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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY  
LAWS AND REGULATIONS NOTIFIED UNDER  
ARTICLE 63.2 OF THE AGREEMENT**

**MOLDOVA**

The present document reproduces the text<sup>1</sup> of the Customs Code N° 1149-XIV, as last amended in 2001, as notified by Moldova under Article 63.2 of the Agreement (see document IP/N/1/MDA/1).

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**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA  
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE  
DE L'ARTICLE 63:2 DE L'ACCORD**

**MOLDOVA**

Le présent document contient le texte<sup>1</sup> du code des douanes n° 1149-XIV, modifié pour la dernière fois en 2001, qui a été notifié par la Moldova au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/MDA/1).

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**Consejo de los Aspectos de los Derechos de Propiedad  
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA  
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD  
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**MOLDOVA**

En el presente documento se reproduce el texto<sup>1</sup> del Código de Aduanas N° 1149-XIV, modificado en 2001, notificado por Moldova de conformidad con lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/MDA/1).

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<sup>1</sup> In English only. The text in the original language is available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter le texte, dans sa langue d'origine, au Secrétariat de l'OMC./En inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC el texto en su idioma original.

**LAW OF THE REPUBLIC OF MOLDOVA**

**No. 596-XV of November 1, 2001**

**on amending the Customs Code of the Republic of Moldova**

(The Official Gazette of the Republic of Moldova no. 141-143/1105 of November 22, 2001)

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The Parliament shall adopt the present organic law.

Article 1. In the Customs Code of the Republic of Moldova (Official Gazette of the Republic of Moldova, 2000, no. 160-162, Art. 1201), the syntagma “The Customs Control Department” shall be replaced with the syntagma “The Customs Department”.

CHAIRMAN OF THE PARLIAMENT

Eugenia OSTAPCIUC

Chisinau, November 1, 2001  
No. 596-XV

**LAW OF THE REPUBLIC OF MOLDOVA  
THE CUSTOMS CODE OF THE REPUBLIC OF MOLDOVA**

**No. 1149-XIV of July 20, 2000**

(The Official Gazette of the Republic of Moldova no. 160-162/1201 of December 23, 2000)

The Parliament shall adopt the present Customs Code.

This Code sets out legal, economic and organizational principles of the customs activity and aims to ensure the protection of sovereignty and economic security of the Republic of Moldova.

**Chapter I  
GENERAL PROVISIONS**

**Section 1  
Customs Activity**

**Article 1. Basic definitions**

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

(1) *goods* means any tangible and intangible assets: objects and other values, including currency values (foreign currency and national cash currency, accounts and transferable

securities expressed in foreign and national currency), natural gas, electrical and thermal energy or other type of energy, as well as means of transport, except for those referred to in paragraph (4) of this Article;

(2) *home-made goods* means goods produced in compliance with the rules of origin stipulated by the legislation of the Republic of Moldova;

(3) *foreign-made goods* means goods other than those referred to in paragraph (2) of this Article;

(4) *means of transport* - any means of transport used for international transportation of passengers and goods, including containers and other transportation equipment;

(5) *crossing of the customs border* means bringing into and taking out of the customs territory of the Republic of Moldova of goods and means of transport, including by international postal shipments, by pipes and by electric means of transport. The above-mentioned actions include:

- *de facto* crossing of the customs border of the Republic of Moldova in case of entry of goods and means of transport into the customs territory of the Republic of Moldova or in case of entry of goods and means of transport on the other side of the customs territory of the Republic of Moldova from free-trade zones and free customs warehouses;

- submission of customs declaration or performance of other customs activities indicates the intention of bringing in or taking out of goods and means of transport, where goods and means of transport leave the customs territory of the Republic of Moldova or where goods and means of transport are brought into the territory of free-trade zones and free customs warehouses from the other side of the customs territory of the Republic of Moldova;

(6) *person* means a legal or natural person, except for the cases stipulated in the present Code;

(7) *persons established in the Republic of Moldova* means: in the case of a legal person, any enterprise, institution or organization that has its central headquarters in the Republic of Moldova and is established in accordance with the national legislation; any legal or natural person carrying out an entrepreneurial activity in accordance with the legislation and registered on the territory of the Republic of Moldova; in the case of a natural person, any person who is normally resident of the Republic of Moldova;

(8) *foreigner* means any person not referred to in paragraph (7) of this Article;

(9) *person transiting goods across the customs border* means the owner or holder of goods, as well as other persons stipulated by this Code;

(10) *customs office; customs post* means any office (post) within the customs body at which all or some of the formalities laid down by customs rules may be completed;

(11) *customs officer* means a person entitled on a permanent or temporary basis, under the legislation, with certain rights and obligations related to performing customs attributions or administrative, organizational or economic acts;

(12) *customs penal investigator* means the customs officer entitled with the right to prosecute and investigate cases under the terms of reference of the customs authority;

(13) *declarant* means the person making the customs declaration in his own name or the person in whose name a customs declaration is made by a customs broker or intermediary;

(14) *carrier* means a person who carries goods *de facto* across the customs border or who is responsible for the use of the means of transport;

(15) *release of goods* means the act whereby the customs authorities makes goods and means of transport available to the person who carried them across the customs border after customs clearance;

(16) *conditional release* means release into circulation of goods and means of transport, conditioned by the fulfillment of certain restrictions, requirements or conditions;

(17) *customs procedure* means all customs regulations determining the status of goods and means of transport depending on the purpose of the commercial activity and the destination of goods; each customs procedure begins with declaration and presentation of goods and means of transport to the customs and concludes with the release of customs free;

(18) *customs release* means the act by which the customs authority releases at the disposal of the declarant the goods or means of transport subject to customs clearance, for the purpose of the customs procedure under which the goods have been placed;

(19) *customs clearance* means the procedure of placement of goods and means of transport under a certain customs procedure and conclusion of this procedure under the present Code;

(20) *customs supervision* means any action of the customs authorities for the enforcement of the customs regulations;

(21) *control by the customs authorities* means the performance of specific acts such as examining goods, verifying the existence and authenticity of documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other carried goods, 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;

(22) *customs acts* include inspection of goods and means of transport, corporal inspection, inspection of accounts of undertakings, free customs warehouses, duty-free shops, free zones, customs clearance, collection of customs import and export duties, as well as other acts carried out by customs authorities in the customs domain;

(23) *customs declaration* means a unilateral act whereby a person indicates in the form and manner prescribed by the customs legislation a wish to place goods under a given customs procedure;

(24) *economic policy measures* means licensing, quotation, taxation, setting of minimum and maximum price determining the restrictions on bringing in and taking out of goods and means of transport from the Republic of Moldova, established on economic policy grounds;

(25) *customs tariff* means a catalogue comprising the nomenclature of goods brought in or leaving the customs territory, as well as the customs fees chargeable on these goods;

(26) *import duties* means taxes collected by customs authorities when bringing in goods on the customs territory of the Republic of Moldova which include: customs fee, customs formalities fee, value added tax, excises as well as other charges due to the state for import of goods, collected by customs authorities pursuant to the legislation;

*export duties* means customs formalities fee, licensing fee as well as other charges due to the state for export of goods, collected by customs authorities pursuant to the legislation;

(27) *customs fee* means a tax collected by the customs authorities in accordance with the customs tariff on import;

(28) *customs formalities fee* means a fee for services provided by the customs authorities; the list of these services and the amount of the fee are stipulated by legislation;

(29) *taxes* means taxes collected by the customs authorities;

(30) *customs legislation* means the totality of normative acts related to import, export, transit of goods and their placement under any customs procedure, including prohibition, restriction and control, as well as the normative acts issued by the Customs Department within the terms of its reference;

(31) *customs regulations* means the provisions laid down in the present Code, in the customs regulations on the implementation of the present Code, as well as in other normative acts related to the customs domain.

## **Article 2. Customs activity**

(1) Customs activity includes promotion of customs policy, enforcement of customs regulations on transit of goods, means of transport and people across the customs border of the Republic of Moldova, collection of import and export duties, customs clearance, control and supervision, as well as other acts of customs policy promotion.

(2) The customs activity shall be carried out in accordance with the internationally accepted norms and practices. The Republic of Moldova participates in the international cooperation in the field of customs activities.

### **Article 3. Customs policy**

(1) The customs policy of the Republic of Moldova is an integral part of the state foreign and internal policies.

(2) The customs policy aims to ensure efficient customs control and regulation of the exchange of goods on the customs territory of the Republic of Moldova, contributes to the settlement of political and trade issues regarding the protection of the domestic market, enhancement of the national economic development, as well as other goals stipulated by legislation.

### **Article 4. Customs territory and customs border of the Republic of Moldova**

(1) The territory of the Republic of Moldova is a unique customs territory including land, internal and territorial waters, as well as the airspace above them.

(2) Free-trade zones and free customs warehouses can be located on the territory of the Republic of Moldova. Free-trade zones and free customs warehouses shall be deemed as being part of the customs territory of the Republic of Moldova (hereinafter referred to as *customs territory*), where the corresponding customs procedures are applied.

(3) The state border of the Republic of Moldova, including free-trade zones and free customs warehouses, shall constitute the customs border of the Republic of Moldova (hereinafter referred to as *customs border*).

### **Article 5. International economic integration**

In order to extend the international economic integration, the Republic of Moldova, together with other states, shall establish customs unions and free-trade zones, and shall conclude customs cooperation agreements with these states.

### **Article 6. Customs legislation**

(1) The customs legislation shall be constituted by the present Code, the Law on Customs Tariffs, other normative acts and customs international agreements to which the Republic of Moldova is party.

(2) The customs activity shall be carried out in accordance with the legislation in force on the date when customs authorities receive customs declarations and other documents, except for cases stipulated by legislation. In cases of illegal transit of goods and means of transport across the customs border, the customs legislation in force at the time of de facto crossing of the customs border shall apply.

### **Article 7. International agreements**

If an international treaty to which the Republic of Moldova is party lays down rules, which differ from those set out in this Code and in other customs normative acts of the Republic of Moldova, the provisions of such international treaty shall prevail.

## **Section 2**

### **Organization of Customs Activity**

#### **Article 8. Management of customs activity**

The Customs Department is the central specialized executive body, which carries out the effective management of the customs activity in the Republic of Moldova.

#### **Article 9. Customs authorities**

- (1) Customs activity shall be carried out by customs authorities.
- (2) Customs authorities are lawful enforcement bodies constituting a unique system, which includes Customs Department, customs offices and posts.
- (3) Status, attributions and terms of reference of the Customs Department shall be determined by the Government of the Republic of Moldova.
- (4) The Customs Department shall be responsible for the creation, reorganization and liquidation of the subordinate units (customs offices and posts).
- (5) No public authority, except for highest public authorities, shall have the right to adopt decisions under the terms of reference of the customs authorities, to modify their attributions, impose other attributions to them, nor interfere with their activities.

#### **Article 10. Customs laboratories, educational institutions, units subordinated to the Customs Department**

- (1) Customs laboratories are created by the Customs Department to carry out the expertise and the inspection of goods for customs purposes.
- (2) The Customs Department system includes educational institutions for training of customs specialists and improving of professional skills of current customs staff.
- (3) The Customs Department shall create information centers, units equipped with polygraphs, construction and operational units, which shall help the customs authorities to discharge their attributions.

The property of the Customs Department, customs laboratories, educational institutions, and units subordinated to the Customs Department shall be deemed as state owned property, which cannot be privatized. The Customs Department shall have the right to administer these assets.

#### **Article 11. Attributions of customs authorities**

Customs authorities shall:

- (a) participate at state customs policy making and promote such policy;

- (b) enforce the customs legislation; protect the legal rights and interests of persons engaged in customs activity;
- (c) contribute, under their terms of reference, to the assurance of the economic security of the state;
- (d) protect the economic interests of the state;
- (e) apply customs procedures in the regulation of economic and trade relations;
- (f) collect import and export duties;
- (g) participate in the setting of economic policy procedures on transit of goods across the customs border and apply these procedures;
- (h) fight against smuggling, breach of customs rules and fiscal legislation applying to the transit of goods across the customs border, prevent illegal transit across the customs border of drugs, armament, national treasures possessing artistic, historic or archaeological value, intellectual property objects, species of disappearing animals and plants (derived items and their components), prevent illegal transit of other goods;
- (i) contribute to combat of international terrorism;
- (j) carry out and improve customs control and clearance, create necessary conditions to accelerate the transit of goods across the customs border;
- (k) contribute and participate in the elaboration of customs statistics on foreign trade, as well as of special customs statistics;
- (l) contribute to the implementation of measures aimed to protect the state security, public order and morality, the health and life of humans, animals or plants, environment and domestic market;
- (m) exercise, under their terms of reference, the customs control of currency values;
- (n) ensure the fulfillment by state of its international obligations in the customs domain; participate in the elaboration of international customs agreements, contribute to cooperation with customs authorities from abroad, and with other international organizations in the customs domain;
- (o) conduct scientific researches and provide consulting services in the customs domain, ensure the training and retraining of customs specialists;
- (p) promote a unique financial and economic policy, develop material, technical and social resources of customs bodies, create necessary conditions for efficient work of customs officers;
- (q) exercise other attributions set out by legislation.



## **Article 12. Normative acts of the Customs Department**

- (1) The Customs Department shall issue, under its terms of reference, customs normative acts, which shall bind all customs authorities, other state bodies and persons.
- (2) The normative acts issued by the Customs Department shall take effect in accordance with the legislation.

## **Article 13. Customs flag, colors and insignia**

The Government shall approve the flag hoisted by the customs authorities, the colors of the sea and inland water ships, as well as vehicles and aircraft insignia.

## **Article 14. Cooperation between customs authorities and other legal bodies and persons**

- (1) When exercising their attributions the customs authorities shall cooperate with other legal bodies and persons, who are obliged to provide assistance to them.
- (2) The customs authorities can empower, under their terms of reference, other persons to fulfill certain customs activities, provided that customs authorities shall supervise such activities.

## **Article 15. Customs clearance on premises other than those established by customs authorities**

Persons interested in performing customs clearance procedure on premises other than those established for this purpose by customs authorities shall provide free of charge the customs authorities with necessary rooms, equipment and communication facilities.

## **Article 16. Providing land lots to customs authorities**

Customs authorities shall be provided with land lots to be used for customs purposes for an unlimited period of time.

## **Article 17. Use of information**

- (1) Information obtained by customs authorities from other persons can be used for customs purposes only.
- (2) Information representing state or commercial secret, as well as confidential information (information not available for the general public and which, if disclosed, may cause prejudice to the reputation and honor of a person or infringe upon his rights and freedoms) can neither be disclosed, nor used by any customs officer for personal purposes. This information cannot be transmitted to any third parties or state bodies, except for the cases stipulated by legislation.

**Article 18. Appeals against decisions, actions and inaction of the customs authorities and officers**

Appeals against decisions, actions and inaction of customs authorities and officers shall be considered and settled by the Customs Department or the court in accordance with the legislation.

**Chapter II**  
**TRANSIT OF GOODS AND MEANS OF TRANSPORT ACROSS THE CUSTOMS**  
**BORDER**  
**CUSTOMS PROCEDURES**

**Section 3**

**General principles of transit of goods and means of transport across the customs border**

**Customs procedures**

**Article 19. Right to bring in and to take out goods and means of transport from the territory of the Republic of Moldova**

(1) All persons shall enjoy the equal right to bring in and to take out goods and means of transport from the territory of the Republic of Moldova.

(2) No one can be deprived of the right to bring in and to take out goods and means of transport from the territory of the Republic of Moldova, nor limited in this right, except for the cases stipulated by this Code and other normative acts.

**Article 20. Prohibitions on bringing in and taking out of goods and means of transport from the territory of the Republic of Moldova**

(1) There are certain goods and means of transport which are prohibited by the legislation of the Republic of Moldova from being brought in or taken out from the territory of the Republic of Moldova due to some reasons of state security, assurance of public order and morality, protection of environment, protection of national treasures possessing artistic, historic or archaeological value, protection of intellectual property rights, domestic market and other state interests of the Republic of Moldova.

(2) Goods and means of transport referred to in paragraph (1) of this Article shall be immediately taken out from the territory of the Republic of Moldova or returned into the country provided that they are not subject to confiscation under the Moldovan legislation and international agreements to which the Republic of Moldova is party.

(3) Taking out or returning of goods and means of transport onto the territory of the Republic of Moldova shall be made at the expense of the person who transits these goods across the customs border or at the expense of the carrier. If these goods and means of transport cannot be immediately returned or taken out from the customs territory, they shall be stored in temporary customs warehouses for a period not longer than three days.

**Article 21. Restrictions on bringing in and taking out of goods and means of transport**

(1) Certain restrictions on bringing in and taking out of goods and means of transport from the territory of the Republic of Moldova can be established for the fulfillment of international obligations before other states, protection of state sovereignty, economic policy promotion, protection of domestic market, as well as for other reasons as determined by the legislation of the Republic of Moldova, including international agreements to which the Republic of Moldova is party.

(2) The state bodies shall not compensate the costs incurred as a result of introduction of such restrictions to the persons who transit goods across the customs border.

**Article 22. Transit of goods and means of transport across the customs border**

Transit of goods and means of transport across the customs border of the Republic of Moldova shall be made in accordance with the customs procedures, which apply to them, the procedures laid down by the present Code and other normative acts.

**Article 23. Customs procedures**

There are the following customs procedures:

- (a) Importation;
- (b) Re-importation;
- (c) Transit;
- (d) Customs warehousing;
- (e) Duty-free shops (shops for tax-exempt goods);
- (f) Inward processing;
- (g) Processing under customs control;
- (h) Temporary importation;
- (i) Free-trade zones (zones of free entrepreneurship);
- (j) Free customs warehouses;
- (k) Outward processing;
- (l) Exportation;
- (m) Re-exportation;
- (n) Destruction;
- (o) Abandonment to the state treasury.

#### **Article 24. Selection and renouncement to the customs procedures**

Any person shall have the right to choose any customs procedure stipulated by Article 23 of this Code or renounce to it (in favor of another customs procedure) at any time, irrespective of the quantity, nature, country of origin and destination of goods and means of transport, provided that such actions do not contravene the present Code and other normative acts.

#### **Article 25. Customs clearance and control**

All goods and means of transport shall be subject to customs clearance and control pursuant to the provisions of this Code and other normative acts.

Article 26. Time and place of transit of goods and means of transport across the customs border

(1) Transit of goods and means of transport across the customs border shall be allowed only in places where customs houses are located and during their opening hours.

(2) Transit of goods and means of transport across the customs border in other places and out of hours can be performed provided that customs authority permission is received.

#### **Article 27. Availability and use of goods and means of transport which cross the customs border**

Goods and means of transport, which cross the customs border, shall be made available and used depending on the selected customs procedure, in accordance with the present Code and other normative acts.

#### **Article 28. Availability and use of goods and means of transport which are conditionally released for free circulation and to which customs duty exemptions apply**

Goods and means of transport, which are conditionally released for free circulation and to which certain customs duty exemptions apply, shall be used only for the purposes for which these exemptions have been set out. Usage of these goods and means of transport for other purposes can be allowed only with the authorization of the customs authority, provided that import or export duties are paid and other requirements of this Code and other normative acts are met. These goods and means of transport shall be made available with the authorization of the customs authorities under the provisions of this Article.

### **Section 4 Importation**

#### **Article 29. Definition**

*Importation* means the customs procedure under which goods brought into the customs territory receive the status of goods released for free circulation only after all import duties are paid and goods are cleared.

### **Article 30. Placing of goods under the importation procedure**

Goods can be placed under importation procedure if:

- (a) all customs duties on import stipulated by this Code and other normative acts are paid;
- (b) economic policy measures and other prohibitions or restrictions provided by legislation are met.

## **Section 5 Re-importation**

### **Article 31. Definition**

*Re-importation* means the customs procedure where home-made goods, taken out from the customs territory under the exportation customs procedure, are reintroduced into the customs territory within the stated term, in accordance with this Code and other normative acts.

### **Article 32. Placing of goods under the re-importation procedure**

The following conditions shall be met in order to place goods under the re-importation procedure:

- (a) these goods should have been previously exported;
- (b) these goods should have been of Moldovan origin at the time of their exportation;
- (c) these goods shall be in the same state as they were at the time of their exportation, except for their normal wear and tear or natural losses incurred during their transportation and storage in good conditions.

### **Article 33. Refund of collected export duties**

If the goods are re-imported in accordance with the legislation of the Republic of Moldova, the customs authority shall refund the collected export duties under a legally established procedure, except for the customs formalities fee.

## **Section 6 Transit**

### **Article 34. Definition**

- (1) *Transit* means the customs procedure consisting of the conveyance of goods from one customs body to another, under customs supervision, without collecting import and export duties, and without applying any economic policy measures, unless otherwise provided by legislation. The territory of the Republic of Moldova may be transited on any way and in any direction, except for the cases stipulated by law.

(2) The transit time across the customs territory shall constitute 72 hours following the moment of border crossing.

(3) Goods, which are prohibited from being imported or exported from the territory of the Republic of Moldova, or goods which are subject to certain restrictions, cannot be placed under the transit procedure.

### **Article 35. Placing of goods under the transit procedure**

(1) In order to be placed under the transit procedure, goods shall be:

(a) unaltered, except for the normal wear and tear or natural losses incurred during their transportation and storage in good conditions, and provided that they are not used for purposes other than transit;

(b) conveyed to the customs office of destination within the time limits established by the departure customs body based on the means of transport used, distance to be covered, weather conditions, etc.

(2) If the customs body decides that the carrier with his means of transport cannot guarantee the compliance with the customs legislation, the customs body shall have the right to place the carried goods under the transit procedure, provided that the following additional requirements are met: adequate equipment of the means of transport, transit of goods performed by the customs carrier or customs escort. The carrier shall support the expenses related to compliance with indicated requirements.

### **Article 36. Authorization to place goods under the transit procedure**

Placement of goods under transit procedure shall be made only with the authorization of the customs authority and in accordance with the provisions of Article 35 of this Code, except for the cases foreseen in other normative acts.

### **Article 37. Accompanying documents**

The accompanying documents of transited goods shall be submitted to the customs office of destination in the order of presenting these goods.

