leave that zone by sea or air without being placed under a transit or other customs procedure.

##### Article 194

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

2. Where the said goods have undergone, in a free zone or free warehouse, one of the usual forms of handling within the meaning of Article 132 (1), the nature of the goods, the customs value and the quantity to be taken into consideration in determining the amount of import duties shall, at the request of the declarant and provided that such handling was covered by an authorisation granted in accordance with paragraph 2 of that Article, be those which would be taken into account in respect of those goods, at the time referred to in Article 229, had they not undergone such handling. Derogation from this provision may, however, be determined in provisions enacted by the Minister of Finance.

##### Article 195

1. Where goods are brought into or returned to another part of the customs territory of the Republic of Albania or placed under a customs procedure, the certificate referred to in Article 187 (4) may be used as proof of the Albanian or non-Albanian status of such goods.

2. Where it is not proved by the certificate or other means that the goods have Albanian or non-Albanian status, the goods shall be considered to be:

- a) Albanian goods, for the purposes of applying export duties and export licenses or export measures laid down under the commercial policy;
- b) Non-Albanian goods in all other cases.

#### Article 196

The customs authorities shall ensure that the rules governing exportation or re-exportation are respected where goods are exported or re-exported from a free zone or free warehouse.

### Section 2

#### Re-exportation, destruction and abandonment

#### Article 197

1. Non-Albanian goods may be:
  - a) re-exported from the customs territory of the Republic of Albania;
  - b) destroyed;
  - c) abandoned to the exchequer where legislation makes provision to that effect.
2. Re-exportation shall, where appropriate, involve application of the formalities laid down for goods leaving, including commercial policy measures. Cases in which non-Albanian goods may be placed under a suspensive arrangement with view to non-application of commercial policy measures on exportation may be determined in provisions enacted by the Minister of Finance.
3. Re-exportation or destruction shall be the subject of prior notification of the customs authorities. The customs authorities shall prohibit re-exportation should the formalities or measures referred to in the first sentence of paragraph 2 so provide. Where goods placed under an economic customs procedure when on Albanian customs territory are intended for re-exportation, a customs declaration within the meaning of Articles 84 to 102 shall be lodged. In such cases, Article 181 (3) and (4) shall apply. Abandonment shall be made as described in the Implementing Provisions of this Code.
4. Destruction or abandonment shall not entail any expense for the exchequer.
5. Any waste or scrap resulting from destruction shall be assigned a customs-approved treatment or use prescribed for non-Albanian goods. It shall remain under customs supervision until the time laid down in Article 41 (3).

## TITLE V

### GOODS LEAVING THE CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA

## Article 198

Goods leaving the customs territory of the Republic of Albania shall be subject to customs supervision. They may be the subject of checks by the customs authorities in accordance with the provisions in force. They shall leave the said territory using, where appropriate, the route determined by the customs authorities and in accordance with the procedures laid down by those authorities.

# TITLE VI

## PRIVILEGED OPERATIONS

### CHAPTER 1

#### RELIEFS FROM CUSTOMS DUTY

## Article 199

The cases in which, on account of special circumstances, relief from import duties or export duties shall be granted where goods are released for free circulation or exported are determined by specific law.

### CHAPTER 2

#### RETURNED GOODS

## Article 200

1. Albanian goods which, having been exported from the customs territory of the Republic of Albania, are returned to that territory and released for free circulation within a period of three years shall, at the request of the person concerned, be granted relief from import duties.

However:

- a) the three year period may be exceeded in order to take account of special circumstances;
- b) where, prior to their exportation from the customs territory of the Republic of Albania, the returned goods had been released for free circulation at reduced or zero import duty because of their use for a particular purpose exemption from duty under paragraph 1 shall be granted only if they are to be re-imported for the same purpose. Where the purpose for which the goods in question are to be imported is no longer the same, the amount of import duties chargeable upon them shall be reduced by any amount levied on the goods when they were first released for free circulation. Should the latter amount exceed that levied on the entry for free circulation of returned goods, no refund shall be granted.

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

- a) goods exported from the customs territory of the Republic of Albania under the outward processing procedure unless those goods remain in the state in which they were exported;
- b) goods which have been the subject of a measure involving their exportation to another country. The circumstances in which and the conditions under which this requirement may be waived shall be determined in the Implementing Provisions of this Code.

#### Article 201

The relief from import duties provided for in Article 200 shall be granted only if goods are re-imported in the state in which they were exported. The circumstances in which and the conditions under which this requirement may be waived shall be determined in the Implementing Provisions of this Code.

#### Article 202

1. Articles 200 and 201 shall apply *mutatis mutandis* to compensating products originally exported or re-exported subsequent to an inward processing procedure.
2. The amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward processing procedure, the date of re-export being regarded as the date of release for free circulation.

### CHAPTER 3

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

#### Article 203

Without prejudice to Article 29 (2) (f), the following shall be exempt from import duties when they are released for free circulation:

- a) products of sea-fishing and other products taken from the territorial sea of another country by vessels registered or recorded in the Republic of Albania and flying the Albanian flag;
- b) products obtained from products referred to in (a) on board factory-ships fulfilling the conditions laid down that subparagraph.

## TITLE VII

### CUSTOMS DEBT

#### CHAPTER 1

#### SECURITY TO COVER CUSTOMS DEBT



#### Article 204

1. Where, in accordance with the customs rules, the customs authorities require security to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable or who may become liable for that debt.
2. The customs authorities shall require only one security to be provided in respect of one customs debt.
3. The customs authorities may authorise the security to be provided by a person other than the person from whom it is required.

#### Article 205

1. Where customs rules provide that the provision of security is optional, such security shall be required at the discretion of the customs authorities in so far as they consider that a customs debt which has been or may be incurred is not certain to be paid within the prescribed period. Where the security referred to in the preceding sentence is not required, the customs authorities may nevertheless require from the person referred to in Article 204(1) an undertaking to comply with the obligations which that person is legally obliged to fulfill.
2. The security referred to in the above paragraph shall be required:
  - a) at the time of application of the provisions requiring such security to be provided, or
  - b) at any subsequent time when the customs authorities find that the customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

#### Article 206

At the request of the person referred to in Article 204 (1) or (3), the customs authorities shall allow comprehensive security to be provided to cover two or more operations in respect of which a customs debt has been or may be incurred.

#### Article 207

1. Where the customs rules make it compulsory for security to be provided, the customs authorities shall fix the amount of such security at a level equal to:
  - a) the precise amount of the customs debt or debts in question where that amount may be established with certainty at the time when the security is required,
  - b) in other cases the maximum amount, as estimated by the customs authorities, of the customs debt or debts which have been or may be incurred.

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

2. Where the customs rules provide that the provision of security is optional and the customs authorities require security to be provided, the amount of the security shall be fixed by those authorities so as not to exceed the level provided for in paragraph 1.

#### Article 208

Security may be provided by either:

- a) a cash deposit, or
- b) a guarantor.

#### Article 209

1. A cash deposit shall be made in the currency of the Republic of Albania.
2. The following shall be deemed equivalent to a cash deposit:
  - a) submission of a cheque the payment of which is guaranteed by the institution on which it is drawn in any manner acceptable to the customs authorities,
  - b) submission of any other instrument recognized by the customs authorities as a means of payment.
3. Security in the form of a cash deposit or payment deemed equivalent to a cash deposit shall be given in accordance with the provisions in force.