### **Article 38. Damage of goods or force majeure circumstances**

(1) Whenever goods are damaged or in *force majeure* circumstances, goods can be unloaded and the carrier shall be obliged to:

(a) ensure the integrity of the goods, as well as their non-usage;

(b) immediately inform the closest customs body about the damaging of goods or *force majeure* circumstances, including the location of goods and means of transport;

(c) ensure the transit of goods and means of transport to the closest customs body or the presence of customs officer at the place where these goods and means of transport are located.

(3) The carrier shall support the expenses incurred during the actions laid down in paragraph (1) of this Article.

### **Article 39. Carrier's liability**

- (1) The carrier shall be responsible for the transit of goods across the customs territory.
- (2) If the goods are released for free circulation without the authorization of the customs body, if they are lost or not presented to the customs office of destination within the established time limits, or if they are presented incomplete or with substitutions, the carrier shall pay the import duties, except for the cases of their total destruction or loss due to *force majeure* circumstances.

## **Section 7 Customs Warehouses**

### **Article 40. Definition**

*Customs warehouses* means the customs procedure under which goods may be stored under customs supervision, without being subject to import and/or export duties or economic policy measures during storage, except for the customs formalities fee. The goods to be exported (in accordance with the exportation procedure) shall be stored under the customs supervision, enjoying the customs facilities provided by this Code and other normative acts.

### **Article 41. Placing of goods under the warehouse procedure**

- (1) Any goods can be entered for the customs warehousing procedure, except for the goods prohibited to be imported or to be exported from the customs territory, as well as for other goods provided by legislation.
- (2) Dangerous goods, goods likely to spoil other goods, as well as those which need special warehousing facilities shall be stored only in specially equipped premises.

### **Article 42. Period of storage of goods**

- (1) Goods can be placed under the customs warehousing procedure for three years. The Customs Department may impose a specific time limit for certain categories of goods or persons, but it shall not be less than one year.
- (2) On expiry of the time limit specified in paragraph (1) of this Article, the goods shall be placed under another customs procedure or moved to temporary warehouses of the customs authorities.

### **Article 43. Handling of goods placed under the customs warehouse procedure**

- (1) Goods placed under the customs warehouse procedure may undergo the following forms of handling intended to:
  - (a) Preserve them;

(b) prepare them, with the consent of the customs authorities, for distribution or sale (packing, marking, loading, unloading, etc.).

(2) The list of operations laid down in paragraph (1) of this Article shall be established by the Customs Department.

(3) The operations with the goods placed under the customs warehouse procedure shall not modify their technical, qualitative or quantitative parameters.

#### **Article 44. Exemption of goods placed under the warehouse procedure from export duties or refund of collected such duties**

(1) On placement under the warehouse procedure, goods to be exported in accordance with the exportation procedure shall be exempted from export duties, except for the customs formalities fee, or collected such duties shall be refunded, except for the customs formalities fee, if such facilities or refunds are foreseen in case of *de facto* export of goods. Where goods are exempted from export duties or where the collected duties are refunded, the goods shall be taken out of the customs warehouse within three months at the latest from the moment of their placement under the warehouse procedure.

(2) If the goods are not actually taken out of the customs warehouse within the time limit laid down in paragraph (1) of this Article, the export duties shall be collected in accordance with the legislation.

#### **Article 45. Types of customs warehouses**

(1) A customs warehouse may be either public warehouse or private warehouse.

(2) Public warehouse means a customs warehouse available for use by any person for the storage of goods, while a private warehouse means a customs warehouse reserved exclusively for specific categories of persons. Customs warehouses shall be established with the authorization of the Customs Department.

#### **Article 46. The warehouse keeper**

(1) Warehouse keepers may be customs authorities, legal and natural persons registered as entrepreneurs in accordance with the legislation.

(2) Customs warehouses owned by customs authorities are public warehouses.

#### **Article 47. Authorization to operate a customs warehouse**

(1) Operation of a customs warehouse shall be subject to the issue of an authorization by the Customs Department, unless the said customs authorities operate the customs warehouse themselves.

(2) The authorization term shall be determined by the Customs Department in accordance with the legislation.



(3) The authorization issued by the Customs Department for the establishment of a customs warehouse may be canceled, revoked or suspended in accordance with the legislation.

**Article 48. Conditions to be met by the customs warehouse and obligations of the customs warehouse keeper**

(1) The customs warehouse must be equipped in such a way as to not allow the bringing in or taking out of the goods unless the customs authorities are aware about these movements, it must provide conditions for sealing (double locks with one set of locks under the customs authorities administration).

(2) The warehouse keeper shall be bound by the following obligations before the customs authorities:

- (a) ensure that while the goods are in the customs warehouse they are not removed from customs supervision;
- (b) allow the exercise of the customs supervision;
- (c) comply with organizational and operational conditions of a customs warehouse, comply with the customs authorities requirements, allow the access of customs officers to the stored goods;
- (d) keep stock records of all the goods placed under the customs warehousing procedure and submit them to the customs authorities under the procedure approved by the Customs Department.

**Article 49. Liability for payment of import and export duties**

(1) The warehouse keeper authorized to operate the warehouse shall be liable for payment of import and export duties, except for the cases provided for in paragraphs (2) and (3) of this Article.

(2) Where the authorization concerns a public warehouse, it may provide that the responsibilities for payment of import and export duties devolve exclusively upon the depositor.

(3) The liability for payment of import and export duties may, with the agreement of the customs authorities, be transferred to the depositor of goods in the public warehouse.

**Article 50. Liquidation of the customs warehouse and its consequences**

(1) The customs warehouse can be liquidated in the following cases: expiration of the authorization validity term; upon the warehouse keeper's request; cancellation or revocation of the authorization by customs authorities. The customs warehouse shall become a temporary warehouse as from the date when the decision on liquidation is approved. Goods shall be stored in a temporary warehouse in accordance with this Code and other normative acts.

(2) Where the authorization for establishment of a customs warehouse is cancelled, the stored goods shall be cleared again as from the moment of their placement in the customs warehouse.

(3) Where the authorization for establishment of the customs warehouse is revoked, the stored goods shall be cleared again as from the moment when the decision on revocation is approved.

(4) No other goods shall be placed in a customs warehouse during the period of its liquidation or suspension of the authorization for establishment of the customs warehouse. Taking out of goods from the customs warehouse shall be made in accordance with the present Code and other normative acts.

## **Section 8**

### **Duty-free Shops**

#### **Article 51. Definition**

*Duty-free shop* means the customs procedure under which goods are commercialized under customs supervision in specially designed places located at international airports and ports, at customs houses with international status, except for customs houses located at railway stations, without collection of import and export duties. Placement of goods under the duty-free shop procedure shall be made without collection of import duties, except for customs formalities fees, unless otherwise provided by legislation. Goods shall be sold only to persons who go abroad and who passed the customs and personal ID control.

#### **Article 52. Placing of goods under the duty-free shop procedure**

(1) Any goods can be placed under a duty-free shop procedure, except for goods prohibited from being brought in or taken out from the customs territory, from being used on the territory of the Republic of Moldova, as well as other goods prohibited by legislation. Goods, whose marketing is limited on the territory of the Republic of Moldova, can be sold under a duty-free shop procedure, in compliance with the legislation.

(2) Goods placed under the duty-free shop procedure shall be sold in specialized shops.

(3) Placement of goods under the duty-free shop procedure shall be made in accordance with this Code and other normative acts.

#### **Article 53. Authorization to operate a duty-free shops**

(1) A duty-free shop can be set up by a legal person, who has the authorization granted by the Ministry of Economy and Reforms, with the agreement of the Customs Department.

(2) The validity term of the authorization for operating a duty-free shop shall be set by legislation.

(3) The authorization for operating a duty-free shop may be cancelled, revoked or suspended by the Ministry of Economy and Reforms, with the agreement of the Customs Department and in accordance with the legislation.

#### **Article 54. Obligations of the duty-free shopkeeper**

1. The duty-free shopkeeper shall be obliged to:
  - (a) ensure that while the goods are in the duty-free shop they are not removed from customs supervision;
  - (b) comply with organizational and operational conditions of the duty-free shop, comply with the customs authorities requirements;
  - (c) keep daily records of goods placed and commercialized in the duty-free shop and submit them to the customs authorities under the procedure approved by the Customs Department;
  - (d) meet other requirements provided by legislation.

#### **Article 55. Liability for payment of import and export duties**

The owner of the authorization to operate the duty-free shop shall be liable for payment of import and export duties.

#### **Article 56. Liquidation of the duty-free shop and its consequences**

- (1) The duty-free shop can be liquidated in the following cases: expiration of the authorization validity term, cancellation or revocation of the authorization under the procedure provided by legislation. The duty-free shop shall become a temporary warehouse as from the date when the decision on liquidation is approved. Goods shall be stored in a temporary warehouse in accordance with this Code and other normative acts.
- (2) Where the authorization is cancelled, the goods placed in the duty-free shop shall be cleared again as from the moment of their placement under this procedure.
- (3) Where the authorization is revoked, the goods placed in the duty-free shop shall be cleared again as from the moment when the decision on revocation is approved.
- (4) No goods shall be commercialized or placed into the duty-free shop during its liquidation or suspension of the authorization.

#### **Article 57. Diplomatic duty-free shop**

- (1) Diplomatic duty-free shops can be set up for servicing diplomatic missions and their staff members. The operating modality of such shops shall be provided by legislation.
- (2) The authorization to set up a diplomatic duty-free shop shall be issued by the Ministry of Economy and Reforms, with the agreement of the Customs Department and with the notification of the Ministry for Foreign Affairs regarding the necessity and the location of the shop.
- (3) The obligations of the diplomatic duty-free shopkeeper shall be similar to those established for the duty-free shopkeeper.

## **Section 9**

### **Inward Processing**

#### **Article 58. Definition**

- (1) *Inward processing* is a customs procedure under which imported goods are processed on the customs territory, without application of economic policy measures and with refunding of collected import duties, except for the customs formalities fee, provided that the output products are taken out of the customs territory under the exportation customs procedure.
- (2) Placement under inward processing procedure of goods, which are prohibited from being brought into or taken out of the territory of the Republic of Moldova, shall be prohibited.

#### **Article 59. Inward processing operations**

- (1) The following operations may be carried out under the inward processing procedure:
- (a) working of goods, including erecting or assembling them or fitting them to other goods;
  - (b) processing of goods;
  - (c) restoring them to the initial state;
  - (d) use of certain goods which allow or facilitate the production of other products, even if they are entirely or partially used up in the process.
- (2) The Customs Department shall be entitled, with the agreement of the Ministry of Economy and Reforms, to set up restrictions on inward processing of goods, conditions to perform processing operations, as well as possibilities to use home-made products for such operations.

#### **Article 60. Inward processing authorization**

- (1) Authorization to use the inward processing procedure shall be issued by the Customs Department.
- (2) The inward processing authorization shall be granted to persons established in the Republic of Moldova, except for citizens, where:
- (a) the customs authorities can identify that the compensating products have been manufactured from the temporarily imported goods, except for the cases provided by legislation;
  - (b) the inward processing procedure may contribute towards the export of compensating products or may contribute to the use of the local industrial capacities;
  - (c) other conditions set up by the Customs Department are complied with.

(3) The inward processing authorization may be cancelled, revoked or suspended by the Customs Department, in accordance with the legislation.

#### **Article 61. Inward processing period**

The Customs Department shall specify, in accordance with the legislation, the period within which the inward processing shall be carried out. That period shall take account of the time required to carry out the processing operations and export of the compensating products out of the customs territory.

#### **Article 62. Quantity of products obtained out of the inward processing**

For customs purposes, the Customs Department may specify, according to the legislation, the compulsory quantity of products, which must result from the inward processing procedure.

#### **Article 63. Refund of collected import duties**

The refund of collected import duties shall be performed in accordance with the legislation.

#### **Article 64. Relief from export duties and from application of economic policy measures**

Imported goods and the compensating products shall be exempted from export duties and application of economic policy measures, except for the customs formalities fee, unless otherwise provided by legislation.

### **Section 10 Processing under Customs Control**

#### **Article 65. Definition**

(1) *Processing under customs control* is a customs procedure under which imported goods, under customs supervision and on the customs territory, are subject to processing operations, which alter their initial nature or state, without being subject to import duties or economic policy measures, except for the customs formalities fee, unless otherwise provided by legislation. The compensating products resulting from processing under customs control shall be placed under another customs procedure.

(2) It is forbidden to process under customs supervision goods prohibited from being brought in or taken out from the territory of the Republic of Moldova.

#### **Article 66. Processing operations under customs control**

Processing operations under customs control shall be carried out under the provisions of Articles 59 to 62 and Article 64 of this Code.

**Article 67. Restrictions on application of the processing procedure under customs control**

- (1) The processing procedure under customs control cannot be used to evade the application of economic policy measures and rules to determine the country of origin of goods.
- (2) The Government shall set the list of goods, which cannot undergo the processing procedure under customs control.

**Section 11  
Temporary Importation**

**Article 68. Definition**

- (1) *Temporary importation* is a customs procedure, which allows the use of any goods on the customs territory or outside, with total or partial relief from import and export duties and without their being subject to economic policy measures, except for the customs formalities fee.
- (2) Goods, which are temporarily imported, must be re-exported in an unaltered state, except for cases of normal wear and tear or natural losses incurred during their transportation and storage in good conditions.

**Article 69. Placing of goods under the temporary importation procedure**

- (1) The Customs Department shall have the right to specify the cases when the temporary importation procedure may be allowed, provided that the fulfillment of the respective obligation on re-export (re-import) of goods and payment of import and export duties is assured.
- (2) The Government shall determine the category of goods, which cannot be placed under the temporary importation procedure.

**Article 70. Authorization for temporary importation of goods**

- (1) The customs body shall authorize the temporary importation of goods.
- (2) The customs body shall not authorize the temporary importation of goods, which cannot be identified.

**Article 71. Period of temporary importation of goods**

- (1) The customs authorities shall determine the period within which goods may remain under the temporary importation procedure, depending on the purpose, the circumstances under which this procedure has been set and the contract provisions. This period shall not exceed 3 years.
- (2) The customs authority shall apply the period referred to in paragraph (1) of this Article as established by the Customs Department.

## **Article 72. Relief from import and export duties**

(1) The case and the special conditions under which the temporary importation procedure may be used with total relief from import and export duties, except for the customs formalities fee, shall be determined in accordance with the legislation.

(2) The total amount of import or export duties to be charged in respect of goods placed under the temporary importation procedure shall not exceed that, which would have been charged at the time of importing or exporting goods, in accordance with the importation or the exportation procedure.

(3) If the amounts laid down in paragraph (2) of this Article are equal, the goods shall be deemed placed under the importation or exportation procedure, provided that no economic policy measures are applied.

## **Article 73. Expiry of the period of temporary importation of goods**

On expiry of the period of temporary importation procedure, the goods, which have not been returned, shall be placed under another customs procedure or stored in temporary warehouses owned by the customs authorities.

## **Article 74. Failure to return goods placed under temporary importation procedure due to their destruction or loss**

The person who placed the goods under the temporary importation procedure shall not be liable for the failure to return them in time if their destruction or loss is caused by damage or *force majeure*, which is confirmed by the competent authority of the respective country.

## **Section 12 Free-trade Zones (Free entrepreneurship zones)**

### **Article 75. Definition**

*Free-trade zone* is a customs procedure under which imported goods are placed and used on a certain territory with total relief from import duties and without their being subject to economic policy measures, except for the customs formalities fee, in accordance with the procedure established by this Code and other normative acts, unless otherwise provided by legislation, while home-made goods are introduced and used in compliance with the exportation procedure.

### **Article 76. Setting up of free-trade zones**

A free-trade zone shall be set up in accordance with the legislation.

### **Article 77. Activities involving goods placed in free-trade zones**

(1) Goods placed in free-trade zones can be subject to production, trade and other activities, except for sales by retail, in compliance with this Code and other legislative acts.

(2) The Parliament shall set out restrictions and prohibitions on activities involving goods introduced in the free-trade zones.

(3) The customs authorities shall have the right to prohibit certain categories of persons from carrying out actions with goods placed in free-trade zones or prohibit their access to free-trade zones if these persons do not comply with the legislation.

(4) The Government and the Customs Department shall have the right to restrict or prohibit, under their terms of reference, the placement of certain categories of goods in the free-trade zones.

#### **Article 78. Period of remaining of goods in free-trade zones**

There is no limit on the length of time during which goods may remain in a free-trade zone.

#### **Article 79. Enforcement of customs legislation in free-trade zones**

(1) The customs authorities shall have the right to check goods entering, remaining or leaving the free-trade zone. The goods shall be made available upon request to the customs authorities.

(2) Clearance of goods entering, remaining or leaving the free-trade zone, shall be made under the procedure established by the Customs Department.

(3) Any construction works in the free-trade zone shall be subject to prior authorization from the Customs Department.

#### **Article 80. Daily stock keeping of goods placed in free-trade zones**

The person carrying on an activity involving entering, leaving, storage, working or processing, sale or purchase, of goods in a free-trade zone shall keep stock records and submit a report related to them to the customs authorities under the procedure approved by the Customs Department. The daily stock records must record any movements of goods.

#### **Article 81. Collection of import and export duties and application of economic policy measures**

(1) Where imported and home-made goods enter the free-trade zone, no import duties shall be charged and no economic policy measures shall be applied, except for the customs formalities fee, unless otherwise provided by legislation.

(2) Where goods leave the free-trade zone and are brought into another part of the customs territory, import duties shall be charged and economic policy measures shall be applied. If goods leave the free-trade zone and are brought into another part of the customs territory of the Republic of Moldova, neither import and export duties shall be charged nor economic policy measures shall be applied, except for the customs formalities fee.



**Article 82. Relief of goods to be exported in accordance with the exportation procedure from import duties or refund of collected such duties**

(1) Where goods to be exported are brought into the free-trade zone in accordance with the customs exportation procedure, these goods shall be exempted from import duties, except for the customs formalities fee, or collected such duties shall be refunded, if such exemptions or refunds are provided for the cases of effective export of goods. The effective export of goods shall be made not later than 6 months after the date when goods are exempted from import duties or from the date when these duties are refunded.

(2) Where goods to be exported leave the free-trade zone and are brought into another part of the customs territory in accordance with the customs exportation procedure, or in case of failure to export *de facto* these goods within the determined time limits, all import duties specified by legislation shall be paid.

**Article 83. Liability for payment of customs duties on import and export**

The person who introduced the goods in the free-trade zone shall be liable for payment of import and export duties.

**Section 13**  
**Free Customs Warehouses**

**Article 84. Definition**

*Free customs warehouse* is a customs procedure under which imported goods may be stored and used in special premises without being subject to import duties or economic policy measures, except for the customs formalities fee, under the procedure established by this Code and other normative acts, unless otherwise provided by legislation, while home-made goods are stored and used in compliance with the exportation procedure.

**Article 85. Authorization to operate a free customs warehouse**

(1) Authorization to operate a free customs warehouse shall be required from the Customs Department.

(2) The validity term of the authorization to operate a free customs warehouse shall be specified by the Customs Department in compliance with the legislation.

(3) The authorization for operating a free customs warehouse may be cancelled, revoked or suspended by the Customs Department in accordance with the legislation.

**Article 86. Conditions to be met by the free customs warehouse and obligations of the free warehouse keeper**

(1) The customs warehouse must be equipped in such a way as to not allow the bringing in or taking out of goods unless the customs authorities are aware about these movements, it must provide conditions for sealing (double locks with one set of locks under the customs authorities administration).

(2) Only legal persons registered in accordance with the legislation can operate a free customs warehouse.

(3) The free customs warehouse keeper shall be bound by the following obligations before the customs authorities:

- (a) ensure that while the goods are in the free customs warehouse they are not removed from customs supervision;
- (b) allow the exercise of the customs supervision;
- (c) comply with organizational and operational conditions of a free customs warehouse, comply with the customs authorities requirements;
- (d) fulfill other obligations laid down by legislation.

#### **Article 87. Activities involving goods placed in free customs warehouses**

(1) Goods placed in free customs warehouses can be subject to production, trade and other activities, except for sales by retail, in compliance with this Code and other normative acts.

(2) The Customs Department shall set out restrictions and prohibitions on activities involving goods introduced in the free customs warehouse.

(3) The customs authorities shall have the right to prohibit certain categories of persons from carrying out actions with goods placed in free customs warehouses or prohibit their access to free customs warehouses if these persons do not comply with the legislation.

(4) The Government and the Customs Department shall have the right to restrict or prohibit, under their terms of reference, the placement or placement of certain categories of goods in the free customs warehouses.

#### **Article 88. Period of remaining of goods in free customs warehouses**

There is no limit on the length of time during which goods may remain in a free customs warehouse.

#### **Article 89. Enforcement of customs legislation in free customs warehouses**

(1) The customs authorities shall have the right to check goods entering, remaining or leaving the free customs warehouse. The goods shall be made available upon request to the customs authorities.

(2) Clearance of goods entering, remaining or leaving the free customs warehouse, shall be made under the procedure established by the Customs Department.

#### **Article 90. Daily stock keeping of goods placed in free customs warehouses**

The person carrying on an activity involving entering, leaving, storage, working or processing, sale or purchase, of goods in a free customs warehouse, or the free customs

warehouse keeper, shall keep stock records and submit a report related to them to the customs authorities under the procedure approved by the Customs Department. The daily stock records must record any movements of goods in the free customs warehouse.

**Article 91. Collection of import or export duties and application of economic policy measures**

(1) Where imported and home-made goods enter the free customs warehouse, no import duties shall be charged and no economic policy measures shall be applied, except for the customs formalities fee, unless otherwise provided by legislation.

(2) Where goods leave the free customs warehouse and are brought into another part of the customs territory, import duties shall be charged and economic policy measures shall be applied. If goods leave the free customs warehouse and are brought into another part of the customs territory of the Republic of Moldova, neither import and export duties shall be charged nor economic policy measures shall be applied, except for the customs formalities fee.