#### Article 210

1. The guarantor shall undertake in writing to pay jointly and severally with the debtor the secured amount of a customs debt which falls to be paid.
2. The guarantor must be a third person established in the Republic of Albania and approved by the customs authorities.
3. The customs authorities may refuse to approve the guarantor or type of security proposed where the latter do not appear certain to ensure payment of the customs debt within the prescribed period.

#### Article 211

1. The person required to provide security shall be free to choose between the types of security laid down in Article 208.
2. Without prejudice to the implementing provisions of the customs procedure concerned, the customs authorities may refuse to accept the type of security proposed. The same procedure shall be applied relating to the proposed security. The customs authorities may require that the type of security chosen be maintained for a specific period.

#### Article 212

1. Where the rules adopted in accordance with the Implementing Provisions this Code so provide, the customs authorities may accept types of security other than those referred to in Article 208 where they provide equivalent assurance that the customs debt will be paid.
2. The customs authorities shall refuse the security proposed by the debtor where they do not consider that such security is certain to ensure payment of the customs debt.
3. Subject to the reservation referred to in the second paragraph, the customs authorities may accept a cash deposit without the conditions laid down in Article 209 (1) being fulfilled.

#### Article 213

Where the customs authorities establish that the security provided does not ensure, or is no longer certain or sufficient to ensure, payment of the customs debt within the prescribed period, they shall require the person referred to in Article 204 (1), at his opinion, to provide additional security or to replace the original security with a new security.

#### Article 214

1. The security shall not be released until such time as the customs debt in respect of which it was given is extinguished or can no longer arise. Once the customs debt is extinguished or can no longer arise, the security shall be released forthwith.
2. Once the customs debt has been extinguished in part or can arise only in respect of part of the amount which has been secured, part of the security shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

#### Article 215

Derogation from the provisions contained in this Chapter shall, where necessary, be made only when International Conventions provide otherwise.

## CHAPTER 2

### INCURRENCE OF A CUSTOMS DEBT

#### Article 216

1. A customs debt on importation shall be incurred through:
  - a) the release for free circulation of goods liable to import duties; or
  - b) the placing of such goods under the temporary importation procedure with partial relief from import duties.
2. A customs debt shall be incurred at the time of acceptance of the customs declaration in question.

3. The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor. Where a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the duties legally owed not being collected, the persons 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, may also be considered debtors in accordance with the provisions in force.<sup>0</sup>

#### Article 217

1. A customs debt on importation shall be incurred through:
  - a) the unlawful introduction into the customs territory of the Republic of Albania of goods liable to import duties, or
  - b) the unlawful introduction into another part of that territory of such goods located in a free zone or free warehouse.

For the purpose of this Article, unlawful introduction means any introduction in violation of the provisions of Articles 42 ,43, 65 and 66, and the second indent of Article 193.

2. The customs debt shall be incurred at the moment when the goods are unlawfully introduced.
3. The debtors shall be:
  - a) the person who introduced such goods unlawfully,
  - b) any persons who participated in the unlawful introduction of the goods and who were aware or should reasonably have been aware that such introduction was unlawful, and
  - c) any persons who acquired or held the goods in question and who were aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

#### Article 218

1. A customs debt on importation shall be incurred through the unlawful removal from customs supervision of goods liable to import duties.
2. The customs debt shall be incurred at the moment when the goods are removed from customs supervision.
3. The debtors shall be:
  - a) the person who removed the goods from customs supervision,
  - b) any persons who participated in such removal and who were aware or should reasonably have been aware that the goods were being removed from customs supervision,
  - c) any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been removed from customs supervision, and

- d) where appropriate, the person required to fulfill the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods are placed.

#### Article 219

1. A customs debt on importation shall be incurred through:
  - a) non-fulfillment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or
  - b) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods,

in cases other than those referred to in Article 218 unless it is established that those failures have no significant effect on the correct operation of the temporary storage or customs procedure in question.

2. The customs debt shall be incurred either at the moment when the obligation whose non-fulfillment gives rise to the customs debt ceases to be met or at the moment when the goods are placed under the customs procedure concerned where it is established subsequently that a condition governing the placing of the goods under the said procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.
3. The debtor shall be the person who is required, according to the circumstances, either to fulfill the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they have been placed, or to comply with the conditions governing the placing of the goods under that procedure.

#### Article 220

1. A customs debt on importation shall be incurred through the consumption or use, in a free zone or a free warehouse, of goods liable to import duties, under conditions other than those laid down by the legislation in force. Where goods disappear and where their disappearance cannot be explained to the satisfaction of the customs authorities, those authorities may regard the goods as having been consumed or used in the free zone or the free warehouse.
2. The debt shall be incurred at the moment when the goods are consumed or are first used under conditions other than those laid down by the legislation in force.
3. The debtor shall be the person who consumed or used the goods and any persons who participated in such consumption or use and who were aware or should reasonably have been aware that the goods were being consumed or used under conditions other than those laid down by the legislation in force. Where customs authorities regard goods which have disappeared as having been consumed or used in the free zone or the free warehouse and it is not possible to apply the preceding sentence, the person liable for payment of the customs debt shall be the last person known to these authorities to have been in possession of the goods.

#### Article 221

1. By way of derogation from Articles 217 and 219 (1), no customs debt on importation shall be deemed to be incurred in respect of specific goods where the person concerned proves that the non-fulfillment of the obligations which arise from:

- a) the provisions of Articles 42, 43, 65, 66 and Article 193 (1) (b), or
- b) keeping the goods in question in temporary storage, or
- c) the use of the customs procedure under which the goods have been placed,

results from the total destruction or irretrievable loss of the said goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of authorisation by the customs authorities. For the purposes of this paragraph, goods shall be irretrievably lost when they are rendered unusable by any person.

2. Nor shall a customs debt on importation be deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty by virtue of their end-use, where such goods are exported or re-exported with the permission of the customs authorities.

#### Article 222

Where, in accordance with Article 221 (1), no customs debt is deemed to be incurred in respect of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, any scrap or waste resulting from such destruction shall be deemed to be non-Albanian goods.

#### Article 223

Where in accordance with Article 218 or 219 a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use, the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt.

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

#### Article 224

1. A customs debt on exportation shall be incurred through the exportation from the customs territory of the Republic of Albania, under cover of a customs declaration, of goods liable to export duties.

2. The customs debt shall be incurred at the time when such customs declaration is accepted.

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

#### Article 225

1. A customs debt on exportation shall be incurred through the removal from the customs territory of the Republic of Albania of goods liable to export duties without a customs declaration.
2. The customs debt shall be incurred at the time when the said goods actually leave that territory.
3. The debtor shall be:
  - a) the person who removed the goods, and
  - b) any persons who participated in such removal and who were aware or should reasonably have been aware that a customs declaration had not been but should have been lodged.

#### Article 226

1. A customs debt on exportation shall be incurred through failure to comply with the conditions under which the goods were allowed to leave the customs territory of the Republic of Albania with total or partial relief from export duties.
2. The debt shall be incurred at the time when the goods reach a destination other than that for which they were allowed to leave the customs territory of the Republic of Albania with total or partial relief from export duties, or, should the customs authorities be unable to determine that time, the expire of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.
3. The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

#### Article 227

The customs debt referred to in Articles 216 to 220 and 224 to 226 shall be incurred even if it relates to goods subject to measures of prohibition or restriction on importation or exportation of any kind whatsoever. However, no customs debt shall be incurred on the unlawful introduction into the customs territory of the Republic of Albania of counterfeit currency or of narcotic drugs and psychotropic substances which do not enter into the economic circuit strictly supervised by the competent authorities with a view to their use for medical or scientific purposes. For the purposes of criminal law as applicable to customs offenses, the customs debt shall nevertheless be deemed to have been incurred, where, under a criminal law, customs duties provide the basis for determining penalties, or the existence of a customs debt is grounds for taking criminal proceedings.