**Article 92. Relief of goods to be exported in accordance with the exportation procedure from import duties or refund of collected such duties**

(1) Where goods to be exported are brought into the free customs warehouse in accordance with the customs exportation procedure, these goods shall be exempted from import duties, except for the customs formalities fee, or collected such duties shall be refunded, if such exemptions or refunds are provided for the cases of effective export of goods. The effective export of goods shall be made not later than 6 months after the date when goods are exempted from import duties or from the date when these duties are refunded.

(2) Where goods to be exported leave the free customs warehouse and are brought into another part of the customs territory in accordance with the customs exportation procedure, or in case of failure to export *de facto* these goods within the determined time limits, all import duties specified by legislation shall be paid.

**Article 93. Liability for payment of import and export duties**

The person who introduced the goods in the free customs warehouse shall be liable for payment of import and export duties.

**Article 94. Liquidation of the free customs warehouse and its consequences**

(1) The free customs warehouse can be liquidated in the following cases: expiration of the authorization validity term; upon the request of the free customs warehouse keeper; cancellation or revocation of the authorization by the Customs Department. The free customs warehouse shall become a temporary warehouse as from the date when the decision on liquidation is approved. Goods shall be stored in a temporary warehouse in accordance for a period not longer than 6 months.

(2) Where the authorization for establishment of a free customs warehouse is cancelled, the stored goods shall be cleared again as from the moment of their placement in the free customs warehouse.

(3) Where the authorization for establishment of the free customs warehouse is revoked, the stored goods shall be cleared again as from the moment when the decision on revocation is approved.

(4) No other goods shall be placed in a free customs warehouse during the period of its liquidation or suspension of the authorization for establishment of the free customs warehouse. Taking out of goods from the free customs warehouse shall be made in accordance with the present Code and other normative acts.

## **Section 14** **Outward Processing**

### **Article 95. Definition**

(1) *Outward processing* is a customs procedure under which the home-made goods are temporarily exported for transforming or processing outside the territory of the Republic of Moldova without being subject to economic policy measures. These arrangements permit compensating products to be re-imported with total or partial relief from import duties, except for the customs formalities fee, and without being subject to economic policy measures, unless otherwise provided by legislation.

### **Article 96. Outward processing operations**

(1) Goods placed under the outward processing procedure may undergo the operations laid down in Article 59 paragraph (1) of this Code.

(2) The Customs Department and the Ministry of Economy and Reforms shall impose restrictions on some operations of outward processing of goods.

### **Article 97. Goods excluded from placement under the outward processing procedure**

The outward processing procedure shall not be open to the goods:

(a) whose export from the customs territory give rise to total relief from import duties or repayment or remission of collected such duties;

(b) which, prior to export from the customs territory, were released for free circulation with total relief from import duties, for as long as the conditions for granting such relief continue to apply;

(c) in other cases provided by legislation.

### **Article 98. Outward processing authorization**

(1) Authorization to use the outward processing procedure shall be issued by the entitled authority, according to the legislation.

(2) The outward processing authorization shall be granted to persons established in the Republic of Moldova, except for citizens, where:

- (a) the customs authorities can identify that the compensating products have been manufactured from the temporarily exported goods;
- (b) the outward processing procedure is not liable seriously to harm the national economy.

#### **Article 99. Outward processing period**

The outward processing of goods shall be carried out within the period specified by legislation. That period shall take account of the economically justified time, which is required to carry out the outward processing operations.

#### **Article 100. Quantity of products obtained out of the outward processing**

For customs purposes, the Customs Department may specify, according to the legislation, the compulsory quantity of products, which must result from the outward processing procedure.

#### **Article 101. Export duties imposed on goods placed under the outward processing procedure**

Goods placed under the outward processing procedure shall be subject to export duties, with a subsequent refund of such duties, except for the customs formalities fee, provided that the compensating products are introduced on the customs territory and the provisions of this Code and other normative acts are complied with.

#### **Article 102. Relief from import duties of the compensating products resulting from outward processing**

- (1) The compensating products resulting from outward processing may be subject to total or partial relief from import duties, except for the customs formalities fee, provided that they are imported by the holder of the outward processing authorization or by his customs broker.
- (2) The import duties shall be calculated on the basis of the tariffs imposed on compensating products, multiplied by the cost of this operation.

#### **Article 103. Failure to return the exported goods for outward processing or the compensating products due to their destruction or loss**

The holder of the outward processing authorization, who did not return the goods who did not import the compensating products within the established time limits, shall not be liable before the customs authorities, if the destruction or loss of goods or products obtained as a result of outward processing was caused by *force majeure* circumstances or their damage, which is confirmed by the competent authority of the respective country.

### **Section 15 Exportation**

#### **Article 104. Definition**

*Exportation* means a customs procedure under which goods leave the customs territory without the obligation to return to this territory.

### **Article 105. Placing of goods under the exportation procedure**

Goods can be placed under the exportation procedure, provided that all export duties are paid and all economic policy measures and other requirements provided by this Code and other normative acts are met.

### **Article 106. Release for free circulation of goods placed under the exportation procedure**

Goods placed under the exportation procedure shall be released for free circulation, provided that they leave the customs territory without alteration of the state in which they were at the time when customs declaration was issued, except for their normal wear and tear and natural losses incurred during their transportation and storage in good conditions.

## **Section 16 Re-exportation**

### **Article 107. Definition**

*Re-exportation* means the customs procedure under which foreign-made goods are taken out of the customs territory without being subject to export duties and application of economic policy measures, except for the customs formalities fee, or with refunding of the collected import duties, in conformity with the provisions of this Code and other normative acts.

### **Article 108. Placing of goods under the re-exportation procedure**

- (1) The import duties shall not be charged and economic policy measures shall not be applied where goods are brought into the customs territory, except for the customs formalities fee, if these goods have been declared to the customs authorities as goods exclusively for re-exportation. The effective taking out of these goods shall be carried out not later than 6 months from the date when the customs declaration was issued. In case of failure to meet the time limits, import duties shall be paid according to the legislation.
- (2) Where goods are re-exported, the collected import duties shall be refunded, except for the customs formalities fee, where:
  - (a) the re-exported goods are in an unaltered state, except for their normal wear and tear and natural losses incurred during their transportation and storage in good conditions;
  - (b) the goods are re-exported during 2 years following the date of their importation;
  - (c) the re-exported goods were not used for profit purposes.
- (3) Where goods are re-exported, export duties shall not be charged and economic policy measures shall not be applied, except for the customs formalities fee, unless otherwise provided by legislation.

## **Section 17 Destruction**

### **Article 109. Definition**

- (1) *Destruction* is a customs procedure under which foreign-made goods are destroyed under the customs supervision or made useless, without collecting import duties, except for the customs formalities fee, and without applying economic policy measures.
- (2) Destruction of goods shall be allowed only with the authorization of the customs authorities, under the procedure specified by the Customs Department. If there are enough grounds to consider that the destruction of goods may cause significant damage to the environment, as well as in other cases provided by legislation, authorization for destruction shall not be granted.

### **Article 110. Incurred expenses**

The interested person shall destroy the goods at his own expense.

### **Article 111. Waste resulted from destruction of goods**

Any waste or scrap resulting from destruction shall be assigned a customs procedure applicable to foreign-made goods under customs supervision.

## **Section 18 Abandonment in the Favor of the State**

### **Article 112. Definition**

- (1) *Abandonment in the favor of the state* means a customs procedure where a person renounces the goods in the favor of the state without collection of import or export duties, except for the customs formalities fee, and without application of economic policy measures.
- (2) Abandonment in the favor of the state shall be put into effect only with the agreement of the customs authorities, in accordance with the procedure specified by the Customs Department.

### **Article 113. Incurred expenses**

Abandonment of goods in the favor of the state shall be made by an interested person on his own account and shall not entail any expense for the state.

## **Section 19 Transit of Means of Transport of Some Categories of Goods Across the Customs Border**

### **Article 114. Transit of means of transport across the customs border**

- (1) Transit of means of transport across the customs border shall be carried out in accordance with the customs procedures applying to the means of transport.

- (2) Any means of transport, which cross the customs border, shall stop at places specified by the customs authorities. Where this requirement is not complied with, the customs authorities shall have the right to stop the means of transport by force.
- (3) The duration of the stationing of the means of transport shall be set by the relevant customs authority, taking account of the time, which is required to carry out customs control, customs clearance and other types of control.
- (4) The means of transport shall leave the stationing point only upon authorization from the customs authority.
- (5) Time and place where the means of transport transits the customs border shall be set by the customs authority.

#### **Article 115. Transit of currency and other valuables across the customs border**

The currency and other valuables may be transited across the customs border in accordance with the legislation.

#### **Article 116. Transit by natural persons of non-commercial goods across the customs border**

- (1) Goods, which are not intended for production purposes or for other commercial activities, may be transited across the customs border by natural persons under a simplified procedure established by the Customs Department. This procedure may include total or partial relief from import or export duties, except for the customs formalities fee, unique taxes and non-application of economic policy measures in accordance with the legislation.
- (2) The purpose of goods shall be determined according to their quantity and value, the grounds of the natural person to transit these goods across the customs border, if there are no reasons to consider that these goods are not intended for personal or family members' use.

### **Chapter III IMPORT AND EXPORT DUTIES**

#### **Section 20 General Provisions**

#### **Article 117. Import and export duties**

Where goods are transited across the customs border and in other cases provided by legislation, the following import duties and, respectively, export duties, shall be charged:

- (a) customs fee;
- (b) value added tax;
- (c) excises;
- (d) customs formalities fee;



- (e) licensing and license renewal fee;
- (f) customs auction fee;
- (g) other fees provided by legislation.

#### **Article 118. Customs fees**

Goods transiting the customs border shall be subject to customs fees in accordance with the legislation.

#### **Article 119. Value added tax**

Value added tax shall be applied to goods brought into the customs territory in accordance with the legislation.

#### **Article 120. Excises**

Excises shall be applied to goods brought into the customs territory in accordance with the legislation.

#### **Article 121. Customs formalities fee**

(1) Customs formalities comprise all services provided by the customs authorities in the customs domain. The nomenclature of these services and the fees charged for such services shall be approved pursuant to the legislation.

(2) The collected customs formalities fees shall be deemed as extra-budgetary financial resources and shall be integrally used to finance the activities of the customs system.

(3) The amount, the purpose and the manner of utilization of the collected customs formalities fee shall be established by the Government.

### **Section 21 Calculation and Payment of Import and Export Duties**

#### **Article 122. Basis for calculation of customs fee, value added tax, excises and customs formalities fee**

(1) The natural volume or the customs value of goods, established in conformity with the legislation, shall serve as a basis for calculation of the customs fee.

(2) The natural volume or the customs value of goods, established in conformity with the legislation, shall serve as a basis for calculation of the excise.

(3) The taxable value with VAT of the imported goods shall constitute their customs value, determined in accordance with the legislation, and the import duties (VAT excepted).

(4) The customs value of goods or the fixed taxes, stipulated by legislation, shall serve as a basis for calculation of the customs formalities fee.

### **Article 123. Persons subject to import and export duties**

Import and export duties shall be paid by the declarant or by any other person provided by legislation.

### **Article 124. Terms of payment of import and export duties**

(1) Import and export duties shall be paid in advance, prior to the filing of the customs declaration. At the moment of customs clearance it shall be allowed to pay only the difference between the calculated amount and the amount paid in advance.

(2) The customs authorities shall be entitled to prohibit the importation of goods for which no import duties have been paid, in the manner established by this Code.

(3) Natural persons, who are not subjects of entrepreneurial activity, shall pay the import or export duties at the moment of crossing the customs border.

(4) Natural persons, who transit the territory of the Republic of Moldova having a volume of goods, which exceeds the allowed limit norm, shall pay a guarantee sum equal to the import duties collected for goods in surplus. The procedure for collecting and refunding of this guarantee sum shall be established by the Customs Department.

### **Article 125. Payment of import and export duties**

(1) Legal and natural persons shall pay the import and export duties in cash or by transfer (including by cards) onto respective accounts of the Central Treasury of the Ministry of Finance.

(2) Calculation of import and export duties shall be performed on the basis of the tariffs and rates, established by legislation, applicable at the moment of declaration filing.

(3) Payment of import and export duties by transfer shall be deemed completed only at the time of depositing financial resources on the treasury accounts open for the customs authority and confirmed by respective bank statements.

### **Article 126. Deferment and installment of payment of import and export duties**

(1) The deferment or installment of payment of import and export duties shall be established by legislation.

(2) No deferment or installment of payment of customs formalities fees shall be allowed.

(3) In case of deferment or installment of payment of import and export duties, an interest shall be calculated constituting 1% of the basis rate of the National Bank of Moldova for short term credits for each day of deferment or installment of payment, unless otherwise provided by legislation. Where the deferment or the installment of payment term is not met, penalties shall be applied according to the legislation.

(4) Where deferment or installment of payment of import and export duties is granted, the payment of these duties shall be performed under the provisions of this Code.

### **Article 127. Ensuring the payment of import and export duties**

- (1) Payment of import and export duties, in case of granting fiscal vacations, can be ensured by pledge of goods and means of transport, bank guarantee (or guarantee from other financial institutions), or by deposit of guarantee amounts on a deposit account open by the Customs Department at the Central Treasury of the Ministry of Finance.
- (2) The pledging process and the procedure of transfer of the pledge onto the account of the guaranteed customs duties on import and export shall be made in accordance with the legislation.
- (3) Depositing of guarantee sums on the deposit account shall be made in amounts calculated on the basis of the quota and fees set up for goods released for free circulation, effective at the time of depositing such guarantee sums.
- (4) No interest shall be calculated on guarantee sums put onto the deposit accounts.
- (5) The procedure for depositing (or drawing) of guarantee sums from the deposit accounts open by the Customs Department shall be regulated by the Ministry of Finance in agreement with the National Bank of Moldova.

### **Article 128. Currency in which the import and export duties shall be paid**

Import and export duties shall be paid in Lei of the Republic of Moldova.

### **Article 129. Collection of import and export duties**

- (1) Import and export duties, which have not been paid under the procedure laid down in Article 124 of this Code, shall be collected incontestably by the customs authorities from the payer's account on the basis of executory documents or equivalent such documents in accordance with the legislation.
- (2) A penalty in the amount established by the Law on Budget for the current year shall be paid for each day of delay of the customs duties payment.
- (3) The calculation of penalties shall be performed beginning with the first day of expiration of the term of deferent or installment.
- (4) In the event of lack of funds on the payer's account, the customs authorities shall have the right to seize the payer's property in accordance with the legislation.
- (5) If the payer evades from payment of the import and export duties, the Customs Department shall have the right to take and to submit to the respective financial institution the decision on the suspension of bank transactions of the debtor until the entire payment will be made. This decision shall be binding the bank institution.

### **Article 130. Refund of additionally paid or collected import or export duties**

- (1) Additionally paid or collected import and export duties shall be refunded upon the payer's written request filed within the term provided by legislation.

- (2) No refund is provided for the collected customs formalities fee.

## **Chapter IV CUSTOMS CLEARANCE**

### **Section 22 General Provisions**

#### **Article 131. Customs clearance procedure**

Customs clearance shall be carried out in accordance with the provisions of this Code and other normative acts, including those issued by the Customs Department.

#### **Article 132. Place and time of customs clearance**

(1) Customs clearance shall be carried out in the specified places within the activity areas of the customs authority where the exporter or the recipient of goods is located, or where their subdivisions are located, and during the opening hours of the customs authority, under the procedure established by the Customs Department.

(2) Upon any person's request, the customs clearance can be carried out in other places and after hours with the agreement of the customs authority and at the expense of this person.

#### **Article 133. Participation of right holders on goods and means of transport and their representatives at customs clearance**

(1) Right holders on goods and means of transport and their representatives shall have the right to participate at the customs clearance procedure.

(2) Upon the customs authority request, the persons referred to in paragraph (1) of this Article shall be obliged to participate and assist the customs officer in the customs clearance procedure.

#### **Article 134. Language used for customs formalities**

The customs documents shall be prepared in the state language, except for the cases provided by legislation.

#### **Article 135. Customs clearance authorities**

Customs clearance shall be carried out at internal and border customs authorities, and no other authorities shall be entitled to perform this procedure. The Customs Department shall be empowered to specify the customs authorities where customs clearance of certain goods and means of transport shall be performed.

**Article 136. Usage and availability of goods and means of transport, which have not completed the customs clearance**

(1) No person shall have the right to use or dispose of goods and means of transport, which have not completed the customs clearance, except for cases stipulated by this Code and the normative acts of the Customs Department.

(2) The Customs Department shall be entitled to set conditions and restrictions for usage and availability of goods and means of transport, which have not completed the customs clearance.

**Article 137. Starting of customs clearance**

The customs clearance shall start when the customs officer shall be available to carry out the customs clearance of goods and means of transport, complying with the procedure of preliminary operations provided by this Code.

**Article 138. Simplified customs clearance**

(1) Where goods necessary in case of natural calamities, catastrophes and accidents, as well as of live animals, perishable goods, radioactive substances, mass-media materials are brought in or taking out from the Republic of Moldova, the simplified customs clearance procedure shall be applied.

(2) The cases and conditions for a simplified customs clearance procedure shall be specified by the Customs Department.

**Article 139. Operations to be performed with goods and means of transport subject to customs clearance**

(1) Upon request of the customs authorities, the person who passes goods across the customs border, the carrier, the warehouse keeper or such other right holders on goods and means of transport shall be obliged to carry out transportation, weighing, other actions to determine the quantity of goods, to load, unload, transship, repair the damaged packing, pack, re-pack, open the packages or other premises where goods and means of transport may be stored for customs clearance.

(2) In other cases, if the customs clearance of goods and means of transport has not been completed, the actions referred to in paragraph (1) of this Article shall be carried out exclusively with the authorization of the customs authorities.

(3) Loading and unloading, as well as other actions with goods and means of transport shall not entail additional expenses for the customs authorities.

**Article 140. Samples and specimens of goods for customs clearance purposes**

(1) The customs authorities shall have the right to draw samples and specimens of goods and conduct examinations (expertise) for customs clearance purposes.

(2) Samples and specimens under customs supervision can be drawn by right holders on goods and their representatives, as well as by state control authorities with the permission of the customs authorities.

(3) Samples and specimens shall be drawn in the minimum amounts that ensure their examination.

(4) When drawing samples and specimens of goods under customs supervision an official act shall be prepared in the form drawn up by the Customs Department.

(5) Right holders on goods and their representatives shall have the right to attend the samples and specimens drawing carried out by the customs officers and other state control authorities. The customs officers shall attend the samples and specimens drawing carried out by other state control authorities, as well as by the right holders on goods and their representatives. These persons shall be obliged to assist the customs officers in samples and specimens drawing, and to carry out, on their account, the loading and unloading, as well as other actions necessary for samples and specimens drawing.

(6) In the event of absence of the right holder on goods and his representative, the customs body may draw samples and specimens if these persons do not show up within ten days after the goods are presented or under circumstances that cannot be postponed. In such cases, natural persons who are not interested in the examination (expertise) results shall participate at the drawing of such samples and specimens.

(7) The right holder on goods and his representative shall be entitled to take knowledge of the expertise results. The customs authorities shall be informed about the results of the expertise of samples and specimens drawn by another state control authority.

(8) The customs authorities shall not refund the expenses due to samples and specimens drawing. Expenses due to the examination (expertise) of samples and specimens incurred by the customs body and its laboratory shall not be refunded by the right holder on goods, except where the examination is conducted upon the right holder's request.

(9) The procedure and time limits for samples and specimens drawing, their examination and the conditions of their availability shall be established by the Customs Department.

#### **Article 141. Enforcement of the customs legislation on transit of goods with accompanying documents**

(1) Where the customs authorities have sufficient grounds to consider that the carrier with his means of transport cannot guarantee the compliance with the provisions of this Code, the customs authorities shall be entitled to allow the transit of goods with accompanying documents, provided that the means of transport is properly equipped or the goods are escorted, the means of transport is provided with accompanying documents or the goods are transited by the customs carrier, under the provisions of this Code and the normative acts of the Customs Department.

(2) Expenses incurred by the customs carrier, which are related to the equipment of the means of transport or to the transit of goods with accompanying documents, shall not be refunded by the state authorities.

(3) In cases other than those laid down in paragraph (1) of this Article, the transit of goods with accompanying documents shall be made after payment of import and export duties.

## **Section 23**

### **Preliminary Operations**

#### **Article 142. Preliminary operations**

Preliminary operations mean the customs actions carried out prior to the customs clearance and placement of goods and means of transport under a certain customs procedure.

#### **Article 143. Main objectives of the preliminary operations**

(1) Preliminary operations are necessary to facilitate and accelerate the customs clearance of goods and means of transport, as well as their placement under a certain customs procedure.

(2) Preliminary operations do not allow the bringing in or taking out from the Republic of Moldova of prohibited goods and means of transport.

#### **Article 144. Informing the customs authorities about the transit of goods and means of transport across the customs border**

(1) Where goods and means of transport are brought into the customs territory, including from free-trade zones or free customs warehouses, the carrier shall inform the customs authorities about border crossing. The customs authorities shall record this information and set the time and place where the goods and means of transport shall be brought to undergo the customs clearance procedure.

(2) Where goods and means of transport are taking out from the Republic of Moldova, the person who transits goods and means of transport shall inform in advance the customs authorities. The latter shall record this information and set the time and place where the goods and means of transport shall be brought to undergo the customs clearance procedure. If the person transiting goods and means of transport across the customs border does not inform the customs authorities about it, the carrier shall be bound to do this.

(3) The provisions of this article shall not apply to goods which cross the customs territory by sea, by river or by air without passing through the ports or the airports of the Republic of Moldova.

#### **Article 145. Presentation of goods, means of transport and accompanying documents to the place specified by the customs**

(1) After the notification referred to in Article 144 of this Code, the carrier shall be bound to present goods, means of transport and accompanying documents without any changes to the place specified by the customs, except for their normal wear and tear and natural losses

incurred during their transit and storage in good conditions, without using them for other purposes.

(2) Presentation of goods, means of transport and accompanying documents shall be made within time limits set by the customs authorities taking into account the possibilities of the means of transport, the route and other conditions.