#### Article 228

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

#### Article 229

1. Save as otherwise expressly provided by this Code and without prejudice to paragraph 2, the amount of the import duty or export duty applicable to goods shall be determined on the basis of

the rules of assessment appropriate to those goods at the time when the customs debt in respect of them is incurred.

2. Where it is not possible to determine precisely when the customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the time when the customs authorities conclude that the goods are in a situation in which a customs debt is incurred. However, where the information available to the customs authorities enables them to establish that the customs debt was incurred prior to the time when they reached that conclusion, the amount of the import duty or export duty payable on the goods in question shall be determined on the basis of the rules of assessment appropriate to the goods at the earliest time when existence of the customs debt arising from the situation may be established from the information available.

3. Interest should be applied, in the circumstances and under the conditions to be defined in the Implementing Provisions of this Code, in order to prevent the wrongful acquisition of financial advantage through deferment of the date on which the customs debt was incurred or entered in the accounts.

#### Article 230

1. A customs debt shall be incurred at the place where the events from which it arises occur.

2. Where it is not possible to determine the place referred to in paragraph 1, the customs debt shall be deemed to have been incurred at the place where the customs authorities conclude that the goods are in a situation in which a customs debt is incurred.

3. Where a customs procedure is not discharged for goods, the customs debt shall be deemed to have been incurred at the place where the goods:

- a) were placed under that procedure, or
- b) enter the Republic of Albania under that procedure.

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

#### Article 231

1. In so far as existing agreements concluded between the Republic of Albania and certain foreign countries provide for the granting on importation into those countries of preferential tariff treatment for goods originating in the Republic of Albania within the meaning of such agreements, on condition that, where they have been obtained under the inward processing procedure, non-Albanian goods incorporated in the said originating goods are subject to payment of the import duties payable thereon, the validation of the documents necessary to enable such preferential tariff treatment to be obtained in foreign countries shall cause a customs debt on importation to be incurred.



2. The moment when such customs debt is incurred shall be deemed to be the moment when the customs authorities accept the export declaration relating to the goods in question.
3. The debtor shall be the declarant. In the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.
4. The amount of the import duties corresponding to this customs 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 declaration for release for free circulation of the goods concerned for the purpose of terminating the inward processing procedure.

## CHAPTER 3

### RECOVERY OF THE AMOUNT OF THE CUSTOMS DEBT

#### Section 1

#### Entry in the accounts and communication of the amount of duty to the debtor

##### Article 232

1. Each and every amount of import duty or export duty resulting from a customs debt, hereinafter called ' amount of duty ', shall be calculated by the customs authorities as soon as they have the necessary particulars, and entered by those authorities in the accounting records or on any other equivalent medium (entry in the accounts).
2. The first paragraph shall not apply:
  - a) where a provisional anti-dumping or countervailing duty has been introduced; where the amount of duty legally due exceeds that determined on the basis of a binding tariff information;
  - b) where the provisions adopted in provisions enacted by the Minister of Finance waive the requirement for the customs authorities to enter in the accounts amounts of duty below a given level.
3. The practical procedures for the entry in the accounts of the amounts of duty shall be determined in accordance with the implementing provisions of this Code.

##### Article 233

1. Where a customs debt is incurred as a result of the acceptance of the declaration of goods for a customs procedure other than temporary importation with partial relief from import duties or any other act having the same legal effect as such acceptance the amount corresponding to such customs debt shall be entered in the accounts as soon as it has been calculated and, at the latest, on the second day following that on which the goods were released. However, provided that payment has been secured, the total amount of duty relating to all the goods released to one and the same 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 the period. Such entry in the accounts shall take place within 5 days of the expiry of the period in question.

2. Where it is provided that goods may be released subject to meeting certain conditions laid down by the legislation which govern either determination of the amount of the debt or its collection, entry in the accounts shall take place no later than two days following the day on which the amount of the debt or the obligation to pay the duties resulting from that debt is determined or fixed. However, where the customs debt relates to a provisional anti-dumping or countervailing duty, that duty shall be entered in the accounts no later than two months following the date of issue of the definitive anti-dumping or countervailing duty.

3. Where a customs debt is incurred under conditions other than those referred to in paragraph 1, the relevant amount of duty shall be entered in the accounts within two days of the date on which the customs authorities are in a position to :

- a) calculate the amount of duty in question, and
- b) determine the debtor.

#### Article 234

1. The time limits for entry in the accounts laid down in Article 233 may be extended where special circumstances prevent the customs authorities from complying with the said time limits. Such extended time limit shall not exceed 14 days.

2. The time limits laid down in paragraph 1 shall not apply in unforeseeable circumstances or in cases of force majeure.

#### Article 235

1. Where the amount of duty resulting from a customs debt has not been entered in the accounts in accordance with Articles 233 and 234 or has been entered in the accounts at a level lower than the amount legally owed, the amount of duty to be recovered or which remains to be recovered shall be entered in the accounts within two days of the date on which the customs authorities become aware of the situation and are in a position to calculate the amount legally owed and to determine the debtor (subsequent entry in the accounts). That time limit may be extended in accordance with Article 234.

2. Except in the cases referred to in Article 232 (2), subsequent entry in the accounts shall not occur where:

- a) the original decision not to enter duty in the accounts or to enter in the accounts at a figure less than the amount of duty legally owed was taken on the basis of general provisions invalidated at a later date by a court decision;
- b) the amount of duty legally owed failed to be entered in the accounts as a result of an error on the part of the customs authorities which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation in force as regards the customs declaration;
- c) provisions adopted by the Minister of Finance may exempt the customs authority from the subsequent entry in the accounts of amounts of duty less than a certain figure.

#### Article 236

1. As soon as it has been entered in the accounts, the amount of duty shall be communicated to the debtor in accordance with appropriate procedures described in the implementing provisions of this Code.
2. Where the amount of duty payable has been entered, for guidance, in the customs declaration, the customs authorities specify that it shall not be communicated in accordance with paragraph 1 unless the amount of duty indicated does not correspond to the amount determined by the authorities.
3. Communication to the debtor shall not take place after the expire of a period of three years from the date on which the customs debt was incurred.

## Section 2

### Time limit and procedures for payment of the amount of duty

#### Article 237

1. Amounts of duty communicated in accordance with Article 236 shall be paid by debtors within the following periods:
  - a) if the person is not entitled to any of the payment facilities laid down enacted by the Minister of Finance, payment shall be made within the period prescribed. An extension shall be granted automatically where it is established that the person concerned received the communication too late to enable him to make payment within the period prescribed. Extension of the period may also be granted by the customs authorities at the request of the debtor where the amount of duty to be paid results from action for post-clearance recovery. Such extended time limit shall not exceed 10 days;
  - b) if the person is entitled to any of the payment facilities laid down enacted by the Minister of Finance, payment shall be made no later than the expire of the period or periods specified in relation to those facilities.
2. Where an application for the remission of duty is made in accordance with Article 250, 251 or 252 or where goods are seized with a view to subsequent confiscation in accordance with Article 246 (b), (c ) (ii), or (d), the debtors obligation to pay duty shall be subsequent in accordance with conditions laid down in the implementing provisions of this Code.

#### Article 238

Payment shall be made in cash or by any other means with similar discharging effect in accordance with provisions in force.

#### Article 239

Provided the amount of duty payable by the person concerned relates to goods declared for a customs procedure which entails the obligation to pay such duty, the customs authorities shall, at

the person's request, grant deferment of payment of that amount under the conditions laid down in Articles 240, 241 and 242.