#### **Article 146. Measures to be taken in case of accidents or force majeure**

(1) If, as a result of an accident or force majeure, the carrier cannot present goods, means of transport and accompanying documents under the conditions provided for in Article 145 of this Code, he shall be bound to undertake necessary measures to ensure goods, means of transport and accompanying documents, and inform immediately the nearest customs authority about the conditions occurred and the place where goods, means of transport and accompanying documents are stored. The customs authority shall specify the measures necessary to be taken to ensure the customs control.

(2) The customs authority shall not reimburse to the carrier the expenses related to the actions laid down in paragraph (1) of this Article.

(3) The provisions of this Article shall apply to sea, river and air shipments provided for in Article 144 paragraph (3) of this Code, if they have to stop on the territory of the Republic of Moldova.

#### **Article 147. Presentation of goods and means of transport to the designated place**

(1) Goods and means of transport shall be presented to the designated place and accompanying documents shall be submitted to the customs authority. The customs authorities shall be informed about the arrival of goods and means of transport within 30 minutes following their arrival. Where goods and means of transport arrive to the designated place after hours, their presentation shall start within 30 minutes as of the opening hours of the customs authorities.

(2) Upon the request of the customs authorities, goods and means of transport shall be presented *de facto* to the customs authorities.

(3) After presentation of goods, the right holder on these goods or his representative may, with the permission of the customs authority, draw samples and specimens of goods in order to place them under respective customs procedures.

(4) Goods and means of transport, which arrived to the designated place after hours of the customs authorities, shall be placed in the customs control areas.

(5) Leaving of goods and means of transport without supervision, changing of place, loading and unloading of goods, changing initial location of goods, disembarking of passengers, opening of packages and boxes and other actions can be carried out only with the customs body authorization.

(6) Provisions of paragraph (5) of this Article shall not apply to the carrier if he can prove that there was a real danger for the life and health of the passengers, including danger of



destruction, loss or damage of goods and means of transport. The carrier shall inform immediately the customs authorities about such circumstances.

(7) The customs authority shall have the right to request the immediate performance of actions referred to in paragraph (5) of this Article or their performance within the terms set by this customs authority.

(8) The customs authority shall not refund any additional expenses incurred by the carrier as a result of the circumstances specified in this Article.

#### **Article 148. Brief customs declaration**

(1) Brief customs declaration forms can be used before goods and means of transport are placed under certain customs procedures.

(2) The Customs Department shall specify the declaration form and the information to be provided in such declaration.

(3) With the agreement of the customs authorities, accompanying transport, commercial and other documents, including those prepared in foreign languages spoken by the customs officers can be used for brief declaration of goods, if they contain all the necessary information provided for in paragraph (2) of this Article.

(4) The carrier shall submit the brief declaration when presenting the goods and the means of transport.

(5) The brief customs declaration shall not be filled in if the goods are placed within the established time limits under the respective customs procedure.

(6) If the carrier has not a representative, the brief declaration form may be submitted by the captain, the driver or by other natural persons who drive the means of transport.

(7) The carrier's representative shall be obliged to assist the customs authorities in the submission of the brief customs declaration.

#### **Article 149. Liability before customs authorities during the preliminary operations**

The carrier shall be responsible for the goods and the means of transport before they are placed under a customs-approved treatment, including for the payment of import or export duties, except for cases provided by this Code.

### **Section 24 Temporary Storage**

#### **Article 150. Temporary Storage**

From their presentation to the customs authorities and until their release for free circulation or placement under another customs procedure, the imported goods and means of transport shall have the status of goods and means of transport in temporary storage under the customs control.

### **Article 151. Place for temporary storage**

Temporary storage shall be made in well-equipped premises or other places (temporary warehouses).

### **Article 152. Setting up of temporary warehouses**

The customs authorities shall set up warehouses for temporary storage of goods.

### **Article 153. Types of temporary warehouses**

Warehouses set up by the customs authorities shall be deemed as public warehouses.

### **Article 154. Goods which can be stored in temporary warehouses**

Any goods can be stored in temporary warehouses. Goods, which may alter other goods or require special storage conditions, shall be kept in special premises of the temporary warehouses.

### **Article 155. Relationship between the temporary warehouse keeper and the persons who keep goods and means of transport in the temporary warehouse**

The relationship between the customs authority as temporary warehouse keeper and the persons who keep goods and means of transport in this warehouse shall be exercised on a contract basis, under the provisions of this Code and the normative acts of the Customs Department.

### **Article 156. Documents necessary to store goods and means of transport in the temporary warehouse**

Where goods and means of transport are stored in a temporary warehouse, the customs authorities shall be entitled to request only documents, which identify the goods and the means of transport stored in the warehouse, including those prepared in foreign languages spoken by the customs officers.

### **Article 157. Obligations of the Temporary Warehouse Owner**

The temporary warehouse keeper shall be bound by the following obligations before the customs authorities:

- (a) create conditions for storage of goods and means of transport;
- (b) ensure that while goods and means of transport are in the temporary warehouse they are not removed from customs supervision;
- (c) keep stock records of goods and means of transport stored in the temporary warehouse and submit them to the Customs Department under the established procedure.

**Article 158. Additional rights of the customs authorities on temporary warehouses**

The Customs Department shall have the right to specify the list of goods and means of transport, which can be stored in the temporary warehouses.

**Article 159. Liability for payment of import or export duties**

The person who places goods and means of transport in the temporary warehouse shall be responsible for payment of import or export duties.

**Article 160. Temporary storage period**

(1) The Customs Department shall specify the period for temporary storage of goods. That period shall take account of the time required to submit the customs declaration, the nature of the goods and the means of transport. The Customs Department may extend the period for temporary storage of goods.

(2) Goods and means of transport can be stored in temporary warehouses not longer than 2 months, except for the cases stipulated by other articles of this Code. The Customs Department can set a limited storage period for certain categories of goods.

**Article 161. Operation with temporary stored goods**

The customs authorities may inspect the temporary stored goods. Samples and specimens can be drawn with the permission of the customs authorities.

**Section 25  
Customs Broker**

**Article 162. Customs broker**

(1) The customs broker is a legal person registered in accordance with the legislation who holds the license issued by the Customs Department for customs broker activity and who performs intermediate transactions in the customs domain in its name, but on behalf of and upon request of the person it represents.

(2) The customs broker shall carry out its activities in accordance with the provisions of this Code and other normative acts.

(3) The relationship between the customs broker and the person it represents shall be regulated on a contract basis.

**Article 163. Licensing of the customs broker's activity**

(1) In order to obtain the license for the customs broker's activity, the legal person shall:

(a) have at least one specialist in the staff with a qualifying certificate in the customs clearance domain;

(b) have the necessary technical and material resources to fulfill the customs broker's attributions;

(c) meet other requirements provided by legislation.

(2) The licensing procedure and the license validity term shall be specified by the Customs Department in accordance with the legislation.

#### **Article 164. Rights, obligations and liability of the customs broker**

(1) The customs broker shall undertake various actions in its name during customs clearance of goods and shall exercise other intermediate attributions on behalf of and upon request of the person it represents.

(2) When carrying out customs control and clearance, the customs broker shall meet all the obligations and shall be personally liable for the shipment of goods across the customs border.

(3) Rights, obligations and liability of the customs broker before the customs authorities shall not be limited by the contract concluded by it and the person it represents.

#### **Article 165. State registry of customs brokers**

The Customs Department of the Republic of Moldova shall keep the state registry of customs brokers and ensure its periodic publication.

#### **Article 166. Customs clearance specialist**

(1) A certified specialist who has a qualification certificate issued by the Customs Department (hereinafter referred to as *specialist*) shall have the right to exercise the customs clearance attributions in the customs broker's name.

(2) Where the specialist performs customs clearance in the customs broker's name, the former is deemed to perform these operations as being entitled by the customs broker, unless the latter proves the contrary.

(3) The customs broker cannot limit the obligations of the specialist before the customs authority during the customs clearance of goods.

(4) The Customs Department shall regulate the issuance of the qualification certificate, its validity term, as well as the customs specialist's obligations.

(5) The customs body can cancel the qualification certificate if it was issued with breaches of the established regulations or false data was submitted.

(6) The Customs Department can revoke the qualification certificate of the specialist who:

(a) fails repeatedly to fulfil his obligations with respect to the customs authorities;

- (b) breaches repeatedly or does not comply with the requirements of the legislation and other customs regulations;
  - (c) is charged with theft, forge of documents, bribing and other breaches in the customs domain;
  - (d) causes damages to the person he represents, including by use of confidential information constituting a commercial secret;
  - (e) breaches the fiscal legislation.
- (7) The revocation of the qualification certificate shall come into effect as of the date when the Decision on revocation is adopted.
- (8) If the customs broker is considered incapable or declares itself as unable to perform its attributions, the qualification certificates of its specialists shall be automatically considered void.
- (9) Second application for qualification certificate can be considered after the expiration of 6 months from the date of cancellation, suspension or revocation, provided that all conditions, which caused the cancellation or suspension of the certificate, have been liquidated.
- (10) The qualification certificate of the specialist can be suspended if there are sufficient grounds to consider that the specialist does not fulfill accurately his attributions in customs clearance of goods.
- (11) The customs authorities can suspend the qualification certificate for a period of 2 months.
- (12) An appeal can be lodged against the decision on certificate cancellation, revocation or suspension in accordance with the provisions of this Code.

**Article 167. Fees for issuance of licenses and qualification certificates and for their renewal**

- (1) The fee for issuance of a customs broker license or a qualification certificate for a specialist, as well as the fee for their renewal shall be determined by legislation.
- (2) The fee for issuance of a customs broker license, a qualification certificate for a specialist, as well as the fee for their renewal shall not be refunded in case of cancellation, revocation or suspension of these documents.

**Article 168. Information received by the customs broker and its specialists from the represented person**

- (1) Information received by the customs broker and its specialists from the represented person can be used for customs purposes only.
- (2) Information representing commercial, bank or other secret protected by law, as well as confidential information, cannot be disclosed or used by the customs broker and its specialists

for personal purposes, nor transmitted to other persons or public authorities (except for the customs authorities), unless otherwise provided by legislation.

## **Section 26**

### **Customs Carrier**

#### **Article 169. Customs carrier**

(1) Customs carrier is a legal person registered pursuant to the legislation, which holds the license issued by the Customs Department for customs carrier activity.

(2) The customs carrier shall operate based on the provisions of this Code and the normative acts of the Customs Department.

(3) The relationship between the customs carrier and the supplier of goods shall be regulated on a contract basis.

#### **Article 170. Licensing of the customs carrier activity**

(1) The following requirements shall be met by the customs carrier in order to receive the license:

(a) be the owner or the holder of the means of transport, which meet the requirements provided by legislation;

(b) ensure the arrival of the means of transport with the load within 24 hours to the place where the customs clearance is performed within the area of activity of the customs authorities where the customs carrier is registered;

(c) meet other requirements established by legislation.

(2) The licensing procedure for the customs broker activity, as well as its validity term shall be determined by legislation.

#### **Article 171. Registration of customs carriers**

(1) The customs carrier shall be registered with the customs authorities within the area of its activity.

(2) Registration shall be made on the customs carrier's request.

#### **Article 172. Information received by the customs carrier and its employees from the supplier of goods**

Information received by the customs carrier and its employees from the supplier of goods and accompanying documents constituting commercial secret or other secret protected by law, as well as confidential information, shall not be disclosed or used by the carrier and its employees for personal purposes, nor transmitted to other persons or public authorities (except for the customs authorities), unless otherwise provided by legislation.

## **Section 27 Declaration**

### **Article 173. Declaration of goods and means of transport**

Goods and means of transport, which cross the customs border, goods and means of transport placed under another customs procedure, other goods and means of transport in cases specified by the legislation shall be subject to declaration before the customs authorities.

### **Article 174. Declaration forms**

- (1) The declaration shall be submitted in written form or orally, by electronic means or by other means provided by legislation.
- (2) The form and the declaring procedure, as well as other information necessary for the customs clearance shall be specified by the Customs Department.

### **Article 175. Place of declaration**

- (1) The goods shall be declared in the premises of the customs authorities where the customs clearance procedure is performed. The means of transport, which carry the goods, shall be declared at the same time as the goods are declared, except for cases provided by paragraph 3) of this Article.
- (2) Sea ships, river ships and aircrafts shall be declared on their departure or arrival in ports or airports located on the customs territory.
- (3) The means of transport without load, including those used for transportation of passengers, shall be declared when crossing the border.

### **Article 176. Term of declaration submission**

- (1) The customs declaration shall be submitted within 72 hours from the moment of crossing the border.
- (2) Natural persons having non-commercial goods in the hand luggage or in accompanying luggage shall submit the customs declaration together with the presentation of goods on crossing the customs border.

### **Article 177. Declarant**

- (1) Declarant means any person making the customs declaration and presenting goods and means of transport in his own name or the person in whose name a customs declaration is made by the customs broker or an intermediary person.
- (2) The declarant, being either the person who transits goods across the customs border or the customs broker, shall fulfil all obligations and be responsible for his actions, according to the legislation.

### **Article 178. Rights and obligations of the declarant**

(1) The declarant shall:

- (a) declare goods and means of transport under the procedure specified by this Code and other normative acts;
- (b) present the declared goods and means of transport upon the customs authority request;
- (c) present documents and additional information necessary for customs clearance of goods to the customs authority;
- (d) pay import or export duties;
- (e) provide assistance to the customs authority while customs clearance is being performed, including the loading and unloading operations, etc.

(2) Besides other rights provided by this Code, the declarant has the right to examine, measure, weigh the goods and the means of transport under customs supervision, and draw samples and specimens with the permission of the customs authorities. No customs declaration shall be filled in for the taken samples and specimens if they are registered in the customs declaration.

### **Article 179. Documents and additional information necessary for customs clearance**

- (1) The customs declaration filed with the customs authorities shall be accompanied by all necessary documents for the customs clearance purposes.
- (2) The customs authorities shall have the right to request additional information to verify the data contained in the documents and customs declaration form.
- (3) The Customs Department shall set the list of documents and additional information to be presented.
- (4) The customs authorities shall be entitled to set the terms for presentation of missing documents and additional information.
- (5) Upon the permission of the customs authorities, documents may be submitted in foreign languages spoken by the customs officers.

### **Article 180. Submission of customs declaration**

- (1) The customs declaration shall be submitted to the customs authorities in accordance with the procedure established by the Customs Department.
- (2) The customs declaration becomes a legal document from the moment it is received.
- (3) The customs authorities shall not have the right to reject the customs declaration.



### **Article 181. Modification, completion and withdrawal of the customs declaration**

(1) Upon the customs body authorization, the information contained in the customs declaration can be changed and completed, or the customs declaration can be withdrawn.

(2) Modification, completion or withdrawal of the customs declaration can be made:

- before the examination of the form;
- before the inspection of goods and means of transport.

(3) Modification and completion of the customs declaration shall not increase or reduce its scope.

### **Article 182. Temporary or incomplete customs declaration**

**If the declarant cannot file a complete customs declaration, due to objective reasons, the customs authority shall be entitled, under the procedure stipulated by the Customs Department, to accept a temporary or an incomplete customs declaration, provided that it contains the necessary basic information for the customs clearance and the missing information is provided within the specified time limits.**

### **Article 183. Periodic customs declaration**

(1) The customs authority may allow the submission of a single customs declaration for the whole lot of goods which cross the border for a certain period of time, in case of periodic transit of the same goods and means of transport by the same person (periodic customs declaration).

(2) The cases and the procedure for submission of periodic customs declarations shall be determined by the Customs Department.

### **Article 184. Simplified procedure of declaring goods and means of transport**

In order to improve the customs clearance procedure, the Customs Department shall be entitled to establish a simplified procedure of declaring goods and means of transport.

## **Chapter V CUSTOMS CONTROL**

### **Section 28 General Provisions**

### **Article 185. Customs control and its forms**

(1) The customs control shall be carried out by the customs officer and shall consist of:

- (a) checking the existence of documents necessary for the customs inspection of goods and means of transport;

- (b) customs control (inspection of goods and means of transport, corporate control as an exceptional form of control);
  - (c) keeping records of goods and means of transport;
  - (d) oral enquiries of natural persons and highly designated officials;
  - (e) verification of the recording system and reports;
  - (f) inspection of territories and premises of customs temporary warehouses, customs warehouses, free customs warehouses, free-trade zones, duty-free shops and other spaces where goods and means of transport subject to customs control are placed or where actions subject to customs supervision can be performed;
  - (g) carrying out other similar actions provided by this Code and other normative acts.
- (2) Technical means of control can be used for customs control purposes, which neither present any danger to life and health of humans, plants and animals, nor damage to goods and means of transport.
- (3) The Customs Department shall determine the rules of the customs control.

#### **Article 186. Customs control areas**

- (1) Customs control areas include border crossing points, places where customs clearance is performed, places where customs bodies are located, as well as other places determined by the Customs Department.
- (2) The Customs Department shall determine the creation and the boundaries of customs control areas pursuant to the legislation.
- (3) Performing production, commercial or other activities, transit of goods, means of transport, natural persons, including officials from public authorities, through these areas and within their boundaries shall be allowed only with the customs authority permission and under customs supervision, except for the cases provided by legislation. The access to the customs control areas shall be permissible only on preliminary notification to the customs authorities.

#### **Article 187. Documents and information necessary for customs control**

- (1) Persons who transit goods and means of transport across the customs border or who carry out activities under customs supervision shall present to the customs authorities documents and information necessary for customs control.
- (2) The Customs Department shall set the list of these documents and information, as well as the procedure for their submission in accordance with the legislation.
- (3) For customs control purposes, the customs authorities shall be entitled, according to legislation, to obtain information from banks and other financial institutions on transactions

and accounts of persons who transit goods and means of transport across the customs border, on customs brokers and on other persons who perform activities under customs supervision.

(4) For customs control purposes, legislative bodies and control agencies, fiscal inspectorates shall provide information to customs authority at their own initiative or upon customs authority request.

(5) Documents necessary for customs control shall be kept for at least three years.

#### **Article 188. Involving specialists and experts in customs control**

(1) The customs authorities shall have the right to involve, in accordance with the legislation, specialists from legislative bodies and control agencies, from various economic units, regardless of the type of property and juridical organization, as well as experts to assist in performing the customs control.

(2) The customs authority request on involving specialists and experts for customs control shall be binding managers of state organizations and economic units where the solicited specialists or experts work.

#### **Article 189. Access of customs officers to territories or premises for customs control purposes**

For customs control purposes, the customs officers, based on their ID cards and the authorization from the Head and the administration of the Customs Department, shall have access to the territories or premises where goods and means of transport are stored for customs control purposes, where necessary documents for customs control are stored, or where activities are being performed under customs supervision, except for the cases provided by the legislation of the Republic of Moldova or by international agreements to which the Republic of Moldova is party.

#### **Article 190. Identification of goods, means of transport, buildings and other premises**

(1) The customs authorities shall take measures to identify the means of transport, the buildings and other premises where goods subject to customs clearance are stored, premises where activities are being performed under customs supervision, as well as goods and means of transport under customs supervision.

(2) Identification shall be carried out by affixing seals, stamps, marking numbers, identification signs, by taking samples and specimens, describing goods and means of transport, drawing schemes, taking pictures, using accompanying documents and other acts, using other means of identification.

(3) The means of identification can be changed or destroyed only by or with permission of the customs authority.

#### **Article 191. Control over the economic and financial activities**

(1) If there are grounds to consider that the Moldovan legislation and the international agreements to which the Republic of Moldova is party are not complied with or partially

complied with, and for legislation enforcement purposes, the customs authorities shall be entitled to establish control or to control, under their terms of reference, the economic and financial activity of the persons who transit goods and means of transport across the customs border, of the customs brokers and of the persons carrying out activities under the customs supervision.

(2) During financial and economic controls the customs officers shall have the right to:

(a) request the presentation free of charge of any documents (including bank documents) and information with respect to the performed economic and other types of activities related to the customs authorities activity and attributions;

(b) receive oral and written explanations from highly designated officials or from other customs officers;

(c) seal the buildings;

(d) take documents under the Customs Department procedure, if they need to be verified in other place. The taken documents shall be returned as soon as possible.

(3) The customs authorities actions during financial and economic controls shall not cause any prejudice to the examined person. The obtained results shall be communicated immediately to the person under examination.

(4) All information obtained during the control shall be confidential.

#### **Article 192. Selective customs control**

(1) During customs control, the customs authorities shall use such forms of customs control, which are sufficient to enforce the Moldovan legislation and international agreements to which the Republic of Moldova is party.

(2) If necessary, the customs authorities shall have the right to use all forms of customs control provided by this Code, under the provisions laid down in Article 193 of this Code.

#### **Article 193. Exemption from certain forms of customs control**

(1) Cases of exemptions from certain forms of customs control shall be established exclusively by this Code.

(2) Personal luggage of the President of the Republic of Moldova and accompanying members of his family shall not be subject to customs control.

(3) Foreign military ships (sea ships and aircrafts), military equipment and machinery shall be exempted from customs control.

(4) Exemption from specific forms of customs control stipulated by international agreements shall be made after the ratification of such agreements.

#### **Article 194. Corporal customs control**

(1) The corporal customs control, as an extraordinary customs control measure, shall be performed with a written authorization of the Head of the Customs Department or the acting Head of the Customs Department, if there are sufficient grounds to believe that the person crossing the customs border, or being within the customs supervision zone, or in the transit zone of the international airport carries smuggling objects or goods prohibited from being transited through the customs area and which constitute the object of violations or offences provided by the legislation of the Republic of Moldova or international conventions and agreements to which the Republic of Moldova is party.

(2) Before corporal customs control, the customs officer shall inform the subject person about the decision of the Head of the Customs Department on corporal control, explain the rights and obligations of the person and recommend this person to present by himself the hidden items.

(3) The corporal customs control shall be performed by a customs officer of the same sex with the subject person in the presence of two witnesses of the same sex as well. The corporal customs control shall be performed in an isolated room, under sanitary conditions. Access to these rooms by persons who are not involved in the corporal customs control and do not monitor the corporal control shall be prohibited.

(4) A record of corporal customs control shall be prepared in a form prescribed by the Customs Department.

(5) This record shall be signed by the customs officer who performed the corporal customs control, by the person subjected to such control, witnesses, as well as the medical staff member, if the latter participated in the corporal control. The person subjected to corporal customs control shall have the right to write down in the record his own notes.