#### Article 240

1. The granting of deferment of payment shall be conditional on the provision of security by the applicant.
2. In addition, the granting of deferment of payment may give rise to the charging of incidental expenses for the opening of files for services rendered.

#### Article 241

The customs authorities shall decide which of the following procedures must be used when granting deferment of payment:

- a) separately in respect of each amount of duty entered in the accounts under the conditions laid down in the first sentence of Article 233(1) or in Article 235(1); or
- b) globally in respect of all amounts of duty entered in the accounts under the conditions laid down in the first sentence of Article 233(1) during a period fixed by the customs authorities not exceeding 31 days; or
- c) globally in respect of all amounts of duty forming a single entry in accordance with the second sentence of Article 233(1).

#### Article 242

1. The period for which payment is deferred shall be 30 days. It shall be calculated as follows:
  - a) where payment is deferred in accordance with Article 241 (a), the period shall be calculated from the day following the date on which the amount of duty is entered in the accounts by the customs authorities. Where Article 234 is applied, the period of 30 days calculated in accordance with the preceding sentence shall be reduced by the number of days corresponding to the period in excess of two days used to enter the amount in the accounts;
  - b) where payment is deferred in accordance with Article 241 (b), the period shall be calculated from the day following the date on which the aggregation period expires. It shall be reduced by the number of days corresponding to half the number of days in the aggregation period;
  - c) where payment is deferred in accordance with Article 241 (c), the period shall be calculated from the date following the expire date of the period during which the goods in question were released. It shall be reduced by the number of days corresponding to half the number of days in the period concerned.
2. Where the number of days in the period referred to in paragraph 1(b) and (c) is an odd number, the number of days to be calculated from the 30-day period pursuant to paragraph 1(b) and (c) shall be equal to half the next lowest even number.
3. To simplify matters, when the periods referred to in paragraph 1(b) and (c) are a calendar week or a calendar month, the customs authorities may provide that the amount of duty in respect of which payment has been deferred shall be paid:

- a) if the period is a calendar week, on the Friday of the fourth week following that calendar week;
- b) if the period is a calendar month, by the 16 day of the month following that calendar month.

#### Article 243

Whatever the payment facilities, enacted by the Minister of Finance, granted to the debtor, the latter may in any case pay all or part of the amount of duty without awaiting expire of the period he has been granted for payment.

#### Article 244

An amount of duty owed may be paid by a third person instead of the debtor.

#### Article 245

1. Where the amount of duty due has not been paid within the prescribed period:
  - a) the customs authorities shall avail themselves of all options open to them under the legislation in force, including enforcement, to secure payment of that amount. Special provisions may be adopted in the Implementing Provisions of this Code, in respect of guarantors within the framework of the transit procedure;
  - b) interest on arrears shall be charged over and above the amount of duty. The rate of interest on arrears may be higher than the rate of credit interest. It may not be lower than that rate.
2. The customs authorities may waive collection of interest on arrears if the duty is paid within 5 days of the expire of the period prescribed for payment.
3. The customs authorities may fix:
  - a) minimum periods for calculation of interest;
  - b) minimum amounts payable as interest on arrears.

## CHAPTER 4

### EXTINCTION OF CUSTOMS DEBT

#### Article 246

1. Without prejudice to the provisions in force relating to the time-barring of a customs debt and non-recovery of such a debt in the event of the legally established insolvency of the debtor, a customs debt shall be extinguished:
  - a) by payment of the amount of duty;
  - b) by remission of the amount of duty;
  - c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties:
    - i. the customs declaration is invalidated in accordance with Article 91,

- ii. the goods, before their release, are either seized and simultaneously or subsequently confiscated, destroyed on the instructions of the customs authorities, destroyed or abandoned in accordance with Article 197, or destroyed or irretrievably lost as a result of their actual nature of unforeseeable circumstances or force majeure;
- d) where goods in respect of which a customs debt is incurred in accordance with Article 217 are seized upon their unlawful introduction and are simultaneously or subsequently confiscated.

2. In the event of seizure and confiscation, the customs debt shall, nonetheless for the purposes of the criminal law applicable to customs offenses, be deemed not to have been extinguished where, under the criminal law, customs duties provide the basis for determining penalties or the existence of a customs debt is grounds for taking criminal proceedings.

#### Article 247

A customs debt, as referred to in Article 231, shall also be extinguished where the formalities carried out in order to enable the preferential tariff treatment referred to in Article 231 to be granted are canceled.

## CHAPTER 5

### REPAYMENT AND REMISSION OF DUTY

#### Article 248

The following definitions shall apply:

- a) 'repayment' means the total or partial refund of import duties or export duties which have been paid;
- b) 'remission' means either a decision to waive all or part of the amount of a customs debt or a decision to render void an entry in the accounts of all or part of an amount of import or export duty which has not been paid.

#### Article 249

1. Import duties or export duties shall be repaid in so far as it is established that when they were paid the amount of such duties was not legally owed or that the amount has been entered in the accounts contrary to Article 235 (2). Import duties or export duties shall be remitted in so far as it is established that when they were entered in the accounts the amount of such duties was not legally owed or that the amount has been entered in the accounts contrary to Article 235 (2). No repayment or remission shall be granted when the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person concerned.

2. Import duties or export duties shall be repaid or remitted upon submission of an application to the appropriate customs office within a period of three years from the date on which the amount of those duties was communicated to the debtor. That period shall be extended if the person concerned provides evidence that he was prevented from submitting his application within the said period as a

result of unforeseeable circumstances or force majeure. Where the customs authorities themselves discover within this period that one or other of the situations described in the first and second sentences of paragraph 1 exists, they shall repay or remit on their own initiative.

#### Article 250

Import duties or export duties shall be repaid where a customs declaration is invalidated and the duties have been paid. Repayment shall be granted upon submission of an application by the person concerned within the periods laid down for submission of the application for invalidation of the customs declaration.

#### Article 251

1. Import duties shall be repaid or remitted in so far as it is established that the amount of such duties entered in the accounts relates to goods placed under the customs procedure in question and rejected by the importer because at the point in time referred to in Article 92 they are defective or do not comply with the terms of the contract on the basis of which they were imported. Defective goods, within the meaning of the preceding sentence, shall be deemed to include goods damaged before their release.

2. Repayment or remission of import duties shall be granted on condition that:

- a) 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;
- b) the goods are exported from the customs territory of the Republic of Albania.

At the request of the person concerned, the customs authorities shall permit the goods to be destroyed or to be placed, for the purposes of their re-exportation, under the transit procedure or the customs warehousing procedure or in a free zone or free warehouse, instead of being exported.

For the purposes of being assigned one of the customs-approved treatments or uses provided for in the preceding subparagraph, the goods shall be deemed to be non-Albanian goods.

3. Import duties shall not be repaid or remitted in respect of goods which, before being declared to customs declaration, were imported temporarily for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests.

4. Import duties shall be repaid or remitted for the reasons set out in paragraph 1 upon submission of an application to the appropriate customs office within 12 months from the date on which the amount of those duties was communicated to the debtor. However, the customs authorities may permit this period to be exceeded in duly justified exceptional cases.

#### Article 252

1. Import duties or export duties may be repaid or remitted in situations other than those referred to in Articles 249, 250 and 251:

- a) to be determined in provisions enacted by the Minister of Finance;

- b) resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned. The situation in which this provision may be applied and the procedures to be followed to that end shall be defined in accordance with provisions enacted by the Minister of Finance. Repayment or remission may be made subject to special conditions.