#### **Article 195. Inadmissibility to cause damages during the customs control**

(1) No illegal causing of damages shall be allowed with respect to persons and means of transport during the customs control.

(2) The customs authorities and the customs officers who cause unjustified damages during the customs control shall be liable for such acts in accordance with the legislation.

(3) Legally caused damages by the customs officers shall not be compensated.

### **Section 29 Additional Customs Control Provisions**

#### **Article 196. Goods and means of transport subject to customs control**

(1) All goods and means of transport, which cross the customs border shall be subject to customs control procedure, except for the cases stipulated by legislation.

(2) The customs authorities shall be entitled to stop by force the means of transport in cases provided by legislation.

#### **Article 197. Duration of customs supervision**

(1) Goods and means of transport shall fall under the customs supervision from the beginning and until the end of the customs control under the established customs procedures.

(2) The customs control shall begin from the moment of crossing the customs border, when goods and means of transport are brought into the customs territory.

(3) The customs control shall start from the moment of filing the customs declaration, when goods and means of transport are taken out from the customs territory.

(4) The customs control shall be deemed completed when goods and means of transport are released for free circulation, unless otherwise provided by the present Code and other normative acts.

(5) When removing goods and means of transport from the customs territory, the customs control shall end on the moment of the customs border crossing.

(6) Subject persons shall comply with the requirements specified by the Customs Department on the minimum necessary time for customs control.

#### **Article 198. Customs control after release of goods and means of transport for free circulation**

Regardless of whether the goods and the means of transport were released for free circulation or not, the customs control can be conducted at any time if there are grounds to consider that the customs legislation or the international agreements and conventions the Republic of Moldova has signed were infringed.

#### **Article 199. Term of examination of customs declaration, documents, goods and means of transport**

(1) Customs declaration, documents, goods and means of transport shall be examined within 10 days at the latest following the date when the customs declaration, documents and necessary information were submitted, and the examination of goods referred to in Article 138 of this Code – within 3 days at the latest.

(2) The examination term starts from the moment of presentation of goods and means of transport, if it is required.

(3) The examination term does not include the time necessary for control by other state authorities.

**Article 200. Loading, unloading and other actions with goods and means of transport, samples and specimen taking for customs control purposes**

Loading, unloading and other actions with goods and means of transport, samples and specimen taking for customs control purposes shall be conducted in accordance with Articles 139 and 140 of this Code.

**Article 201. Participation of the declarant and other persons in the customs control**

(1) The declarant and other persons who hold the goods and the means of transport, as well as their representatives shall be obliged to participate in the customs control of goods and means of transport.

(2) The persons referred to in paragraph (1) of this Article, or in the absence of such persons, the person who drives the means of transport shall provide assistance to the customs authorities in the customs control of goods and means of transport.

(3) The customs authorities may conduct the customs control of goods and means of transport in the absence of the declarant, other right holders on goods and means of transport, as well as of their representatives if:

- a) the indicated persons do not appear within 10 days from the day when the goods and the means of transport were presented;
- b) the state security, public order, life and health of humans, animals and plants, environment are in danger, as well as in other urgent circumstances;
- c) the goods are delivered by international mail;
- d) the goods and the means of transport have been left on the customs territory without complying with the customs procedure.

(4) Examination of goods and means of transport in cases referred to in paragraph (3) of this Article shall be performed in the presence of persons who are not interested in the examination results.

**Article 202. Inventory of goods and means of transport under customs supervision**

The customs authorities may inventory at any time the goods and the means of transport, which are under the customs supervision, as well as the goods not being subject to import or export duties or enjoying some relief from payment of such duties.

**Section 30**  
**Customs Control of Currency**

**Article 203. Terms of reference of the customs authorities during customs control of currencies**

Currencies shall be subject to customs control when crossing the customs border.

#### **Article 204. Customs control of currencies**

The customs authorities shall conduct the customs control of currencies in accordance with the legislation.

#### **Article 205. Liability for violation of currency regulations**

(1) If the customs authorities find some violations of the provisions of the currency legislation and if these violations are penalized, the sanctions stipulated by this Code shall apply.

(2) In cases other than those referred to in paragraph (1) of this Article, when the customs authorities find some violations of the currency legislation, the sanctions stipulated by respective currency laws and other regulations shall apply.

### **Chapter VI CUSTOMS FACILITIES GRANTED TO CERTAIN CATEGORIES OF FOREIGNERS**

#### **Section 31**

#### **Customs facilities granted to diplomatic missions and consulates in the Republic of Moldova, including to their staff members**

#### **Article 206. Customs facilities granted to diplomatic missions and consulates in the Republic of Moldova**

Diplomatic missions and consulates in the Republic of Moldova shall be exempted from payment of import and export duties, except for storage and transport fees, and other related fees, when importing and exporting goods intended for their official use, pursuant to the rules for transit of goods across the customs border.

#### **Article 207. Customs facilities granted to diplomatic agents and foreign consular employees in the Republic of Moldova**

(1) Diplomatic agents, foreign consular employees in the Republic of Moldova, members of their families, who live with them and are not citizens of the Republic of Moldova, shall be exempted from payment of import and export duties, except for storage and transport fees, and other related fees, when importing and exporting goods for personal use, including those for their installation in the Republic of Moldova, pursuant to the rules for transit of goods across the customs border.

(2) Personal luggage of diplomatic agents and foreign consular employees in the Republic of Moldova, of members of their families, who live with them and are not citizens of the Republic of Moldova, shall be exempted from the customs control procedure. Customs control shall be performed in the presence of persons mentioned in this article or their authorized representatives if there are sufficient grounds to consider that items and articles contained in their luggage are not intended for personal use or are prohibited under the Moldovan legislation, international agreements and conventions to which the Republic of



Moldova is party from being imported to or exported from the Republic of Moldova, or are subject to quarantine.

**Article 208. Customs facilities granted to administrative and technical staff of diplomatic missions, consulates and their staff members**

Members of administrative and technical staff of diplomatic missions, employees of consular offices, as well as members of their families, who live with them and are not citizens of the Republic of Moldova, shall be exempted from payment of import duties, except for storage and transport fees, and other related fees, when importing goods for personal use or on the occasion of their first installation into the Republic of Moldova, pursuant to the rules established for transit of goods across the customs border.

**Article 209. Transit of the diplomatic and consular dispatch boxes across the customs border**

(1) The diplomatic and consular dispatch boxes crossing the customs border of the Republic of Moldova cannot be stopped or subjected to customs control. If there are sufficient grounds to believe that the diplomatic and consular dispatch boxes contain items which are not indicated in paragraph (3) of this Article, the customs authorities shall be entitled to request the authorized representative of the respective country to open the diplomatic and consular dispatch boxes in the presence of the customs officers of the Republic of Moldova. In case of a refusal, the diplomatic and the consular dispatch boxes shall be forwarded back to the country of origin.

(2) All items and objects contained in the diplomatic and consular dispatch boxes shall have visible notes and marks indicating their nature.

(3) The diplomatic dispatch box shall contain only diplomatic documents and goods intended for official use, while the consular dispatch box – only the official correspondence or documents and goods intended for official use.

**Section 32**  
**Customs Facilities Granted to Other Foreigners**

**Article 210. Customs facilities granted to foreign diplomatic and consulate couriers**

Under the reciprocity principle, foreign diplomatic and consulate couriers may import to and export out of the Republic of Moldova goods for personal use exempted from customs control and payment of import and export duties, except for storage and transport fee, and other related fees.

**Article 211. Customs facilities granted to other states representatives and members of foreign delegations**

Under the reciprocity principle, representatives of foreign states, members of parliament and government delegations, as well as members of foreign delegations coming to Moldova to participate in interstate negotiations, conferences or international meetings, including other official missions, shall be granted customs facilities envisaged by the present Code for

administrative and technical staff members of diplomatic missions. The same facilities shall be granted to the members of the families accompanying these persons.

**Article 212. Customs facilities granted to diplomatic agents, consular officials, representatives of foreign states, as well as members of foreign delegations who transit the Republic of Moldova**

Diplomatic agents, including consulate officials, members of their families and persons referred to in Article 211 of this Code who transit the Republic of Moldova for business purposes shall enjoy the customs facilities granted by Article 207 of this Code.

**Article 213. Customs facilities granted to international intergovernmental organizations, representatives of foreign states within such organizations, including staff members of these organizations**

Customs facilities granted to international intergovernmental organizations, representatives of foreign states within such organizations, including members of these organizations shall be determined by international agreements to which the Republic of Moldova is party.

**Chapter VII  
CUSTOMS VALUE OF GOODS  
COUNTRY OF ORIGIN OF GOODS**

**Section 33  
Customs Value of Goods**

**Article 214. Determining the customs value of goods**

The customs value of goods shall be determined in accordance with the Law on Customs Tariff.

**Section 34  
Country of Origin of Goods**

**Article 215. Determining the origin of goods**

The method of determining the country of origin of goods, as well as the method of confirming their origin shall be provided by the Law on Customs Tariff.

**Chapter VIII**  
**AVAILABILITY OF GOODS AND MEANS OF TRANSPORT, AS WELL AS FUNDS**  
**RECEIVED FROM THEIR SALE**

**Section 35**  
**Making Use of Goods and Means of Transport**  
3.

**Article 216. Transfer of goods and means of transport into the state ownership**

(1) Confiscated goods and means of transport, which represent the subject of smuggling and other violations of customs activity, as well as goods and means of transport abandoned in the favor of the state shall be transferred into the state ownership.

(2) The procedure for transfer of goods and means of transport into the state ownership shall be determined by legislation.

(3) Any expenses related to the transportation, storage and sale of goods and means of transport shall be reimbursed from the funds obtained as a result of sale of these goods and means of transport.

**Article 217. Reimbursement of funds to cover expenses**

If the funds collected from the sale of goods and means of transport, which have been transferred into the state ownership, do not cover the expenses incurred by the customs authorities, the uncovered part of expenses shall be supported by the declarant or person responsible for payment of import and export duties.

**Article 218. Making use of non-commercialized goods and means of transport**

Non-commercialized goods and means of transport, which were transferred into the state ownership, and the procedure for making use of such goods and means of transport shall be determined by legislation.

**Chapter IX**  
**INQUIRIES, CRIMINAL INVESTIGATION AND PRELIMINARY RESEARCH AS**  
**OPERATIVE ACTIVITIES**  
**CARRIED OUT BY CUSTOMS AUTHORITIES**

**Section 36**  
**Operative Investigation Activity**

**Article 219. Customs authority as agent to carry out operative investigation**

(1) The customs authority shall carry out operative investigation in accordance with the Law on Operative Investigation Activity.

(2) The customs authority shall carry out operative investigation activity in order to detect the persons culpable for preparation and perpetration of customs infringements, smuggling

and other infringements under the terms of reference of the criminal investigation and preliminary research body of the Customs Department.

4. Article 220. Operative investigation actions ensuring the security of customs authorities.

5. Operative investigation actions, which ensure the security of the customs authorities, shall be carried out in accordance with the legislation.

### **Section 37**

#### **Criminal Investigation and Preliminary Research**

##### **Article 221. Object of criminal investigation and preliminary research**

The collection of evidences related to the delinquency, offender identification and his accusation pursuant to the legislation shall become object of criminal investigation and preliminary research in legal cases being under the terms of reference of the customs authorities.

##### **Article 222. Customs bodies for criminal investigation and preliminary research**

(1) The criminal investigation and the preliminary research in the customs domain shall be carried out by the Criminal Investigation and Preliminary Research Body of the Customs Department and by its territorial subdivisions.

(2) Criminal investigators of the customs bodies are independent, they comply with the legal written and oral indications issued by the administration of the Criminal Investigation and Preliminary Research Body and with the Prosecutor's indications.

##### **Article 223. Terms of reference of the customs bodies for criminal investigation and preliminary research**

The customs bodies for criminal investigation and preliminary research shall perform criminal proceedings on all cases of smuggling and other violations attributed to their terms of reference by the Penal Code.

##### **Article 224. Smuggling**

Transit of goods across the customs border avoiding or hiding them from customs control, in large or significant amounts, repeatedly, by a group of people associated to conduct smuggling activity, or by a high official using his official position, or fraudulent use of customs documents and other documents, including transit of narcotic, psychotropic, with strong effects, toxic, poisonous, radioactive and explosive substances, harmful waste, weapons, explosive devices, firearms, munitions, except for hunting rifles with smooth barrel and cartridges to them, transit of cultural goods, as well as failure to return to the customs territory the cultural goods removed from the country, if their return is obligatory, shall be considered smuggling and shall be punished in accordance with the legislation.

## **Section 38**

### **Controlled Deliveries**

#### **Article 225. Controlled deliveries of narcotic and psychotropic substances**

(1) In order to repress the illegal international traffic of narcotic and psychotropic substances and to detect the persons involved in their traffic, the customs authorities of the Republic of Moldova shall use, case-by-case, the controlled delivery method, which means allowing under their control the bringing in and taking out of the Republic of Moldova or transit through its territory of narcotic and psychotropic substances used in illegal traffic, in accordance with the bilateral agreements, with the participation of the customs authorities and other competent authorities from the respective states.

(2) The Customs Department shall approve the decision on application of the controlled delivery method.

(3) If the country of destination of narcotic and psychotropic substances is a foreign state, the criminal proceedings shall not be initiated in the Republic of Moldova, the competent customs authority shall take a decision on application of the controlled delivery method and shall immediately inform the General Prosecutor about it.

#### **Article 226. Application of the controlled delivery method with respect to other goods**

(1) The controlled delivery method can be applied in the manner provided for in Article 225 of this Code with respect to other goods representing the subject or means of the violation.

(2) The decision on application of controlled delivery method with respect to the indicated goods shall be immediately notified to the General Prosecutor.

#### **Article 227. Making use of funds and goods confiscated during the application of the controlled delivery method**

Funds confiscated by judiciary institutions of the Republic of Moldova and of other states during the application of the controlled delivery method, as well as funds collected from sale of confiscated goods under this method, shall be distributed between the states whose customs authorities took part in the application of the above-mentioned method, in accordance with the international agreements to which the Republic of Moldova is party.

**Chapter X**  
**MINOR CUSTOMS OFFENCES AND SANCTIONS FOR SUCH OFFENCES**  
**PROCEEDINGS IN CASES OF MINOR CUSTOMS OFFENCES AND THEIR**  
**EXAMINATION**

**Section 39**  
**General Provisions**

**Article 228. Customs offence**

*Customs offence* means the illegal action (or inaction) committed by a person in violation of the procedures stipulated by the Minor Offences Code and the present Customs Code.

**Article 229. Liability for minor customs offences**

(1) The minor customs offence entails administrative or economic liability in accordance with the provisions of the Minor Offences Code and this Code. Where a minor customs offence is committed, the complementary sanction of license revocation or suspension may be applied.

(2) Natural persons shall be liable for committing minor customs offences, if at the time of the committed offence they are sixteen years old.

(3) Legal persons culpable for committing minor customs offences shall be subject to administrative or economic liability.

**Article 230. Customs offences entailing administrative liability**

(1) The following actions shall be considered minor customs offences entailing administrative liability:

- 1) Failure to comply with the rules of customs control areas;
- 2) Failure to inform the customs authority (interior customs post) about bringing in of goods and means of transport across the customs border;
- 3) Failure to inform or providing false information to the customs authority about the intention to take goods and means of transport out of the customs territory;
- 4) Failure to comply with the established requirements in case of force majeure circumstances or damage of the goods;
- 5) Failure to present the goods and means of transport to the customs authority or submit the documents necessary for the customs control;
- 6) Release of goods and means of transport for free circulation without the authorization of the customs authorities, loss of goods or failure to present goods and means of transport, including accompanying documents to the customs authority;

- 7) Refusal to stop the means of transport at places specified by the customs authority;
- 8) Departure of the means of transport without the authorization of the customs authority;
- 9) Mooring of ships and other vessels under the customs supervision;
- 10) Failure to comply with customs clearance procedure;
- 11) Illegal actions with goods and means of transport which did not complete the customs clearance procedure, altering their state, their use and availability;
- 12) Loading, unloading and other operations without the authorization of the customs authority;
- 13) Modification, liquidation, deterioration or loss of means of identification;
- 14) Failure to comply with the procedure for declaration of goods and means of transport;
- 15) Failure to comply with the terms provided for submission to the customs authorities of customs declaration, other documents and information;
- 16) Impeding the customs officer's access to goods and means of transport under customs supervision ;
- 17) Failure to present records to the customs authority, as well as non-compliance with the rules records keeping;
- 18) Failure to comply with the temporary customs warehousing;
- 19) Failure to comply with the procedure of storage of goods in the warehouse, storage rules, as well as rules on operations with these goods;
- 20) Failure to comply with the inward processing, outward processing or transformation of goods under customs supervision;
- 21) Failure to comply with the rules on commercial and production activity in free-trade zones and free customs warehouses;
- 22) Failure to comply with the rules on building activity in free-trade zones;
- 23) Failure to comply with the obligation on re-entry and, respectively, removal out of the customs territory of the Republic of Moldova of goods and means of transport;
- 24) Failure to comply with the procedure of destruction of goods;
- 25) Illegal operations with goods and means of transport placed under a certain customs procedure, altering of their state, their use and availability;
- 26) Failure to comply with the economic policy measures and other restrictions established for transit of goods and means of transport across the customs border;

- 27) Transit of non-commercial goods as goods intended for sale and production across the customs border;
- 28) Transit of goods and means of transport across the customs border avoiding the customs control;
- 29) Transit of goods across the customs border and hiding them from customs control;
- 30) Transit of goods and means of transport across the customs border with fraudulent use of documents and means of identification;
- 31) Non-declaration or inaccurate declaration of goods and means of transport;
- 32) Non-compliance with customs regulations while transiting, storing, purchasing, making use of goods and means of transport entered into the customs territory;
- 33) Non-compliance with the procedure of availability and usage of goods and means of transport conditionally released into free circulation and subject to import and export facilities;
- 34) Actions undertaken with the purpose of illegal relief of goods and means of transport from payment of import and export duties or reduce the amount of these payments;
- 35) Actions undertaken for the purpose of refunding the collected import and export duties, receipt of certain payments and compensations or failure to refund them without any justified reason;
- 36) Failure to meet the established terms for payment of import and export duties;
- 37) Non-compliance of banks and other financial institutions with the decisions issued by the customs authorities;
- 38) Illegal performance of the customs broker's activity or failure to comply with the conditions stipulated for such activity;
- 39) Illegal performance of the customs carrier's activity or failure to comply with the conditions stipulated for such activity;
- 40) Infringement of customs regulations by highly designated officials and other persons, including foreign citizens;
- 41) Non-compliance with legal orders or requirements of the customs officer;
- 42) Insulting the customs officer, persons who perform customs control, customs clearance, proceedings in case of infringement of customs regulations, as well as witnesses to such actions;
- 43) Threatening and using violence against the customs officer, persons who perform customs control, customs clearance, proceedings in case of infringement of customs regulations, as well as witnesses to such actions;



- 44) Refusal of the offender to deliver or to present goods, documents, other objects and information necessary to execute the procedure in cases of infringement of customs regulations and its examination;
  - 45) Refusal of other persons to release or to present goods, documents, other objects and information necessary to execute the procedure in cases of infringement of customs regulations and its examination;
  - 46) Refusal or evasion from testimony;
  - 47) Impeding the revision, control and inventory, or refusal to perform them;
  - 48) Refusal or evasion of the expert to draw up the expertise report, refusal of the specialist or translator to participate in the proceedings launched in cases of infringement of customs regulations and their examination, refusal of the specialist to participate in the customs control or customs clearance;
  - 49) Refusal to comply with or evasion of the highly designated officials from economic entities from orders and decisions on expertise conducting or their refusal to call the specialist or the translator;
  - 50) Hindering the customs officers from performing customs investigations and other proceedings;
  - 51) Using sequestrated goods, without the permission of the customs authorities or failure to comply with the conditions and restrictions of their usage;
  - 52) Illegal interference or influence of the customs officers in adopting decisions or other actions undertaking.
- (2) The offences referred to in paragraph (1) of this Article shall be penalized pursuant to the provisions of the Minor Offences Code.

### **Article 231. Customs offences entailing economic liability**

The following illegal actions shall be considered minor customs offences entailing economic liability:

- 1) Transit of goods across the customs border avoiding the customs control (transit in places others than the customs premises or over the business hours of the customs authorities or hiding goods) set for customs clearance procedure), or hiding goods (by using hiding places or other methods which make difficult their detection) and if there are no facts of smuggling or other infringements;
- 2) Transit of goods across the customs border with false, void, or illegally obtained documents, documents containing inaccurate data on transited goods, and if there are no facts of smuggling or other infringements;

- 3) Non-declaration or inaccurate declaration of goods that cross the customs border in accordance with the established procedure, and if there are no facts of smuggling or other infringements;
- 4) Transportation, storage, purchase of goods entered into the customs territory avoiding or hiding them from the customs control, using false papers and means of identification, their non-declaration or inaccurate declaration, as well as transportation, storage and purchase of goods subject to relief from import and export duties, their use or transfer in purposes other than those for which facilities have been granted and without the authorization of the customs body;
- 5) Making use of goods and conditionally released for free circulation and subject to relief from import and export duties for purposes other than those specified by the customs authorities and without the authorization of the customs body;
- 6) Declaration of inaccurate information with respect to customs procedure, customs value or the country of origin of goods or declaration of inaccurate information which gives rise to a total or partial exoneration of goods from import and export duties, if there are no infringing elements;
- 7) Submitting of falsified documents to the customs authority regarding the right to refund the collected import and export duties, receipt of certain payments and compensations, failure to refund them or their partial unjustified refund, if there are no infringing elements;
- 8) Failure to pay the import and export duties within the established terms, if there are no infringing elements;
- 9) Release for free circulation of goods without the authorization of the customs body, loss of goods and means of transport placed under customs procedure or failure to transport them to the place specified by the customs body;
- 10) Loss or failure to present the necessary documents on goods under customs supervision;
- 11) Illegal operations with goods, which have not completed the customs clearance procedure, modification and making use of goods, except for the cases provided by this Code;
- 12) Failure to comply with the requirements for destruction of goods or failure to comply with the requirements for storage of waste resulted from destruction of goods under the respective customs procedure;
- 13) Modification, making use of goods or carrying out other actions which contravene the customs procedure under which they are placed, except for the cases provided by this Code;
- 14) Failure to comply with the economic policy measures and other restrictions provided for transit of goods across the customs border if there are no infringing elements, except for the cases provided by this Code;

- 15) Transit by individuals across the customs border of non-commercial goods as goods intended for commercial or production purposes, if there are no infringing elements;
- 16) Failure to assure the integrity of goods and means of transport in case of damage or force majeure circumstance, to inform immediately about the damage or force majeure circumstance, to transport goods to the nearest customs body, or presence of the customs officer at the location of goods or means of transport;
- 17) Failure to comply with such obligations as:
  - a) removal from the customs territory of goods and means of transport which previously entered the customs territory, if their removal is obligatory;
  - b) re-importation into the customs territory of goods and means of transport which previously have been removed from the customs territory, if their re-importation is obligatory;
- 18) Presenting of false documents to the customs authority, which confirm the removal or entry of goods and means of transport into the customs territory, impossibility to carry out the indicated actions because of destruction or loss of goods and means of transport as a result of a force majeure circumstance or damage, normal wear and tear or natural losses incurred during their transportation and storage in good conditions, if there are no infringing elements;
- 19) Failure to comply with the requirements for inward and outward processing of goods or processing of goods under customs supervision, procedure and terms established for inward and outward processing, the specified amount of compensating products, substitution of the compensating goods with others;
- 20) Failure to comply with the conditions of releasing or receiving goods and means of transport whose term of warehouse storage has expired in accordance with the customs procedure.

### **Article 232. Economic penalties for minor customs offences**

Legal persons and individuals with no legal status involved in entrepreneurial activity, for committing minor customs offences referred to:

- (a) in paragraphs (1) to (4) of Article 231 of the present Code, shall be penalized with a fine of 40% to 100 % of the value of goods subject to violation, with or without revocation of the license;
- (b) in paragraphs (5) and (6) of Article 231, shall be penalized with a fine of 30% to 100% of the value of goods and other values for which no import or export duties were paid, with or without revocation of the license;
- (c) in paragraphs (9) and (11) of Article 231, shall be penalized with a fine of 10% to 20% of the value of goods subject to violation, with or without revocation of the license;
- (d) in paragraph (7) of Article 231, shall be penalized with a fine of 10% to 20% of the value of goods in respect of which inaccurate information has been presented;
- (e) in paragraph (8) of Article 231, shall be penalized with a fine of 10% to 20% of the value of goods not being subject to import or export duties;
- (f) in paragraph (10) of Article 231, shall be penalized with a fine of 3% to 10% of the value of goods and means of transport the accompanying documents on which were lost or not submitted;

(g) in paragraphs (12), (13), (16), (19) of Article 231, shall be penalized with a fine of 5% to 20% of the value of goods subject to violation;

(h) in paragraphs (14), (15), (17), (18), (20) of Article 231, shall be penalized with a fine of 10% to 100% of the value of goods subject to violation, with or without revocation of the license.

### **Article 233. Proceedings in case of minor customs offences**

The proceedings in case of minor customs offences are performed in conformity with the provisions of the Minor Offences Code, while the part not regulated by it shall be subject to regulations provided by this Code.

### **Article 234. The statement report on minor offences**

In any case of a minor offence, a statement report shall be drawn up by the customs officer in accordance with the Minor Offences Code.

### **Article 235. Actions of the customs officer in case of detecting smuggling and other minor offences**

In case of smuggling or other minor offences detected during the proceedings on minor customs offences, a penal trial shall be instituted under the Penal Code provisions.

### **Article 236. Circumstances under which the customs officer continues the proceedings on minor customs offences after the penal trial has been instituted**

If during the penal investigation on smuggling or other minor offences under the terms of reference of customs bodies some minor customs offences are detected, they shall be investigated separately within the conditions provided by the Minor Offences Code and the provisions of this Code.

### **Article 237. Proceedings on minor customs offences initiated by the criminal investigation or preliminary research authority or other competent authorities and case examination**

In the event of refusal to institute a penal trial or to open a file on smuggling where indices of minor customs offences are present, the proceedings and the case examination shall be conducted pursuant to an administrative ordinance issued by the General Prosecutor based on the materials received from the criminal investigation or preliminary research authority, or from other authorities entitled with preliminary research.

### **Article 238. Inadmissibility to disclose information on minor customs offences**

The information on minor customs offences can be disclosed prior to the end of the penal trial only with the authorization of the customs officer who is in charge of the case or the head of the customs authority.

**Article 239. Cooperation of the customs authorities of the Republic of Moldova with the customs authorities of other states during the proceedings on minor customs offences and their examination**

The cooperation of the customs authorities of the Republic of Moldova with the customs services and other competent authorities of the foreign states during the proceedings on minor customs offences or their examination shall be based on the international agreements to which the Republic of Moldova is party.

**Section 40  
Proceedings**

**Article 240. Charging with proceedings on minor customs offences**

The customs authority conducting the proceedings on minor customs offences has the right, where appropriate, to charge another customs body with conducting of such proceedings. This task shall be fulfilled within 10 days following the date when it was issued.

**Article 241. Hearing in case of minor customs offence**

(1) The customs officer who conducts the proceedings or considers the minor customs offence has the right to interrogate the natural persons, the highly designated officials, the managers of the legal persons, and the persons with no legal status involved in entrepreneurial activity.

(2) The persons to be interrogated are obliged to present themselves upon request in order to give explanations on the circumstances of the case.

(3) An official report shall be drawn up on the interrogation of the persons referred to in paragraph (1) of this Article.

**Article 242. Summons in case of minor customs offences**

(1) The person to be interrogated in case of minor customs offence shall be summoned in accordance with the legislation.

(2) If the person referred to in paragraph (1) of this Article is temporary absent, the summons shall be sent to the members of his family or to his job colleagues, who shall sign the receipt confirmation.

(3) The person to be interrogated can be summoned either by telephone message or other means of communication.

**Article 243. Requesting necessary documents for conducting proceedings on minor customs offences and their examination**

(1) The customs authority conducting the proceedings on minor customs offences or examining such offences shall have the right to request all documents necessary for the case examination from the legal person, highly designated official or natural person.

(2) The persons referred to in paragraph (1) of this Article shall be obliged, within 5 days following the request, to send or issue original documents to the customs officer who is in charge of the proceedings on customs offence or who examines the case. Duly certified copies of the requested documents may be presented with the authorization of the customs officer.

(3) Upon expiration of the terms of appealing against the decision on the infringement of customs regulations, the originals shall be returned. In this case, the copies certified by the customs officers shall be attached to the file.

(4) Failure to fulfill the request of the customs officer on submission of the necessary documents to carry out the proceedings on minor customs offence shall be sanctioned in accordance with the Minor Offences Code and documents shall be seized pursuant to the provisions of Article 244 of this Code and the provisions of the Minor Offences Code.

#### **Article 244. Reasons to seize goods, means of transport, documents and other values**

(1) Goods and means of transport representing direct objects of minor customs offence, goods and means of transport with special hidden places, used to transit across the customs border goods representing direct objects of minor customs offence, hiding them from customs control, means of transport which transport goods representing direct objects of minor customs offence, documents, means of identification and other documents shall be deemed evidences and shall be seized.

(2) In case of charging for minor customs offences of natural persons or official persons, who are not permanent residents of the Republic of Moldova, of legal persons, who do not have branches, representation, section or other separated structure on the territory of the Republic of Moldova, as well as persons with no legal status involved in entrepreneurial activity, whose statutory capital and (or) and patrimony does not cover the amount of penalty applied or the cost of goods and means of transport whose value may be collected, it shall be allowed to sequester the goods, the currencies, including national currency, as well as the means of transport of the above-mentioned persons, in order to ensure the collection of the penalty or the equivalent value of the specified goods.

(3) The offender shall be responsible for the presentation of evidence regarding the residence, existence of branches, representations, sections or other separate structures, and the size of the statutory capital or any other patrimony.

#### **Article 245. Valuation of goods, means of transport and other values**

(1) The customs authority shall evaluate goods and means of transport, seized in compliance with the Minor Offences Code and the present Code based on the negotiable free prices. If evaluation cannot be performed, the experts' service is required.

(2) Evaluation shall be performed in Moldovan Lei at the official exchange rate established by the National Bank of Moldova in force at the date of evaluation.

#### **Article 246. Sequestration of goods, means of transport and other values**

- (1) In case of impossibility to seize goods, means of transport, documents and other objects, referred to in Article 244 of the present Code, if the offender repeated the minor customs offence or is charged for more minor offences at the same time, or if the minor customs offence causes considerable prejudices to the state's interests, the head of the customs authority or his deputy shall have the right to sequester goods, means of transport and other values of the offender.
- (2) The head of the customs authority or his deputy shall issue a justified decision on sequestration of values.
- (3) The sequestration of values and the report on this case shall be performed in the way stipulated in Article 243 of the present Code.
- (4) There can not be sequestered goods necessary to the physical person or his dependents. The list of such goods shall be set by the legislation.
- (5) The head of the customs authority or his deputy, who pronounced the decision on the sequestration of values, shall set the place where these values are to be kept.
- (6) Defalcation, alienation and concealment of sequestered goods shall not be allowed and shall be punished in compliance with the penal legislation.
- (7) In case of sequestration of money from the offender kept on bank accounts and in other financial institutions, any operations on these accounts shall be forbidden by the decision of the head of the customs authority.
- (8) The person, who pronounced the order, may cancel the sequestration of the values, if there is no need to apply such measure any more.

#### **Article 247. Customs inspection**

- (1) If there are sufficient reasons to consider that on the territory or in the people's houses or in the means of transport there are goods and means of transport representing the direct object of the customs infringement, or goods and means of transport equipped with special hidden places, used to transit goods representing direct objects of customs infringement across the customs border, hidden from the customs control, objects with indices of offence elements, as well as documents necessary to perform the proceedings on minor customs offences or the case examination, the customs officer shall have the right to inspect these territories, premises or means of transport.
- (2) The customs officer designated to perform the proceedings on minor customs offences or examine the case shall issue a justified order.
- (3) Customs inspection shall be carried out in the presence of witnesses.
- (4) The person, whose territory, building or means of transport are examined, shall be present at customs inspection. In case of the temporary absence of the natural person, the official person or the person with no legal status involved in entrepreneurial activity, customs

inspection shall be carried out in the presence of adult family members, the employee of exploitation of dwelling houses, the administration representatives from the working, studies, or vacation place of the subject person or of the representative of the local public administrative body. In case of temporary absence of the head of the legal person or his deputy, customs inspection shall be performed in the presence of other employees of the legal person or of the representatives of the authority, which performed the state registration of the legal person.

(5) If needed, and expert shall be invited to the customs inspection.

(6) The persons taking part or attending the customs inspection shall be explained their rights and obligations.

(7) It is not allowed to perform customs inspection in the night time, except for cases where customs inspection is performed in the framework of the customs control or clearance, as well as in emergency cases.

(8) Prior to the customs inspection, the customs officer in charge of the inspection shall present to the person whose territory, means of transport or premises are examined the order on customs inspection, which he shall sign after reading it. In case of his absence, the order shall be presented to one of the persons referred to in paragraph (4) of the present Article.

(9) The customs officer shall propose to the person, whose territory, means of transport or premises are to be examined, as well as to other persons mentioned in paragraph (4) of the present Article to allow the access to the territory, means of transport or premises, where goods mentioned in paragraph (1) of the present Article are stored, to present voluntarily goods, recipients and other places where goods may be stored. In case of refusal to open voluntarily premises, recipients or other places where goods mentioned in paragraph (1) of the present Article may be stored, the customs officer shall have the right to open them by himself, avoiding unjustified deterioration of locks, doors, etc.

(10) Goods, means of transport, documents and other values, which may constitute the object of customs infringement detected during the customs control, shall be seized pursuant to and in the way stipulated in Articles 243 and 244 of the present Code.

(11) Different measurements, taking pictures, video recording and other techniques can be performed during the customs inspection.

(12) An official report shall be drawn up during the customs inspection.

#### **Article 248. Examination**

(1) The customs officer who conducts the proceedings or considers the minor offence, in order to detect the indices, take samples and elucidate all circumstances of a minor offence shall have the right to examine the territories, premises, means of transport, documents, other goods belonging to or intended for the legal, official or natural person, to seize their mail and cable correspondence, and to undertake other measures provided for by the Minor Offences Code and this Code.



(2) Examination may be carried out either during the preparation of the report on infringement of customs regulations, customs inspection, seizure of goods, means of transport, documents and other values, or as independent proceedings;

(3) Examination of goods, means of transport, documents and other values shall be allowed as independent proceedings if:

- goods, means of transport, documents and other values were presented to the customs officer during the customs control or clearance or as during the previous undertaken proceedings;
- in other cases, with the agreement of the owners of these goods, means of transport, documents or other values.

(4) Examination as part of independent proceedings shall be performed in the presence of witnesses. The offender, the witnesses and the expert shall have the right to take part in the examination.

(5) Different measurements, taking pictures, video recording, drawing plans and schemes, drawing samples and specimens, making casts and patterns of tracks, copies of documents can be done during the examination.

(6) An official report on the examination as an act of independent proceedings shall be drawn up.

#### **Article 249. Presenting goods, means of transport, documents and other values for identification purposes**

(1) Goods, means of transport, documents and other values shall be presented for identification by legal, official and natural persons, individuals with no legal status involved in entrepreneurial activity, as well as by the witness, pursuant to the decision of the customs officer who carries out the proceedings on minor customs offences or who considers the case.

(2) The invited persons for identification of items referred to in paragraph (1) of this Article shall be interrogated in advance about the circumstances where they saw them and about their distinctive signs.

(3) The items in question shall be presented for identification together with similar items. The identification shall be performed in the presence of assistant witnesses.

(4) An official report on identification of goods shall be drawn up.

#### **Article 250. Requiring information necessary for the proceedings on minor customs offences or case examination from the state authorities and officials**

(1) The customs officer, who conducts the proceedings on minor customs offences or considers the case, shall have the right to get free of charge, upon a written request, information necessary to solve the case, including information to be used for business purposes or which represents a commercial secret or another secret protected by legislation from the state authorities or officials.

(2) In case of unjustified refusal to present required information, the customs officer shall have the right to seize documents, which contain information necessary to solve the case under the procedure stipulated in the present Code.

(3) The customs officer is obliged to ensure the non-disclosure of the information received using it exclusively to solve the case of minor customs offence. The customs officer shall not be allowed to use this information for personal purposes, nor to transmit it to third parties or to other state authorities, except for cases stipulated by legislation.

#### **Article 251. Audits, controls, inventories in cases of minor customs offences**

(1) Where the customs authority conducts the proceedings on minor customs offence or examines the case, when other measures for detecting facts and circumstances have been taken, which are of considerable importance for the file, it shall be possible to initiate audits, controls of financial and administrative activities of the offender, as well as inventories of his goods and means of transport.

(2) The customs officer, who orders the audit, control and inventory, shall designate or approve the state authority, the legal person, the group of auditors and experts who shall carry out these activities.

(3) Audits, controls and inventories shall be performed pursuant to the decision issued by the head of the customs authority or his deputy, or by the top management of the Customs Department.

(4) The results of the audits, controls, inventories shall be communicated to the persons under control within 5 days following the audit completion.

(5) The procedure of performing audits, controls, inventories and the preparation of the documents on their conclusion shall be established by legislation.

#### **Article 252. Designation of persons in charge of expertise**

(1) The customs officer, who conducts the proceedings on minor customs offences or who considers the case, shall issue an order on the necessity to proceed to an expertise, designation of the expert or the competent institution, who shall perform it, subject matters to be elucidated and materials to be provided to the expert.

(2) Before designating the expert his specialization and competence shall be checked.

#### **Article 253. Samples and specimens taking for expertise**

(1) The customs officer, who conducts the proceedings on minor customs offences or who considers the case, shall have the right to get from natural persons or official persons, managers or employees of legal persons, as well as from the persons with no legal status involved in entrepreneurial activity, held answerable for customs offenses, specimens of signatures, writing, samples and specimens of goods and other values necessary to perform the expertise.

- (2) Where appropriate, samples and specimens can be taken from persons other than those referred to in paragraph (1) of the present Article.
- (3) The customs officer, who conducts the proceedings on minor customs offences or who considers the case, shall issue an order on samples and specimens taking.
- (4) Where appropriate, samples and specimens taking shall be performed with participation of an expert and (or) in the presence of an assistant witness.
- (5) An official report shall be drawn up on samples and specimens taking.

#### **Article 254. Rights of the offender, his lawyer and his representative**

Upon conclusion of the proceedings on minor customs offences, the offender, and during the investigation, the lawyer or the offender's representative, who provides legal assistance to him, shall enjoy the rights provided by the Minor Offenses Code.

#### **Article 255. Additional requirements to be met by the official report on hearings**

- (1) If the heard person does not want to and cannot testify in written form in the case of a minor customs offence, the customs officer, who conducts the proceedings on minor customs offences or who considers the case, may write down the oral testimony of the heard person into the official report.
- (2) The fact that the witness over 16 years old has been informed, upon signature, about the administrative liability deriving from refusal or evasion from testifying, shall be written down into the official report on hearings. No such statement shall be written down in the official report on the witness' hearings, if the latter is the spouse or close relative of the offender.
- (3) If the hearings were performed with the participation of an interpreter or expert, the official report on the case shall include a paragraph stating that the interpreter or the expert has been read his rights and obligations.
- (4) If the hearings are given to a natural, official person, manager of the legal person or his deputy, or to a person with no legal status involved in entrepreneurial activity, held answerable for a minor customs offence, the explanation of the offender's right to challenge the expert or the customs officer, who conducts the proceedings on minor customs offences or who considers the case, shall be written down in the official report. Where appropriate, the fact that the heard person has requested a challenge shall be written down also in the official report.
- (5) After hearings, the heard person shall take notice of the content of the official report on the case and, by signing it, shall confirm the veracity of the personally written testimony, as well as the veracity of the written version of his oral testimony. The heard person shall have the right to ask for some completions or modifications of his oral declarations written down in the report, and his request shall be fulfilled. If the report is written on several pages, the heard person shall put his signature on each page.
- (6) The persons who were present at the hearings shall have the right to read the official report on hearings. These persons shall confirm the veracity of the written testimony of the

heard person by signing it, and in case they have objections to the correctness and plenitude of those written, express their objections personally in written form.

(7) Where an interpreter, expert or legal representative of the offender participates in the hearings, they shall sign the official report on the case, and the interpreter shall sign each page of the report, if it contains more than one page.

(8) If the heard person used the services of a translator, he shall confirm the veracity of his translated testimony by signing the official report.

(9) If the report on hearings was translated into another language, it shall be signed on each page by the translator and by the heard person.

#### **Article 256. Certifying the refusal or incapability to sign the official report on hearings**

(1) If the heard person, the witness or other person refuses to sign the official report on proceedings he attended, this fact shall be mentioned in the official report and certified by the signature of the customs officer, who prepared the report, as well as by the signature of the assistant witnesses.

(2) The person who refused to sign the official report shall be given the possibility to express the reasons of his refusal, which shall be included into the report or attached to it.

(3) If one of the persons referred to in paragraph (1) of the present Article, due to some reasons, can not sign the official report on the legal proceedings, this fact shall be mentioned in the official report and certified by the signature of the customs officer who prepared the report and by the signature of the assistant witnesses, if they participated in the proceedings.

(4) If, due to some reasons, the offender or the witness were not able to sign the official report on hearings, a third non-interested person shall be invited, who, with the agreement of the heard person, shall certify the veracity of the written testimony by signing it.

### **Section 41**

#### **Expenses Due to Minor Customs Offences**

#### **Article 257. Expenses due to minor customs offences**

There are the following expenses due to minor customs offences:

- a) amounts paid to witnesses, experts, specialists, interpreters, assistant witnesses;
- b) amounts spent on performing audits, controls and inventories;
- c) amount spent on maintenance, dispatch, transportation and examination of the material evidence;
- d) other expenses, incurred by the customs authorities when considering cases of minor customs offences.

**Article 258. Payments due to witnesses, experts, specialists, interpreters and assistant witnesses**

- (1) Witnesses, experts, specialists, interpreters and assistant witnesses shall be refunded the expenses incurred for the round trip to the customs authority, accommodation and per diem expenses.
- (2) Experts, specialists and interpreters shall be remunerated for the work performed at the request of the customs authorities, if the work performed is not part of their duties.
- (3) Persons invited to the customs authorities as witnesses, experts, specialists, interpreters, assistant witnesses shall maintain their work place and their monthly average wages during their round trip and the exercise of their attributions at the customs authorities.
- (4) The customs authorities shall pay witnesses, experts, specialists, interpreters and assistant witnesses the due amounts upon discharge of their obligations.
- (5) The payment procedure and the amount of the due payments are set by legislation.
- (6) Where a person summoned as a witness, expert, specialist to participate in the legal case of minor customs offence does not live or is not on the territory of the Republic of Moldova, the expenses incurred by him during the proceedings or the case examination shall be refunded under the Customs Department established procedure.

**Article 259. Refund of expenses due to minor customs offences**

- (1) Expenses due to the minor customs offences shall be supported by the offender, in respect of whom the decision on sanction application was issued, or these expenses shall be refunded from the state budget in cases stipulated by the present Code.
- (2) Where the offender has been exonerated from liability on the grounds provided by legislation, the customs officer who is in charge of the minor offence case shall have the right to collect the incurred expenses from the offender, except for the amounts paid to the interpreter.
- (3) When a sanction is applied to more persons involved in the case of minor customs offence, the customs officer in charge of the case shall estimate the share of expenses for each person.
- (4) Where the minor offences cases are dismissed, the incurred expenses or their equivalent to be paid by the person recognized or declared as bankrupt and expenses incurred for interpreting services shall be refunded from the state budget.
- (5) The customs officer in charge of the case of minor customs offence shall be obliged to collect and attach to the file the documents justifying the incurred expenses.