2. Duties shall be repaid or remitted for the reasons set out in paragraph 1 upon submission of an application to the appropriate customs office within 12 months from the date on which the amount of the duties was communicated to the debtor. However, the General Director may permit this period to be exceeded in duly justified exceptional cases.

#### Article 253

Import or export duties shall be repaid or remitted under the conditions laid down in this chapter only if the amount to be repaid or remitted exceeds an amount fixed in accordance with the provisions laid down by the Minister of Finance.

However, the customs authorities may also grant an application for repayment or remission in respect of a lower amount.

#### Article 254

Repayment by the competent authorities of amounts of import duties or export duties or of credit interest or interest on arrears collected on payment of such duties shall not give rise to the payment of interest by those authorities. However, interest shall be paid:

- a) where a decision to grant a request for payment is not implemented within three months of the date of adoption of that decision,
- b) where national provisions so stipulate.

The amount of such interest shall be calculated in such a way that it is equivalent to the amount which would be charged for this purpose on the national money or financial market.

#### Article 255

Where a customs debt has been remitted or the corresponding amount of duty repaid by error, the original debt shall again become payable. Any interest paid under Article 254 must be reimbursed.

## **TITLE VIII**

### **CUSTOMS VIOLATIONS AND SANCTIONS**

#### **CHAPTER 1**

### **GENERAL PROVISIONS AND DEFINITIONS**



## Article 256

1. Customs violations consist of:
  - a) administrative customs violations;
  - b) smuggling.
2. Any act or omission which does not comply with the provisions of this Law and its implementing provisions, is considered an administrative customs violation and is punished as such.
3. Subtracting by any means to goods from the customs control and/or supervision of goods with the intention of evading or attempting to evade the payment of duties legally due as referred to in Article 276 until 280, and any of the behaviors referred to in the same Articles, are considered smuggling and punished as such.
4. The payment of penalties applied for customs violations, will in no case be exempt the violator from the payment of customs duties legally due provided for in the present Law.
5. The term ‘goods’ for the purposes of this Title means Albanian and /or non Albanian goods subject to the customs formalities or customs duties.

## CHAPTER 2

### ADMINISTRATIVE CUSTOMS VIOLATIONS

#### Article 257

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation, the indication in the cargo manifest of a vessel or an aircraft, of a quantity of goods different from that verified by the customs authorities.
2. A fine of 10.000 Lek for each package, or a fine of 30.000 Lek for each ton, when the cargo is in bulk, will be applied to the captain of the vessel or aircraft who commits such a violation.
3. For the purposes of this Article, when the exceeding packages have the same marks and numerical figures as the packages indicated in the manifest, the packages classified in a tariff classification corresponding to higher duties, shall be considered as the ones not indicated.
4. When the verified differences are smaller than 5% of the quantity indicated in the manifest, no sanction will be applied.

#### Article 258

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation if any conduct by the captain of the vessel consists of:

- a) delaying the presentation of the manifest. A fine of 40.000 Lek for each 5 hours of delay will be applied. The hours that the competent customs authority is not open will not be calculated;
- b) refusing to receive customs authorities on board. A fine of 300.000 to 500.000 Lek will be applied;
- c) departing without the permission of customs authorities. A fine of 300.000 to 500.000 Lek will be applied;

2. The fines referred to in this Article are applied regardless of any other sanctions applicable for the same or similar reasons as provided for by the legislation on maritime navigation.

#### Article 259

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation if any conduct by the captain of an aircraft consists of :

- a) delaying the presentation of the manifest. A fine of 40.000 Lek for each 5 hours of delay will be applied. The hours that the competent customs authority is not open will not be calculated;
- b) refusing to receive customs authorities on board. A fine of 300.000 to 500.000 Lek will be applied;
- c) departing without the permission of customs authorities. A fine of 300.000 to 500.000 Lek will be applied.

2. The fines referred to in this Article are applied regardless of any other sanctions applicable by other authorities for the same or similar reasons as provided for by the legislation on air navigation.

#### Article 260

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation if any conduct by the person who transports goods by land, consists of:

- a) deviating from the itinerary determined by the customs authorities. A fine that varies from 200.000 to 300.000 Lek will be applied;
- b) delaying the presentation of the goods at the competent customs authorities. A fine 30.000 Lek will be applied for each 5 hour delay. The hours during which the competent customs office was closed shall not be calculated for this purpose;
- c) departing without the permission of customs authorities. A fine of 50.000 lek to 100.000 Lek will be applied;
- d) transports packages, pots or goods in general, more or less than those indicated in the documents that accompanies the goods. A fine that varies from 50.000 to 100.000 Lek will be applied;
- e) violating the provisions in force of the TIR Convention and its Annexes, where are listed the responsibilities of the person who transports goods, inside or through the customs territory. A fine that varies from 10.000 to 30.000 Lek will be applied.

#### Article 261

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication of a quality, quantity, value or origin different from that verified by

the customs authorities, while the declarant lodges the declaration for goods to be released for free circulation. A fine that varies from 30.000 to 100.000 Lek will be applied.

2. After the declaration is revised, in the event of the duties legally due are estimated higher than those calculated according to the customs declaration and the difference exceeds 5%, instead of the said fine, a fine of three times the amount of the difference of the unpaid duties shall be applied.

3. However, if such a difference is caused by errors made in good faith during the preparation of the customs declaration, and if the declarant has supplied all the necessary information for the customs verification, a fine that varies from one tenth to the whole amount of the same difference shall be applied.

4. The fines mentioned above shall apply *mutatis mutandis* whenever it is verified by the customs authorities a value or origin different from that indicated in the declaration for goods to be placed under any customs procedure, other than transit procedure.

#### Article 262

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation, the presentation of the goods placed under transit procedure at a customs office different from that of the customs of destination.

2. A fine that varies from 200.000 to 300.000 Lek will be applied to the declarant or the guarantor, when it is verified that such a violation was committed under his responsibility.

#### Article 263

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the transit documents, as registered at the customs office of departure, of a quantity different from that verified at the customs office of destination, upon the arrival of goods placed under transit procedure.

2. A fine that varies from one to three times the amount of duties legally due on the verified difference will be applied to the declarant or the guarantor.

#### Article 264

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the transit documents, as registered at the customs office of departure of a quality different from that verified at the customs office of destination, upon the arrival of goods.

2. A fine which varies from one to three times the amount of duties legally due on the verified goods will be applied to the declarant or the guarantor.

#### Article 265

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation declaring and/or recording a quality or quantity of goods stored in a customs warehouse, different from that verified by the customs authorities.
2. A fine of three times the duties payable on goods verified to be different in quality or quantity will be applied to the warehouse keeper or the depositor, when the deposit of goods is under his responsibility.
3. When the verified difference in quantity is smaller or equal to 2% of the quantity indicated in each declaration, no sanction will be applied.
4. Without prejudice to the provisions about smuggling, if the difference in quantity is more than 20%, for more or less, the warehouse keeper is compelled to release for free circulation immediately all the goods registered in his name. In the case there have been previously identified differences in quantity of goods deriving from the warehouses managed by the same person, exceeding 20%, even if it relates to goods of a different quality, he will not be able to have the concession for the customs warehouse for one year.