## **Section 42**

### **Remitting the file on minor customs offence for consideration**

#### **Article 260. Remitting the file on minor customs offence for consideration**

At the end of the proceedings, the customs officer, who is in charge of the case on minor customs offence, shall remit the file to the head of the customs authority or to his deputy, and the customs officer of the Customs Department shall remit it to the authorized person of the same department, within 15 days prior to expiration of the term of imposing penalties to the natural or official persons, and at least within one month prior to imposing penalties to a legal person or the person with no legal status involved in entrepreneurial activity.

#### **Article 261. Dismissal of the file on minor customs offence prior to being considered**

(1) If there are circumstances, which exclude the necessity to continue the proceedings on minor customs offence, the customs officer in charge of the case shall issue a decision stating the nature of the case, the reasons of file dismissal and settle the issue with respect to the seized goods, means of transport, documents and other goods, seized patrimony, pledged objects, on guaranteeing evidence and on incurred expenses. The decision shall enter into force after its confirmation by the head of the customs authority or his deputy.

(2) A copy of the decision on dismissal of the file on minor customs offence shall be handled to or mailed to the person with respect to whom the proceedings were performed within 3 days following the date when the decision enters into force, or to the representative or interested persons, in case of decease of the natural person or liquidation of the legal person.

## **Section 43**

### **Considering the minor customs offence**

#### **Article 262. Customs bodies authorized to examine the minor customs offence**

The minor customs offence committed by a natural or legal person shall be considered by the customs officers stipulated by the Minor Offences Code.

#### **Article 263. Remitting the customs offence file for additional proceedings**

(1) Customs officers shall remit the customs offence file for additional proceedings where the first proceedings are incomplete and there is no possibility to complete them within established time limits, and where there are other circumstances, which hinder the consideration of the case.

(2) The decision on remittance of the file, issued before the consideration of the customs offence, shall be drawn out in written form and sent to the customs authorities or customs officer with a notification on additional proceedings.

#### **Article 264. Term of consideration of the minor customs offence**

(1) The minor customs offence committed by a natural person shall be considered within 15 days, the minor customs offence committed by an official person or other persons – within a month from the date when the customs officer received the file.

(2) If actions are taken by the offender, his lawyer or his representative with respect to postponing the consideration of the minor offence, the term established in paragraph (1) of the present Article can be extended by the competent customs officers, within the time limits provided by legislation.

#### **Article 265. Considering the minor customs offence**

- (1) The customs officer, when starting to consider the minor customs offence, shall:
- a) mention the person who examines the minor offence, the minor offence under consideration, the offender and the Article from the Minor Offences Code or from the present Code which stipulates the corresponding responsibility;
  - b) ensure the presence of the offender, his lawyer or his representative or establish the reasons of their absence;
  - c) adopt decisions on the possibility of considering the minor offence in the absence of the above-mentioned persons or postponing the proceedings;
  - d) identify the offender, verify the mandate of other persons;
  - e) explain the rights and obligations of the participants in the case consideration;
  - f) decide upon the necessity to invite an interpreter;
  - g) settle appeals and protests lodged.

(2) The natural person, the head of the legal person or his deputy, responsible for violating the customs regulations, as well as his lawyers or his representatives shall have the right to be informed on all the materials of the case, to present things and documents which may serve as evidence.

(3) The customs officer shall consider all circumstances of the violation of customs regulations, examine the evidence, listen to additional explanations of the natural person, the head of the legal person or his deputy, responsible for violating the customs regulations, his lawyers or his representatives with respect to the nature of the minor customs offence.

(4) If necessary, the customs officer shall perform an expertise, undertake other proceedings in perfect compliance with the provisions of the present Code and the Minor Offences Code.

#### **Article 266. Presence of the charged natural person, the head of the legal person or his deputy at the proceedings on minor customs offence**

(1) The minor customs offence shall be considered in the presence of the charged natural person, the head of the legal person or his deputy, their lawyers or their representatives.

(2) The customs authority shall inform the offender on the place and time of the consideration of the case by means of a summons or report on minor customs offence either handled or mailed to the offender.

(3) The minor customs offence may be considered in the absence of the charged natural person, the head of the legal person or his deputy, his lawyers and representatives if:

- a) there is information proving that the offender was duly notified of the place and time of the consideration of the case but he did not lodge a petition for postponement of the consideration of the case;
- b) there are evidence proving that the offender is not in the country at the moment of the case consideration;
- c) the offender has not been identified;
- d) the customs offence has been committed while sending goods by international mail.

**Article 267. Circumstances to be elucidated during the consideration of the minor customs offence**

While considering the minor customs offence the customs officer shall ascertain whether:

- a) the minor customs offence has been committed or not;
- b) the charged legal or natural persons have committed or not the minor customs offence;
- c) the offender can or cannot be administratively sanctioned;
- d) there are circumstances which either decrease or increase the responsibility for minor customs offence;
- e) there are other circumstances which are of great importance in the settlement of the case.

**Article 268. Decision of the customs authority on the minor customs offence**

(1) After considering the minor customs offence, the customs officer shall adopt one of the following decisions:

- a) on imposing an administrative penalty;
- b) on dismissal of the case;
- c) on initiating criminal proceedings on smuggling or other infringements and perform a preliminary criminal investigation;
- d) on remitting the file to other legal institutions in order to initiate criminal proceedings on smuggling or other infringements, a preliminary criminal investigation under the terms of reference of customs authorities;
- e) on remitting the file for additional proceedings.

(2) The decision on dismissal of the case shall be adopted in case of releasing the offender from liability due to a minor offence and due to circumstances which exclude proceedings.



(3) The order on initiating criminal proceedings shall be issued when smuggling indices have been detected.

(4) The decision on remitting the file on minor customs offence for additional proceedings shall be adopted in cases specified in paragraph (1) of Article 263 of the present Code.

(5) The decision on minor customs offence shall contain the following:

- a) the name of the customs authority on behalf of which the decision is issued;
- b) first name and last name of the customs officer who issued the decision;
- c) information on the time and place of case consideration;
- d) information on the offender, if this person is identified;
- e) circumstances ascertained during the case consideration;
- f) references to the corresponding Article of the present Code, which stipulates responsibility for the committed customs offence;
- g) decision issued on the case;
- h) information on terms and procedure of appealing against the decision.

(6) The decision shall settle the issue on seized goods, means of transport, documents and other seized values, pledge, guarantee, allocations to the deposit accounts, evidence and expenses necessary for the consideration of the minor customs offence.

(7) The decision on minor customs offence shall be signed by the customs officer in charge of the case.

(8) The decision on the case shall be passed immediately after the case is considered.

(9) In cases provided for in subparagraphs (a) and (b) of paragraph (1) of the present Article, a copy of the decision shall be handed or mailed to the subject person, or his representative within 3 days following the day the decision was adopted. The decision shall be deemed received even if the person does not live at the indicated address or at an incorrect indicated address.

**Article 269. Suggestions on liquidation of reasons and conditions which contributed to violation of customs regulations**

(1) The customs officer who is considering the case on minor customs offence, after ascertaining the reasons and conditions, which contributed to violation of the customs regulations, shall submit suggestions to the state authorities and legal persons on taking actions for liquidation of these reasons and conditions.

(2) The state authorities and the legal persons shall be obliged to inform the customs authorities, who made the suggestion, about the actions undertaken, within one month

following the day of receiving the suggestion referred to in paragraph (1) of the present Article.

#### **Article 270. Bringing actions to court**

The customs officer in charge of the case on minor customs offence shall have the right to bring actions to the court on considering the transactions void, if during the proceedings or considerations their illegality is established.

#### **Article 271. Actions with seized goods, means of transport, documents and other values, pledge, guarantees and allocations to the deposit account, sequestrated values**

(1) When settling issues on seized goods, means of transport, documents and other values, as well as the seized values which serve as material evidence in the case of a minor customs offence, the customs officer who examines the case shall apply the provisions of the Minor Offences Code.

(2) When settling issues on seized goods, means of transport, pledge, guarantees, seized patrimony, which are considered means for collection of the penalties or the cost of goods and means of transport, the customs officer, who examines the case on minor customs offence, shall act in accordance with paragraphs (3) to (5) of the present Article.

(3) Seized or pledged goods and means of transport, or the patrimony sequestrated in a well-founded manner in order to assure the collection of the penalty or the cost of goods and means of transport shall be returned to their owner, or to the persons who owned them before the sequestration, pledge or seizure, within 2 months following the collection of the penalty or the cost of the means of transport, and the guarantees deposited for this purpose shall be cancelled after the necessary payments have been transferred, and the amounts from the deposit accounts shall be used for the payment of due amounts. If goods are not required by the persons after the corresponding amounts have been paid within 2 months of the date of when the notification was sent, the corresponding goods shall be placed in a temporary warehouse. If the penalty or the cost of goods and means of transport are not paid, the seized goods and means of transport, pledged goods or seized patrimony with the intention to collect the penalty or the cost of goods and means of transport, as well as the guarantee deposited for this purpose and the expenses allocated to the deposit account shall be disposed of in accordance with the provisions of the present Code.

(4) Seized or pledged goods and means of transport, amounts transferred on the deposit account or patrimony sequestrated in order to assure the collection of the penalty or the cost of goods and means of transport shall be returned to the corresponding person, to the pledge debtor or to the depositor, where such actions are deemed unfounded, and the guarantees issued with this purpose shall be pronounced invalid from the moment when the request of their presentation has not been justified. If the goods are not requested by their owner or their holder within 2 months following the day when the corresponding notification was sent, these goods shall be placed in a temporary warehouse. The terms of the temporary storage shall not exceed 6 months following the day when the notification was sent.

(5) If the pledged object or the sequestrated patrimony is stored by the person who owns the seized patrimony, all interdictions and limitations established by the customs authority on

using these objects shall not be deemed legal after the corresponding amounts have been paid or after determining that these goods have been seized or pledged unfoundedly.

6. Article 272. Assurance of security of customs officers during the proceedings or in considering the minor customs offence

(1) The customs officer who considers the minor customs offence, during the actions taken in conformity with the present Code, shall have the right to require the personal security and protection from the authorities for internal affairs.

(2) The internal affairs officer, to whom the request mentioned in paragraph (1) of the present Article is addressed, shall be obliged to fulfil it and to take measures provided by legislation in order to charge the person who hinders the customs officer from exercising his duties during the proceedings or during the consideration of the minor customs offence.

## **Section 44**

### **Appeals against decisions of customs authorities on minor customs offences**

#### **Article 273. Appeals against decision of the customs authority on application of penalties to natural person, legal person or to the person with no legal status involved in an entrepreneurial activity**

(1) Any natural or legal person, or his representative, or the person with no legal status involved in an entrepreneurial activity may lodge an appeal against the decision of the customs authority on application of an administrative penalty within 10 days of the day the decision was issued.

(2) The appeal against the decision of the customs authority on application of an administrative penalty can be with the Customs Department or with the Court of the district where the customs authority, which applied the penalty, is located.

(3) Within 10 days of the day the decision on the appeal is issued at the Customs Department, the decision on application of an administrative penalty can be appealed in the court of the district where the Customs Department or the customs authority is located. The decision of the court shall be final.

(4) In the event of failure to meet the terms specified in the present Article for valid reasons, these terms may be renewed by the Customs Department upon request of the relevant person or his representative or lawyer.

#### **Article 274. Appeals against other decisions of the customs authority on minor customs offence**

(1) The decision of the customs authority on dismissal of the case and its remittance for additional proceedings may be appealed by the person with respect to whom the decision is issued, as well as by his lawyers or representatives within 10 days of the day when the decision was issued. The decision of the Customs Department shall be final.

(2) The decision of the customs authority on initiating criminal proceedings on smuggling or other infringements under the terms of reference of the customs authority or the decision on remitting the file to other legal institutions for the initiation of criminal proceedings may be contested under the Penal Code provisions.

**Article 275. Consideration by the Customs Department of the decision on minor customs offence**

(1) After consideration of the petition lodged by the person concerned, by his lawyer or his representative against the decision, as well as at the prosecutor's appeal or as a measure of control of respect of legislation during the examination of the proceedings or during the investigation of cases of customs violations, the Customs Department shall consider the decision issued by the customs authority on minor customs offence and shall issue one of the following decisions:

- a) leave the decision intact, disallowing the petition or the appeal;
- b) revoke the decision or remit the file for additional proceedings;
- c) revoke the decision and dismiss the case;
- d) change the decision without increasing the applied penalty;
- e) revoke the decision on sanctioning the minor customs offence and adopt one of the decisions referred to in subparagraphs (c) and (d) of paragraph (1) of Article 268 of the present Code.

(2) The Customs Department shall issue a decision in cases referred to in subparagraphs (b) to (e) of paragraph (1) of the present Article. The prosecutor who remitted the petition and the person who appealed against the decision shall be informed in written form about the adopted decision. In case of issuance of a decision on legislation enforcement by customs officers during the proceedings on minor customs offences, the person with respect to whom the decision on violation of customs regulations was issued shall be notified in written form.

**Article 276. Grounds for cancellation or modification of the decision on applying administrative penalties or case dismissal**

The following can be considered as grounds for cancellation or modification of the decision of the customs authority with respect to application of administrative penalties or dismissal of the case on minor customs offence:

- a) one-sided and incomplete proceedings or consideration of the case;
- b) contradictory conclusions of the circumstances of the case;
- c) serious violations of the procedure requirements specified in the present Code, and in the part which is not regulated by the present Code, non-compliance with the legislation on minor offences by issuing the decision by a customs officer who has no competence or by creating obstacles, in spite of the offender's will, participation of the offender's lawyer or representative at the consideration of the case, as well as in other cases of infringement of

legal rights of the participants at the proceedings on violation of customs regulations or at the case investigation, if such a violation encumbered the multilateral examination of the case and influenced or might influence the issuance of a fair decision;

- d) incorrect qualification of the deed, non-application or incorrect application of sanctions provided by the present Code.

#### **Article 277. Terms of consideration of the complaint or the prosecutor's appeal**

(1) The appeals against decision of the customs authority on the case of minor customs offence shall be considered within one month of the day of its lodging with the Customs Department. Terms of consideration of the appeal can be extended by the administration of the Customs Department, but no longer than 3 months, this being notified to the claimant.

(2) The prosecutor's appeal shall be considered within 10 days of the day of its submission to the Customs Department.

#### **Article 278. Consequences of lodging complaints or appeals**

The complaints or the appeals lodged against a decision shall suspend the exercise of the said decision adopted by the customs authority in the case of a minor customs offence.

#### **Article 279. Grounds and terms of suspending the consideration of the appeal**

(1) The Customs Department shall suspend the consideration of the appeal in the following cases:

- a) the file on the minor customs offence, the decision with respect to which was appealed, has been required by the criminal investigation authorities for the purpose of initiating or investigating the criminal file;
- b) the file on the minor customs offence is considered by the prosecutor under supervision;

(2) If at least one of the circumstances mentioned in paragraph (1) of this Article is present, the official from the Customs Department shall consider the appeal, issue a decision on suspending the consideration of the appeal, this being notified to the claimant.

(3) The appeal shall be reconsidered by the official from the Customs Department, who is considering the appeal, after the reasons of suspension disappeared.

**Section 45**  
**Execution of the decision of the customs authorities on sanctioning**  
**the minor customs offence**

**Article 280. Execution of the decision on sanctioning the minor customs offence**

(1) The customs authority shall execute the decision on sanctioning the minor customs offence:

- a) upon expiration of the appealing term;
- b) upon adoption in court of the decision on the appeal against the customs authority's decision.

(2) The customs authority, which adopted the decision on sanctioning the minor customs offence, shall execute it by itself or by notifying the financial authorities or banking institutions about the execution of the said decision, or shall execute the decision through the judicial executor, if there are no other modalities to execute the said decision.

(3) The decision on sanctioning the minor customs offence shall not be executable any more, if it has not been executed within 6 months of the day it was adopted.

(4) If the execution of the decision on sanctioning the minor customs offence is suspended due to the lodging of the appeal within the established time limits or due to the filing of the complaint within the period referred to in paragraph (3), execution shall be suspended until the appeal or the complaint are considered.

**Article 281. Execution of the decision of the customs authority on penalty imposition and collection of the cost of goods and means of transport**

(1) The penalty or the cost of goods and means of transport shall be paid by the offender within 15 days of the day he received the decision, and in cases of complaint or appeal against the decision - within 15 days of the day when the decision on appeal or complaint disallowance was adopted.

(2) The offender shall pay the penalty or the cost of goods and means of transport at the customs authority, which passed the decision on imposition of penalties, or at the banking institutions. The equivalent in Moldovan Lei of the amounts in foreign currency shall be determined according to the official exchange rate of the National Bank of Moldova on the day of payment of the penalty or the cost of goods and means of transport.

(3) In case the penalty or the cost of means of transport are not paid within the established time limits by the natural or the official person, it shall be collected from the cost of goods and means of transport seized for covering the expenses, pledged objects or sequestered property, by presenting the guarantee for allocations done to the deposit account, or forced collection from the income or financial means of the offender. If the natural person does not work or if the amount of the penalty or the cost of goods and means of transport cannot be

withheld from the financial income or the funds of the natural person due to other reasons, the withholding of the penalties or the cost of goods and means of transport shall be done by the judicial executor on the basis of the decision of the customs authorities by following the patrimony of the natural person or the official person or his share in the collective property.

(4) If the legal person or the person with no legal status involved in entrepreneurial activity fails to pay the amount of the penalty or the cost of goods and means of transport within the established time limits, the corresponding amounts shall be withheld from the cost of goods and means of transport seized in order to assure the payment of the penalty, pledged objects or sequestrated property upon presenting guarantee to liquidate, discount allocations to the deposit account, or by sending to financial or banking institutions of a notification on the enforced execution of the decision.

(5) If the legal person or the person with no legal status involved in entrepreneurial activity does not have funds necessary to cover the amount of penalty or the cost of goods and means of transport, the amount shall be withheld by the judicial officer in conformity with the decision of the customs authorities, by enforced collection from the person's patrimony.

(6) If the customs authority entrusts another legal authority with the execution of the decision, the body which executed it shall remit to the customs authority the said decision with the attached notification on its execution.

## **Article 282. Execution of the decision of the customs authorities on confiscation**

(1) Upon expiration of the term of appeal against the decision on confiscation issued by the customs authorities, goods, means of transport and other values with respect to which the decision was issued shall be confiscated irrespectively of whether the property belongs to the offender and irrespectively of whether this person has been identified or not.

(2) If goods, means of transport and other values referred to in paragraph (1) of the present Article are not seized by the customs authorities, the offender or the holder of these goods shall deliver them to the customs authority within 15 days of the day he receives the decision, and in the event of complaint or appeal against the decision - within 15 days of the day the decision on appeal or complaint disallowance is issued. Otherwise, the decision on confiscation issued by the customs authority shall be executed by the judicial officer and remitted to the customs authority, which issued the decision, with the notification of its execution.

(3) Where it is impossible to confiscate goods and means of transport, which represent the direct object of the minor customs offence, or goods and means of transport equipped with special hidden places, used to transit across the customs border goods, which represent direct object of the minor customs offence, hidden from customs control, as well as the means of transport used for transporting those goods, the value of all these goods and means of

transport shall be collected from the offender under the procedure provided for in Article 281 of this Code.

(4) Goods, means of transport and other values (except for the currency, objects representing art, historical or archaeological value, objects prohibited from circulation), seized from the offender in case of a minor customs offence, may be redeemed by the offender, with the agreement of the higher customs authority, at a double price in force at the time of detecting the minor offence, prior to execution of the decision on confiscation.

**Article 283. Enforcing the decision of the customs authority on revocation of the license or of the qualification certificate**

(1) The decision of the customs authority on sanctioning the minor customs offence by revocation of the license or the qualification certificate shall be executed by the customs authorities, which adopted it.

(2) The revoked license and qualification certificate shall become invalid on the day of executing the decision on sanctioning the minor customs offence issued by the customs authorities.

(3) The person whose license or qualification certificate has been revoked by the customs authority shall submit it to the latter within 15 days as of the day the decision was received, and in the event of complaint or appeal against the decision - within 15 days as of the day the decision on complaint or appeal disallowance was issued. Failure to meet the requirements within the established period of time shall entail responsibility as stipulated by the present Code for non-compliance with the legal orders or requirements of the customs authority.

**Article 284. Enforcing the decision of the customs authorities on sanctioning the minor customs offence committed by persons who live or have their headquarters abroad and do not have patrimony in the Republic of Moldova**

Enforcement of the decision on sanctioning the minor customs offence committed by persons who live or have their headquarters abroad and do not have patrimony in the Republic of Moldova, shall be stipulated by the legislation of the Republic of Moldova and the international treaties to which the Republic of Moldova is party, signed by the countries of residence of the offenders, as well as by the countries where the offenders' property is located.



**Chapter XI**  
**APPEALING AGAINST ILLEGAL DECISIONS AND ACTIONS OF THE**  
**CUSTOMS AUTHORITIES AND THEIR OFFICIALS**

**Section 46**  
**General principles**

**Article 285. Scope of the present Chapter**

The provisions of the present Chapter shall be applied in case of appealing against illegal decisions and actions of the custom authorities and their officials, except for cases when appeals are lodged against administrative or criminal sanctions.

**Article 286. The right to appeal against illegal decisions and actions of the customs authorities and their officials**

Any person shall have the right to appeal against illegal decisions (including normative acts) and actions taken by the customs authorities or their officials, if he considers that his legal rights and interests are injured.

**Article 287. Ways of appealing against illegal decisions and actions of the customs authorities and their officials**

Appeals against illegal decisions and actions and inaction of the customs authorities and their officials shall be lodged successively in two ways: administrative and judicial.

**Section 47**  
**ADMINISTRATIVE WAY TO APPEAL AGAINST ILLEGAL DECISIONS,**  
**ACTIONS OR INACTION OF THE CUSTOMS AUTHORITIES AND THEIR**  
**OFFICIALS**

**Article 288. Administrative way to appeal against illegal decisions, actions or inaction of the customs authorities and their officials**

- (1) Illegal decisions, actions or inaction of the customs authorities and their officials shall be initially appealed in the Customs Department.
- (2) Illegal actions or inaction of the officials from the Customs Department shall be initially appealed within the department, and the illegal decisions taken by the Customs Department shall be appealed in courts.

**Article 289. Terms of administrative ways of appeals**

- (1) Decisions, actions or inaction of the customs authorities and their officials can be appealed within 10 days of the date the decision was issued or the actions were taken.

(2) If the decision of the customs authorities or their officials was not brought to the attention of the petitioner, he can appeal against it within 6 months of the day the decision was issued.

(3) The inaction of the customs authority or customs officer shall be appealed within 3 months of the day when the term for complaint settlement expired.

#### **Article 290. Term of appeals settlement**

Appeals shall be settled within one month. The Customs Department shall have the right to extend this term with maximum one month.

#### **Article 291. Restoring appeals into term**

If, due to some valid reasons, the appeal was not lodged within the term provided for in Article 289 of the present Code, the Customs Department shall have the right to restore the appeal into term upon the claimant's request.

#### **Article 292. Form of appeals**

Appeals shall be lodged in written form with the competent customs authority or with the competent customs officer.

#### **Article 293. Consequences of appeals lodging**

(1) Lodging of the appeal shall not affect the execution of the decision or taken action, except for the cases stipulated by paragraph (2) of the present Article.

(2) If the customs authority or the custom official to whom the appeals were addressed consider that the contested decision or action contravenes the legislation, they shall be allowed to suspend the appeal partially or totally.

#### **Article 294. Claimant's cooperation**

The claimant shall be obliged to cooperate with the customs authority and the customs officer to whom the appeal was addressed in order to elucidate the circumstances of the case.

#### **Article 295. Withdrawal or cancellation of appeals**

(1) The claimant shall have the right to withdraw or cancel the appeal at any time prior to the date when the decision on the said appeal is taken. Withdrawal or cancellation of the appeal shall be done in written form. The claimant who withdrew or cancelled the appeal shall not be allowed to lodge the same appeal for the same case, except where new evidence is found.

(2) The appeal shall be lodged again within the term provided for lodging appeals.

**Article 296. Decisions of the customs authorities or their officials with respect to appeals**

- (1) Decisions of the customs authorities or their officials with respect to appeals shall be adopted in written form. The claimant shall be informed about the adopted decisions.
- (2) Decisions of the customs authorities or their officials with respect to appeals, which are of general interest, shall be published.

**Section 48**

**JUDICIAL WAY OF APPEALING AGAINST ILLEGAL DECISIONS, ACTIONS OR INACTION OF CUSTOMS AUTHORITIES AND THEIR OFFICIALS**

**Article 297. Consideration of appeals in court**

- (1) The appeals against the illegal decisions, actions or inaction of the customs authorities and their officials on carrying out customs control, customs clearance, proceedings in case of minor customs offence or consideration of the case (except for cases of appeal against the decisions of the customs authorities on simplified application of sanctions) and in other cases, which do not refer to the economic policy of the Republic of Moldova, can be lodged with the district, sector, municipal courts, where the customs authorities or the working place of the customs officials are located, whose illegal decisions, actions or inaction are contested.
- (2) Appeals against the illegal decisions, actions or inaction of the customs authorities and their officials lodged with the Economic Court of the Republic of Moldova shall be considered in accordance with the provisions of the Civil Code.
- (3) Other appeals against illegal decisions, actions or inaction of the Customs Department and its officials can be submitted to the General Prosecutor of the Republic of Moldova.

**Article 298. Proceedings for juridical appeals**

The proceedings for juridical appeals shall be regulated by the Civil Code.

**Section 49**

**EXAMINATION OF ILLEGAL DECISIONS, ACTIONS OR INACTION OF THE CUSTOMS AUTHORITIES AND THEIR OFFICIALS IN CASE OF VERIFICATION OF THEIR LEGALITY, AND THE PROSECUTOR'S APPEAL**

**Article 299. The Prosecutor's appeal**

The Prosecutor's appeal shall be examined by the customs authorities or by customs officials within 10 days from the moment of receiving the appeal. The Prosecutor shall be informed in written form about the results of the examination of the appeal.

**Article 300. Examination of illegal decisions, actions or inaction of the customs authorities and their officials by the Customs Department and its officials**

The Customs Department shall have the right to cancel at any time or modify the illegal decision of inferior customs authorities or their officials, take legal actions, if inferior customs authorities or their officials take illegal actions.

**Chapter XII**  
**BORDER MEASURES APPLIED FOR INTELLECTUAL PROPERTY**  
**PROTECTION**

**Article 301. Basic definitions used in this Chapter**

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

*intellectual property objects* mean objects of copyright and neighboring rights, patented inventions, utility models, layout-designs (topographies) of integrated circuits, plant varieties, industrial designs, trademarks for products and services, appellations of origin of goods, trade names;

*intellectual property rights* mean exclusive and non-exclusive rights on one or more intellectual property objects;

*right holder* means the owner of an intellectual property right or any other person legally authorized to exercise an intellectual property right or their representative;

*counterfeit goods (products)* mean:

- a) goods (products), including their package, marked with a trademark identical to the one legally registered for similar goods (products) or those, which major components cannot be distinguished from a legally registered and protected trademark (notorious marks, etc.), thus infringing the rights of the original trademark holder;
- b) any material bearing signs (emblems, labels, user's instructions, certificates) of counterfeit goods (products) submitted separately or together;
- c) packages bearing trademarks of counterfeit goods (products);

*pirated copyright goods* means goods which represent or include copies made without the consent of the copyright holder or neighboring rights holder or the right holder of a layout-design, regardless whether the latter is legally registered or not, or of the person authorized by the holder in the countries of products manufacturing in cases when distribution (trading or renting) of these copies constitutes an infringement of the respective rights.

*Note: Any cast, matrix, manufactured form or specially adjusted form for manufacturing a counterfeit trademark or products marked with such a trademark, or for creation of pirated works shall be deemed as counterfeit or pirated goods (products) where the use of such casts, matrices and forms infringes the holder's rights.*

### **Article 302. Request for suspending the release of goods (products) for free circulation**

The holder of an intellectual property right, assuming that in case of transiting goods (products) across the customs border his intellectual property rights might be infringed, he can apply for assistance from the customs authorities by filing a request with the following information:

- a) facts proving that the applicant is the intellectual property right holder, stating the reason for granting of such right;
- b) detailed description of the goods (products) bearing the intellectual property right in order to help the customs authority to identify them (samples of original products, information about the origin of the products, producer, other right holders, etc.);
- c) requirement for suspending the customs clearance of goods suspected to be counterfeited or pirated;
- d) the period for applying the protection measures by the customs authority;
- e) information about the applicant and his residency.

### **Article 303. Documents attached to the application for suspending the release of goods (products) for free circulation**

(1) The right holder shall submit a written application to the Customs Department and shall attach the following:

- a) documents certifying the existence and pertinence of the intellectual property right in conformity with the intellectual property legislation;
- b) warrant issued by the holder of the intellectual property right according to which the applicant may solicit for customs assistance where the applicant is the authorized representative of the right holder;
- c) proof of tax payment for customs assistance;
- d) other documents.

(2) A fee shall be collected by the customs office, intended for covering the administrative expenses incurred by the customs body. The fee shall be established depending on the period for which the customs assistance is required. The amount of the fee shall be established by the Government.

(3) The right holder is obliged to inform about any amendments to the application form content within 10 days following the amendment.

### **Article 304. Duration of suspension**

(1) Within 30 days following the date of receiving the application, the Customs Department shall inform the right holder about the acceptance or rejection of the application, or whether it is subject to further investigation, or if additional information is necessary. In the case of acceptance of application it becomes valid for the period stated in it.

(2) The term of the customs assistance shall not exceed the validity term of the intellectual property right and shall start from the moment of acceptance of the application. This term may be extended on the basis of another application.

**Article 305. Measures undertaken by customs authorities aimed at detecting and confiscating counterfeited or pirated goods**

(1) The Customs Department shall transmit to the customs authorities the information provided by the right holder in order to undertake border measures for detecting and confiscating the counterfeited goods (products) or pirated goods. The Customs Department shall be informed immediately by the competent customs authority about the measures undertaken for detecting the infringement of the intellectual property right.

(2) Based on the accepted application, the head of the customs authority shall issue a decision on suspension of the customs clearance of goods (products) suspected to be counterfeited or pirated. The importer shall be informed about the undertaken measures and the reasons for their application within 2 working days. At the same time, the competent customs authority shall inform the importer about the name and address of the right holder, and the address and name of the importer to the right holder.

(3) The customs authority, keeping the necessary information confidential, shall allow the parties to inspect the goods (products) which customs clearance was suspended, as well as to take samples in order to establish through investigation or testing the fact that the goods (products) are pirated, counterfeited or infringe in other way the intellectual property right.

(4) Likewise, the customs authority may provide additional information to the right holder for determining whether the goods (products) are pirated, counterfeited or infringe in other way the intellectual property right.

(5) Where it is legally established that the goods (products) are counterfeited, pirated or infringe in other way the intellectual property right, the customs authority can provide the right holder with copies of documents accompanying these goods (products), as well as any other information or documents held in relation to such goods (products).

(6) Where it is established, by legal proceedings, that significant damages have been caused to the carrier, importer, exporter or owner of goods (products) through unreasonable confiscation of goods or retaining them from free circulation because of inaccurate data presented by the right holder (applicant), the latter shall be responsible for all damages caused.

**Article 306. Insurance of goods (products) retained by the customs authority**

(1) Within 15 days following the date when the right holder was informed about the suspension of the customs clearance, the latter shall depose a pledge equivalent to the value of the goods retained by the customs authority at the respective customs office. The value of goods shall be calculated on the basis of invoices. The pledge serves to secure: expenses incurred by the customs authority for storage of the retained goods, expenses incurred by the carrier, importer, exporter, owner due to the retention of goods, expenses incurred by persons, whose interests were affected in the case of suspending the customs clearance due to inaccurate information on retained goods provided by the right holder (applicant). In case of failure to pay the pledge within the established terms, the decision on suspending customs clearance shall be revoked and the clearance of goods shall be permitted.

(2) The right holder and the owner of goods shall repair, on the basis of the court's decision, all damages mutually caused by illegal actions.

#### **Article 307. Measures undertaken in case of inaction of the right holder**

The customs authorities shall proceed to the clearance of goods if, within 30 days following the date when the right holder was informed about the suspension of the clearance, the latter has not initiated any legal trial, which might entail the issuance of a substantive examination.

#### **Article 308. Ex officio actions**

- (1) Where there are sufficient grounds (operative information or indices), the customs authority may suspend *ex officio* the clearance of goods and may request the right holder to provide free of charge any information and assistance, including assistance in carrying out of the technical expertise, other assistance necessary to find the truth in respect of goods (products) suspected to be counterfeited or pirated or which infringe in other way the intellectual property rights.
- (2) The customs authorities shall communicate immediately to the right holder the place and the time of suspending *ex officio* the clearance of suspected goods (products).
- (3) If, within 3 days of the date when the right holder was notified about the suspension of clearance of goods (products), he shall not undertake the actions referred to in Articles 302 to 306 of the present Code, the customs authority shall proceed to the clearance of goods in accordance with Article 306.

#### **Article 309. Measures undertaken in respect of counterfeited goods (products) or pirated goods**

- (1) If the Court issues the decision on destruction of counterfeited goods (products) or pirated goods, this shall be done under customs supervision. If the decision of the Court refers only to the confiscation of goods (products), their value shall be determined in accordance with the legal provisions, provided that they are not released for free circulation and do not cause other damages to the holder of the intellectual property right.
- (2) The customs authority shall neither allow the re-exportation of counterfeited goods (products) or pirated goods, nor permit their placement under any other customs procedure.

#### **Article 310. Importation in minimum quantities**

The customs authority shall not undertake the measures provided for in the present Chapter with respect to the counterfeited goods (products) or pirated goods from hand luggage or accompanying luggage of the travelers, under the customs procedure established for these persons.

## **Chapter XIII CUSTOMS OFFICERS**

### **Section 50 Legal status of the customs officers**

#### **Article 311. Customs officers**

(1) Customs officers may be citizens of the Republic of Moldova who reached the age of 18, professionally and morally capable, according to the level of education and health state, to exercise the attributions of the customs authority.

(2) A 6 months trial may be established at the initial employment in the customs body.

(3) Within 20 days following the date when the first special rank was conferred, the customs officer shall make the following oath:

“I swear to respect strictly the Constitution and the laws of the Republic of Moldova, to ensure its sovereignty and economic security, to discharge conscientiously the service obligations”.

(4) The procedure for making the oath shall be established by the Director General of the Customs Department.

(5) Employment in the customs services shall be made on an individual contract basis.

(6) Customs officers shall be conferred special ranks in accordance with the Law on Customs Service.

(7) The customs officers shall wear uniforms provided free of charge. The Government shall approve the style of the uniforms. The rules for wearing uniforms shall be set by the Director General of the Customs Department.

(8) The provisions laid down in paragraphs (5) to (7) of the present Article shall apply also to the heads and employees of the customs laboratories, scientific research institutions, educational institutions administered by the Customs Department.

#### **Article 312. Service obligations of the customs officers**

(1) While discharging the service obligations, the customs officers:

- a) are representatives of the state power and are under the state protection;
- b) act in accordance with the legislation of the Republic of Moldova and the international treaties to which the Republic of Moldova is party;
- c) are subordinated only to the superior officers, appointed directly.

(2) Interference into the activity of the customs authorities and customs officers, or influencing them in the decision making process or in the performance of customs



operations shall be prohibited. Breach of these interdictions shall entail the sanctions provided for in the present Code.

(3) No person shall have the right to oblige the customs officer to carry out actions, which are not in the terms of reference of the customs authorities.

(4) In his activity, including in the orders and decisions making, the customs officer shall comply with the legislation.

(5) Creation and activity of political structures, public associations, including religious organizations, except for trade unions, shall not be admissible within the customs authorities. The customs officers shall not have the right to be guided in their activity by the decisions adopted by political parties or public associations.

(6) Customs officers shall not be entitled to:

- a) carry out an entrepreneurial activity, including through intermediaries;
- b) represent third parties in customs activity;
- c) exercise concomitantly other assigned functions, except for educational and scientific activity;
- d) conclude civil contracts referring to the customs activity;
- e) provide any illegal assistance to the persons in discharge of their service obligations, being remunerated for such assistance or enjoying other services or facilities in a certain domain;
- f) participate in the management of commercial enterprises directly or through intermediaries.

(7) Offending and threatening of the customs officer, opposing resistance or application of violence against him, making an attempt on his life, health and personal effects shall be sanctioned in accordance with the provisions of the Minor Customs Offence.

(8) The legislation shall guarantee the protection of life, health, honor, dignity and personal effects of the customs officers and their family members in cases of attempts upon the discharge of their service obligations.

### **Article 313. Legal disposals and orders issued by customs officers**

(1) Legal disposals and orders issued by the customs officers shall be executed by all natural and legal persons.

(2) Failure to obey the legal disposals or orders issued by the customs officers, as well as other actions that impede the discharge of their service obligations shall be sanctioned in accordance with the provisions of the Minor Offences Code.

(3) The customs officers shall not be responsible for moral, physical and patrimonial damages caused to the offender by using force, special means and fire arms, under the provisions of the present Code, if the damage is directly proportional to the resistance opposed by the offender.

## **Section 51**

### **Using force, special means and fire arms**

#### **Article 314. Conditions and limits of using force, special means and fire arms**

- (1) In the case specified by the present Code, the customs officers shall have the right to use force, special means and fire arms.
- (2) The customs officers shall be specially trained, and periodically examined (tested) in order to meet the requirements and conditions for using force, special means and fire arms.
- (3) When using force, special means and fire arms the customs officer shall be obliged to:
  - a) warn about the intention of using force, special means and fire arms, giving enough time for fulfillment of the requirements, except for the cases when the delay of using force, special means and fire arms may put in danger the life and health of the customs officer or entail other serious consequences; in case of unguarded attack, attack by using military equipment and means of transport, or in other circumstances when the warning becomes impossible or useless;
  - b) provide medical assistance to the injured persons and inform immediately the head of the customs authorities or his deputy on the produced impact;
  - c) reduce to the minimum the material damage caused at the liquidation of the impact, depending on the character and danger of the offence and the offender, the level of resistance opposed.
- (4) The head of the customs authorities or his deputy shall be obliged to inform immediately the Prosecutor about the cases of death or severe mutilations.
- (5) Abuse of force, special means and fire arms by the customs officer shall entail responsibility stipulated by legislation.

#### **Article 315. Using force**

The customs officers shall have the right to use force in order to prevent infringements of the law, arrest offenders, defeat their resistance, counteract the non-compliance with the legal disposals and orders, prevent the access to the premises and territory where goods and means of transport under customs supervision are located, repress other actions, which impede the customs officers to discharge their service obligations, where non-violent measures do not assure their discharge.

#### **Article 316. Using special means**

- (1) The customs officers shall have the right to use hand-cuffs, rubber sticks, gas, tools for opening doors, means for forced stopping of the means of transport, other special means in the following cases:
  - a) to repulse an attack on them or other persons;

- b) to repulse an attack on real estate and means of transport, which belong to the customs authorities or are used by them, on the goods and means of transport under customs supervision, also to liberate them in case they are occupied or seized;
- c) to arrest offenders, bring them to the customs authorities office, if they oppose resistance, fail to obey, or may cause injuries to themselves or other persons;
- d) to break the physical resistance opposed to them;
- e) to stop the means of transport, if the driver did not comply with the order and did not stop.
- f) other cases of deliberate impediment of customs officers to discharge their service obligations.

(2) It is forbidden to use special means towards pregnant women, disabled persons and minors, except for the cases when they oppose fire resistance, commit a grouped attack, an armed attack or another offence which put in danger the life and health of the population, integrity of goods and means of transport under customs supervision.

(3) For self-defence purposes and where necessary, the customs officers in lack of special means shall have the right to use fire arms or other available means.

#### **Article 317. Carrying, keeping and using fire arms**

(1) In discharge of their attributions some categories of customs officers specifies by the Customs Department shall have the right to carry, keep and use fire arms.

(2) The list which includes all types of fire arms and ammunition used by customs authorities shall be approved by the Government of the Republic of Moldova.

#### **Article 318. Using fire arms**

(1) As an exceptional measure, the customs officers referred to in Article 317 of the present Code shall have the right to use fire arms in the following cases:

- a) to repulse an attack on the customs officers when their lives and health are in danger;
- b) to prevent dispossession of the customs officers of their fire arms. Attempt of the person arrested by a customs officer to come closer to his fire arm or to touch it shall be considered as an attempt to dispossess the customs officer of the fire arm.
- c) to repulse a grouped attack on real estate and means of transport, which belong to or are used by the customs authorities, on goods and means of transport under customs supervision, in order to liberate them in case of their occupation or seizure;
- d) to arrest persons opposing fire resistance, and armed persons who ignore the order to lay down their arms.

(2) The customs officers referred to in Article 317 of the present Code shall have the right to use fire arms also in the following purposes:

- a) to stop the means of transport by putting it out of order, if the driver of the vehicles puts in danger the life and health of the customs officers and does not obey to the repeated orders to stop;
- b) to neutralize animals which put in danger the life and health of the customs officers;

c) to warn about the intention to use the fire arms, to signal alert or to request for help.

(3) It is forbidden to use fire arms against women, disabled persons or minors, except for where these persons oppose armed resistance, commit a grouped attack, an armed attack or carry out other actions which put in danger the life and health of the customs officers. It is also forbidden to use arms in crowded areas where other persons may be injured.

(4) The customs officers shall be obliged to inform immediately in written form the head of the customs authorities or his deputy about each case of using the fire arms. The head of the customs authorities or his deputy shall inform the Prosecutor within 24 hours since the fire arms have been used.

## **Section 52**

### **Liability of the customs authorities and their officers**

#### **Article 319. Liability of the customs authorities**

(1) Customs authorities and their officers, who inflicted damage, humiliated honor and dignity, adopted illegal decisions and did other illegal actions or inaction with respect to natural and legal persons in discharge of their service obligations shall be sanctioned.

(2) The damages shall be repaired in accordance with the provisions of the legislation.

(3) Damages caused by legal actions shall not be repairable.

#### **Article 320. Liability of customs officers and other employees of the customs authorities**

Disciplinary, administrative or penal sanctions or other penalties in accordance with the legislation shall be applied on the customs officers and other employees of the customs authorities for adoption of illegal decisions and actions, or for inaction.

## **Chapter XIV**

### **MANAGEMENT OF CUSTOMS STATISTICS**

#### **Article 321. Customs statistics on foreign trade**

(1) Customs authorities shall collect and process, on the basis of the customs declarations, the data on transit of goods across the customs border and submit the information to the state authorities of the Republic of Moldova, in accordance with the legislation.

(2) The information on a specific operation or economic agent shall be considered confidential and cannot be transmitted to third parties, including other state authorities without the special authorization from the declarant, except for the cases provided by legislation.

#### **Article 322. Data source for customs statistics**

Documentation and information presented during customs clearance and control shall serve as data source for customs statistics.

#### **Article 323. Providing of statistic information**

(1) The customs authorities shall provide, for a fee, statistic information, generalizing information or information referring to the interested person.

(2) The amount of the fee for statistic information and exoneration from such fee shall be determined by legislation.

### **Chapter XV FINAL PROVISIONS**

#### **Article 324**

(1) The provisions of the present Code shall be applied in the same way and without discrimination on the entire territory of the Republic of Moldova.

(2) In case of misinterpretation of the provisions of the present Code, the text in the state language shall prevail.

(3) The Customs Code of the Republic of Moldova no. 1320-XII from March 9, 1993 shall be abrogated on the moment the present Code comes into force.

#### **Article 325. Execution of legal and normative acts in compliance with this Code**

The Government within two months shall:

submit to the Parliament suggestions on bringing the legislation into conformity with this Code;

bring its normative acts in conformity with the provisions of this Code;

ensure revision and abrogation of all departmental normative acts which contravene this Code;

elaborate normative acts to regulate the enforcement of this Code.

**CHAIRMAN OF THE PARLIAMENT      Dumitru DIACOV**

**Chisinau, July 20, 2000**

**No. 1149-XIV**

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