#### Article 266

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the summary declaration of a quantity of goods in temporary storage facilities, different from that verified by the customs authorities.
2. The sanctions below will be applied to the authorized person or persons referred to in Article 69 paragraph 2 who lodged the summary declaration, and committed such a violation:
  - a) the payment of duties on the missing goods. Duties will be calculated on the basis of the elements of the summary declaration or will be deducted from other estimations in the highest applicable measure of the day of introduction, or of the confirmation of the storage; and
  - b) the payment of a fine of one to three times the duties legally due on the goods missing or in excess.
3. However, in cases that the competent customs authorities of the country of exportation, certify officially that a different quantity was sent, no sanctions will be applied.

#### Article 267

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of temporary importation of goods placed under inward processing procedure, of a quality or quantity different from that verified by the customs authorities.
2. The fines below, will be applied to the declarant who commits such a violation:
  - a) In the case a difference in quality is verified, the payment of a fine up to three times the amount of duties on the goods verified. After the declaration is revised, it will be considered a declaration of importation.

- b) In the case a difference in quantity is verified, the payment of a fine that varies:
- i) from two to five times the duties legally due on the goods missing or in excess,
  - ii) from half to the whole amount of the duties legally due on the goods missing or in excess, when the difference verified is caused by a mistake of calculation or error of writing in good faith by the declarant.

However, when the verified difference in quantity does not exceed 5%, no sanction shall be applied. After the declaration is revised, it shall be considered a declaration of temporary importation.

#### Article 268

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of re-exportation of goods placed under inward processing procedure of a quality or quantity different from that verified by the customs authorities.
2. The fines below will be applied to the declarant who commits such a violation:
  - a) In the case a difference in quality is verified, the payment of a fine that varies from one to three times the duties legally due on the goods temporary imported, rather than those actually presented. After the declaration is revised, it will be considered a declaration of exportation.
  - b) In the case a difference in quantity is verified, the payment of a fine that varies:
    - i. from two to five times the import duties on the missing goods;
    - ii. from two to five times for the goods in excess.

When the verified difference in quantity is smaller or equal to 5%, no fine will be applied. After the declaration is revised, it will be considered a declaration of re-exportation.

#### Article 269

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of temporary exportation, of goods placed under outward processing procedure, of a quality or quantity different from that verified by the customs authorities.
2. The fines below will be applied to the declarant who commits such a violation:
  - a) In the case a difference in quality is verified, a fine that varies from one to three times the amount of the difference of the duties legally due on the goods indicated from those verified as if those goods were imported and non Albanian.  
After the declaration is revised, it will be considered a declaration of export;
  - b) In the case a difference in quantity is verified, the payment of a fine that varies from two to five times the duties legally due on the verified difference, as if the goods missing or in excess, were imported and non Albanian.

When the difference in quantity is smaller or equal to 5%, no sanction will be applied. After the declaration is revised, it will be considered a declaration of temporary exportation.

#### Article 270

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of re-importation of goods, placed under outward processing procedure, of a quality or quantity different from that verified by the customs authorities.
2. The fines below will be applied to the declarant who commits such a violation:
  - a) In the case a difference in quality is verified, the payment of a fine that varies from one to ten times the duties legally due on the goods verified to be different. After the declaration is revised, it will be considered a declaration of importation.
  - b) In the case a difference in quantity is verified, the payment of a fine that varies:
    - i. from two to five times the import duties on the goods in excess;
    - ii. from two to five times for the goods that are missing;

When the verified difference in quantity is smaller or equal to 5%, no sanction will be applied. After the declaration is revised, it will be considered a declaration of temporary exportation.

#### Article 271

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the re-exportation of less quantity of goods, placed under inward processing procedure suspensive system, after the bill of discharge is lodged.
2. The fines below will be applied to the holder of the authorisation:
  - a) In the case the missing goods are verified at the location of the holder of the authorisation, the payment of a fine that varies from one to three times the amount of duties legally due on those goods (compensating products or temporary imported goods in their unaltered state);
  - b) In the case the missing goods are not verified at the location of the holder of the authorisation, the payment of an additional fine equal to the whole amount of the duties legally due of those goods (compensating products or temporary imported goods in their unaltered state), presuming that they were released for free circulation without the relevant customs authorisation, shall be applied.

In both cases the holder of an inward processing authorisation has to lodge a declaration for the clearance of the missing goods.

#### Article 272

1. It is considered an administrative customs violation the failure to lodge on time the bill of discharge for goods placed under inward processing procedure suspensive system.
2. A fine that varies from 50.000 Lek to 200.000 Lek will be applied to the holder of the authorisation who commits such a violation.

#### Article 273

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation, the failure to comply with the time limits within which goods placed under the temporary importation procedure as referred to in Articles 157 to 164, had to be re-exported or assigned a new customs-approved treatment or use.
2. A fine according to the implementing provisions of this Code, will be applied to the person authorized to use goods placed under temporary importation procedure a fine from the half to the whole amount of duties legally due on those goods shall be applied.

#### Article 274

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the failure to present the customs declaration within the terms established in the present Code.
2. A fine of 20.000 Lek for each day of delay will be applied to the declarant who commits such a violation.

#### Article 275

1. A fine that varies from 50.000 Lek to 100.000 Lek will be applied for violations as referred to in Article 256 paragraph 2 which are not specifically set forth in this Chapter.
2. When the same violator has committed more than one administrative customs violations at the same time, as referred to in the provisions of this Code, a separate fine will be applied for each violation.
3. Upon proposal of the Minister of Finance, the Council of Ministers is entitled to change the amount of the administrative penalties, when necessary.

### CHAPTER 3

### SMUGGLING

#### Article 276

1. Commits smuggling by moving goods through the land borders and customs areas the person that:

- a) introduces goods through the land borders in violation with the provisions of this code and its implementing provisions;
- b) unloads or deposits goods in the intermediary space between the border and the closest customs office;
- c) is found with goods hidden on his body or his luggage, packages, in articles carrying, or goods of other kind or any means of transport intending to evade the customs supervision;
- d) removes goods from customs areas without paying the customs duties legally due, or without having guaranteed the payment, except the cases of exemption from the obligation of providing a guarantee, as provided in the present Code;
- e) takes away from the customs territory of the Republic of Albania, in any of the conditions above, goods that are subject to export duties;
- f) keeps goods in proximity of the customs line, for which he can produce no evidence of the legitimate derivation;
- g) refuses to present the manifest and the appropriate documents;
- h) loads, unloads, or transships goods, passengers or their luggage, without a permission from the customs authorities.

#### Article 277

Commits smuggling in the movement of the goods through the bordering lakes the captain of the ship that introduces through the lakes of Ohrid, Shkodra, and Prespa, goods without being subject to any of the closest customs offices.

#### Article 278

Commits smuggling in the maritime movement of the goods the captain of the ship who:

- a) transports goods through the sea border, in contradiction with this code and its implementing provisions;
- b) approaches, without the permission of the customs authorities, while transporting goods in the ship, the port or throws the anchor, or stays in proximity of the harbor.
- c) transports goods, lands in places where there are no customs offices, unloads or transships those goods in contradiction with the present Code or its implementing provisions;
- d) transports the goods without a manifest;
- e) at the time of departure does not have on board the goods, although they were supposed to be loaded according to the manifest or other customs documents;
- f) transports goods from a customs office to another one without the relevant transit documents.

#### Article 279

Commits smuggling in the movement by air of the goods the captain of the aircraft who:

- a) introduces goods in the customs territory of the Republic of Albania by air in contradiction with the present Code and its implementing provisions;
- b) transports goods in the customs territory of the Republic of Albania without being provided with a manifest;



- c) at the time of departure does not have on board the goods, although they were supposed to be loaded according to the manifest or other customs documents;
- d) transports goods from the place of landing of the aircraft without performing the respective customs formalities;
- e) lands out of a customs airport, and does not notify its landing to the customs authorities or other police authorities within the shortest time. In such cases it is considered introduced by smuggling, besides the cargo, even the aircraft itself.
- f) loads, unloads, or transships goods, people or their luggage without permission from the customs authorities.

#### Article 280

It is also considered smuggling:

- a) depositing in general consumption by giving a completely or partial different destination or use to goods imported with partial or total relief from customs duties, because of their end-use or their specific use;
- b) exportation or importation of prohibited goods or restricted goods save in the cases when it exists a permission in writing issued by the competent authorities as an exemption from the said restrictions;
- c) possession of goods against the restrictions and bans referred to in article 83, paragraph 2 of this law;
- d) removal or falsification in any way of the identification number of the means of transport. Collaborators in this violation are considered and punished as such anyone who carries out respective acts, also including the technical persons, as well as the owner or any other person who benefits from this falsification or transferring;
- e) purchase, selling, preservation, and possession of goods imported from individuals, who are or should not reasonably have information that these goods are imported or released in free circulation in a certain way that the elements constituting smuggling are fulfilled;
- f) throwing goods object to high customs duties from the means of transport during the trip through the customs territory of the Republic of Albania;
- g) importation, exportation, sale of goods with national cultural value, against the legal norms in force;
- h) breaking the seal, substitution or changes of other security signs placed on the means of transport or on the goods.

### CHAPTER 4

#### SANCTIONS OF SMUGGLING

##### Article 281

1. Smuggling, as a customs violation, referred to in Article 256 paragraph 3 and specified in Articles 276 to 280, is punished with a fine which varies from two to ten times the duties legally due on the goods that are subject of this violation.

2. Each violator, is liable jointly and severally, to the fine above mentioned, according to the degree of his participation.
3. The fact that they are liable jointly and severally means that each of them has the duty to fully perform the obligation and the customs authorities may demand payment or sue one or more of parties to such liability, separately or all together, depending on the option. If one of the parties pays the full amount, the others are free of any obligation to the customs authorities for the fine in question.
4. In any event the fine applied for each violation may not be less than 100.000 Lek.
5. When the same violator commits at the same time several violations, referred to in Chapter 3, each violation shall be punished separately.

#### Article 282

1. In the cases of recidivism in smuggling, the sanction may never be less than the previous applied to the same person.
2. The attempt of smuggling will be punished as if the act was consummated.

#### Article 283

The punishment of smuggling through sanctions does not exclude the application of supplementary punishments as referred to in Article 30 of the Penal Code.

#### Article 284

1. Goods subject of smuggling as well as the means of transport or other objects used to transfer or to hide them, hereinafter referred to as “object of smuggling”, are in each case, seized by the customs authorities and then upon decision of the Court may be confiscated.
2. The seizure takes place regardless of the degree of participation in smuggling of anybody who has the right on those goods.
3. Where the person responsible for smuggling possesses the seized goods referred to in this Article, as a consequence of a criminal act, the goods are given back to the owner.
4. Means of transport are exempted from the seizure, whenever:
  - a) on the basis of the evidences in possession, their owner is not involved in this act;
  - b) the owner possesses the means of transport in good faith following the legal procedures of trade, without being reasonably able to know that this was a means, object of smuggling, or of other similar act or crime.
5. Upon decision of the court all the seized goods are confiscated and disposed of according to the provisions of this Code and its Implementing Provisions. In case the seized subject of smuggling are goods on which excise duties are applied and there is no label on them, the

prosecutor within 48 hours from the time the case is transferred to him shall decide about the confiscation of these goods.

6. In case perishable goods are seized the prosecutor when there are enough evidences may take a decision regarding the confiscation of those goods within 48 hours from the time the case is transferred with him, so that those goods are not depreciated. Otherwise, the confiscation is made upon decision of the Court.

7. In cases that means of transport are seized, the prosecutor, when there are enough evidences may take a decision regarding the confiscation of those means of transport regarding their confiscation within 5 days. In any case when this time limit terminates, the customs authorities may request from the prosecutor that these means of transport to be given to the customs authorities for use whilst carrying out their duty. The customs authorities are liable for any expense regarding the use and maintenance of these means

8. If within 12 calendar months from the verification date of smuggling the court has not yet taken a decision regarding the confiscation of the seized goods , it is presumed as such decision is taken and the seized goods are confiscated and are passed to the destination according to the procedures of respective procedures of this code and legal provisions.

#### Article 285

Goods object or subject of smuggling as referred to in Article 284, are seized:

- a) where the act of smuggling is being performed. The act of smuggling is being performed, when the goods are not placed yet in the definitive storage place, which may be the house, the shop, the warehouse or any other location assigned to the goods by the person responsible for smuggling or any other accomplice. The act of smuggling is also considered as being performed when the responsible person is caught nearby the location smuggling is performed, having in his possession evidences or is caught pursuant to notification by the citizens;
- b) where the act of smuggling is completed. In this case the object of smuggling has been definitively placed in the place assigned by the person responsible or the accomplice. The act of smuggling is considered also as completed even in the case that the customs officer or employee authorized to seize the goods subject of smuggling has noticed them while being transported, followed them till their definitive placement and then entered to seize them. The delay of entrance of the customs officer or employee in such case, subsequent to obstacles he faced while entering, will not be taken into account.

#### Article 286

No right of compensation may be arisen against the customs authorities or the Government of the Republic of Albania for reasons of damage and decrease of valuation, deriving from the seizure or confiscation of the goods subject or object of smuggling.

## CHAPTER 5

### VERIFICATION OF CUSTOMS VIOLATIONS

#### Article 287

1. The customs administrative violations are ascertained and penalized by the customs authorities, while cases of smuggling fall under the jurisdiction of the justice authorities.
2. For the purposes of this chapter, 'competent customs authorities' hereinafter are called the customs authorities that exercise supervision in the area where the violation has been committed and verified.
3. The violations of the provisions of this Code and its implementing provisions are certified with a written report.
4. The written report must be lodged and registered on the records of the competent customs authorities.
5. The written report of verification may not be signed by less than two customs officers or employees.
6. The same provision applies when other laws are violated, in cases that such application is required totally or partially by the customs authorities.
7. Customs authorities in order to accurately enforce the customs law, may carry out control at the economic operators.

#### Article 288

1. The written report shall contain:
  - a) the place, the date and the time where the violation is verified;
  - b) the names of the persons who sign the report and the authority that they represent;
  - c) identifying information related to the person or persons who have committed the customs violation;
  - d) the kind of violation committed;
  - e) the way that the violation was committed;
  - f) the identification of the means of transport;
  - g) the indication of the quantity, quality, value, origin or tariff classification of goods object of the violation;
  - h) indications of goods which will probably be seized and/or confiscated;
  - i) the amount of duties legally due;
  - j) the articles that are violated, the articles on the basis of which the fines are fixed and the amount of fines provided for in the present Code and its implementing provisions;
  - k) the signatures of the customs employees or officers and when possible, that of the violator.
2. The registered report must be notified immediately to the person or persons responsible by the competent customs authorities.

3. The customs authorities have to examine the violator and the witnesses by notifying them the invitation to present themselves or lodge a statement, fixing a date for that purpose. The time limit may not exceed 10 days from the date of notification. As witnesses are considered all those who might be accomplices on that violation, as well as the customs officers or employees who have signed the relevant report and verified the customs violation.

4. In case the violator or the witnesses participate personally in the examination, two authorized officers lead the examination duly recording it.

5. The testimony has to be signed by the violator or the witnesses and by both the customs officers or employees who lead that examination.

6. When any of the violators or the witnesses is a foreign citizen, the examination will be carried out in the presence of an interpreter as provided for in the Penal Procedure and Civil Procedure Codes.

#### Article 289

1. The customs authority after administering the relevant file, issues a decision on each violation. The relevant file of a customs violation contains:

- a) the registered report of verification of the violation;
- b) the relevant documents;
- c) the statements and testimonies of violators and/or witnesses;

2. In determining in the decision the amount of fine to be applied, between the minimum and the maximum provided for in this Code and its implementing provisions, the following will be taken into consideration:

- a) the statements or testimonies of the violator and/or witnesses;
- b) the seriousness of the violation;
- c) the behavior of the violator with regard to eliminate the proofs and consequences of the violation;
- d) the ways that the violator has followed in order to commit such violation;
- e) the number of the violators;
- f) whether the same violator has committed the same violation in continuous basis;
- g) the economic conditions of each violator and the degree of each one's participation.

#### Article 290

1. When the customs violation is smuggling, the relevant file as referred to in Article 289(1) shall be transferred to the competent prosecution office within 24 hours from the time of verification.

2. In cases that Article 293(1) of this Code applies, the above mentioned file is attached to the decision of the customs authorities regarding the fulfillment of the condition referred to in the same Article.

#### Article 291

1. The decision of the competent customs authority has to be taken and notified within the time limits set forth in the Civil Procedure Code, so that the customs debt is insured.
2. The violator may lodge a justified appeal against that decision, to the Director General of Customs within 10 days from the date of notification.
3. In order to lodge the appeal, the violator has to pay at least an amount equal to 40% of the total amount of the fine provided for in this Code. The amount that corresponds to the 40%, in no case shall exceed the amount of duties legally due on the goods subject of the violation.
4. The Director General shall take a decision within 30 days from the date the appeal was received. The Director General notifies the decision to the interested person and the competent customs authority.
5. If the appeal is objected, the violator may appeal to the judicial authorities within 20 days from the date of notification of the objection.
6. Where the court authorities object the appeal request, the appellant shall pay the rest of the 60% fine. In cases when the appeal is procured, the deposited amount is paid back to the appellant.

#### Article 292

1. Where the customs violation constitutes smuggling, the customs authorities after they have started the legal and administrative procedures related to the collection of the customs duties regarding the goods subject or object to smuggling, transfer the whole file in accordance with article 289 (1) with the prosecution authorities within 24 hours from the moment of verification. The customs authorities determine, in the report sent to these authorities, the fine applicable in the concrete case, as provided in Article 289 (2).
2. In cases where Article 293 (1) of the present Code is applied, the said file shall be sent together with the decision of the customs authorities related to the application of the conditions referred to in the same article.

#### Article 293

1. The criminal prosecution shall not start or if it has already started and the Court has not taken any decision yet, it shall be ceased when all the following conditions are fulfilled:
  - a) the amount of the duties legally due on the goods involved in smuggling is not less than 5 million lek; and
  - b) the responsible person pays the amount of fines applied to him; and
  - c) accepts to give up his right of appeal, referred to in Article 291.

Upon the proposal of the Minister of Finance, the Council of Ministers is entitled to change the fixed limit of the amount of duties legally due on the goods subject of smuggling referred to in this Article.

2. The seizure applied to the goods object and subject of smuggling is removed immediately with payment of the fine and fulfillment of the conditions of the paragraph 1 of this Article.

1. This article is not applied when:

- a) the act of smuggling is committed by a state officer or employee, a customs agent, or any other person whose activity is connected to that of customs authorities; or
- b) the violator possesses the subject of smuggling as a consequence of a criminal act; or
- c) the goods subject to smuggling are prohibited or restricted goods, as referred to in Article 83 (2) of this Law, or they are goods of national cultural value;
- d) the violator is a recidivist.

#### Article 294

1. According to the decision of the Court, the fines determined by the customs authorities based on Article 289 (2) shall be collected by the same authorities according to this Code and its Implementing provisions of the present Code.

2. When the Court has not decided on the applicability of the fine within 12 months from the date the report of verification concerning smuggling was registered, it is presumed that such a decision has been taken and the fines are to be paid to the customs authorities according to the dispositions of this Code and its Implementing Provisions of the present Code.

#### Article 295

1. Customs authorities arrest persons who commit smuggling, and inform immediately the competent attorneys office. The arrested person and the relevant file is passed to the attorneys office within 24 hours.

2. When the person is released according to Article 293 (1) the relevant file with the decision attached to it, shall be sent to the Attorneys office within 24 hours.

#### Article 296

1. The customs officers may be authorized by the Head of competent Customs authorities to access information, or search for evidences on customs violations.

2. This information may be searched and obtained at the proper places of production activity or commercial premises, and in any other places where documents or records related to the goods subject of the customs violations are kept. In order to gather information for customs violations, they may also intercept conversation or communication, according to the provisions of the Penal Procedure Code.

#### Article 297

It shall be the duty of all civil institutions and any member of the police and defense forces to assist the customs authorities in the enforcement of the customs matters and rules, whenever those authorities so demand.

## Article 298

The revenue deriving from the application of fines and sale of confiscated goods and means of transport object of violations, will be divided as follows:

- a) 50 % the State budget;
- b) the remaining 50% will be divided, according to the percentages fixed by the Minister of Finance as follows:
  - i) cost of improving the working conditions of the staff,
  - ii) incentives to the customs officers who verified the violations,
  - iii) recompense to the informers who helped to discover the violations.

# TITLE IX

## FINAL PROVISIONS

### Article 299

With the entry into force of the present Code the following Laws shall be repealed:

1. Law No. 7599, date 02.09.1992, "For the Customs Code of the Republic of Albania".
2. Law No. 8020, date 01.11.1995, "For some changes in Law No. 7599, date 02.09.1992, "For the Customs Code of the Republic of Albania".
3. Law No. 8148, date 11.09.1996, "For the approval with some changes of the Decree No. 1578, date 13.08.1996 "For some changes in Law No. 7599, date 02.09.1992, 'For the Customs Code of the Republic of Albania'".
4. Law No. 8263, date 15.12.1997, "For an amendment in the Law No. 7599, date 02.09.1992, "For the Customs Code of the Republic of Albania".
5. Law No. 8187, date 23.01.1997, "For the Customs Value"
6. Law No.7609, date 22.09.1992 "For the customs Tariffs";
7. The decision of the Council of Ministers No. 293, date 08.05.1995, "For the determination of minimal values related to the prices of goods and transport tariffs, to be applied by the Customs Authorities in calculating the customs value".
8. In the Decree No. 1074, date 02.04.1995, "For the dissolution of the Finance Police and creation of the Customs Police and Taxation Police", approved by Law No. 7938, date 24.05.1995, the part regarding the provisions related to the Customs Police.



9. In Decree No. 1701, date 09.01.1997. “For an addition to the Decree No. 1074, date 02.04.1995, “For the dissolution of the Finance Police and creation of the Customs Police and Taxation Police”, approved by Law No. 7938, date 24.05.1995, the part regarding the provisions related to the Customs Police.
10. In the Joint Regulation of the Minister of Finance, Minister of Interior and the General Attorney, date 01.12.1996, date 01.07.1993, “For the coordination of the Activities undertaken by the Border Police, Customs Authorities, and Finance Police”, the provisions which does not comply with the present Code.
11. In the Instruction, date 04.12.1996, “For the collaboration in the struggle against smuggling”, the provisions which does not comply with the present Code.

as well as any provision which does not comply with the present Code.

#### Article 300

The present Law shall enter into force on \_\_\_\_\_