

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

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REPUBLIC OF ALBANIA
THE PARLIAMENT

LAW

No. 8449, date 27.01.1999

CUSTOMS CODE OF THE REPUBLIC OF ALBANIA

Based on Article 81 and 83 of Constitution, upon the proposal of Council of Ministers

THE PARLIAMENT OF REPUBLIC OF ALBANIA

DECIDED

TITLE I
GENERAL PROVISIONS

CHAPTER 1
SCOPE AND BASIC DEFINITIONS

Article 1
(Customs Legislation)

Customs rules shall consist of this Code, the international Customs related to rules concerning the conventions adhered by the Republic of Albania, the Implementing Provisions of this Code and other rules related to the Customs activity.

Article 2
(Scope of customs activity)

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

Article 3
(Customs territory)

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

Article 4
(Customs line)

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

Article 5
(Customs area)

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

Article 6
(Area)

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

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

Article 7
(Customs authorities)

Customs authorities mean the authorities responsible for applying customs legislation, as well as other legal or sub-legal acts, whose application is a duty of such authorities¹.

Article 8²
(Definitions)

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

1. 'Person' means:
 - a) a natural person;
 - b) a legal person;
 - c) all other persons recognized by the legislation in force.
2. 'Persons located in the Republic of Albania' means:
 - a) in the case of a natural person or other persons referred to in point 1(c), any person who is normally resident in Albania;
 - b) in the case of a legal person, any person who has in the Republic of Albania a registered office, a central office or a permanent business office.
3. 'Customs Administration' means the organizational structure of customs authorities.
4. 'Customs office' means: any office at which all or some of the formalities laid down by customs rules may be completed.

5. 'Decision' means: any official act by the customs authorities pertaining to customs rules giving a ruling on a particular case, such act having normative effects on one or more specific or identifiable persons.
6. 'Customs status' means the status of goods categorized as Albanian or non-Albanian goods.
7. 'Albanian goods' means goods:
 - a) wholly obtained or produced in the customs territory of the Republic of Albania under the conditions referred to in article 29, and not incorporating goods imported from other countries or territories;
 - b) imported from other countries or territories, which have been released for free circulation in the customs territory of the Republic of Albania;
 - c) obtained or produced in the customs territory of the Republic of Albania, either from goods referred to in subparagraph (b) alone, or from goods referred to both in subparagraphs (a) and (b) above.
8. 'Non-Albanian goods' means goods other than those referred in subparagraph 7.
9. 'Customs debt' means the obligation of a person, to pay the amount of the import duties (customs debt on importation) or the amount of the export duties (customs debt on exportation), which apply to specific goods under the provisions in force in the Republic of Albania.
10. 'Import duties' means customs duties and other taxes having an effect equivalent to customs duties payable on the importation of goods.
11. 'Export duties' means customs duties and other taxes having an effect equivalent to customs duties payable on the exportation of goods.
12. 'Debtor' means any person liable for the payment of a customs debt.
13. 'Supervision by the customs authorities' means the actions taken in general by those authorities with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to customs supervision are observed. The inland customs authorities do the supervision of the land surveillance area and the maritime customs

¹ Article amended by art. 1 of law no. 8473 dated 14.4.1999

² Article amended by art. 2 of law no. 8473 dated 14.4.1999

authorities do the supervision of the sea surveillance area.

14. ‘*Control by the customs authorities*’ means the engaging in specific actions such as examining goods, verifying the existence and the authenticity of documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons, and carrying out official inquiries and other similar actions, with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are respected in the customs territory of the Republic of Albania.
15. ‘*Customs destination of goods*’ means:
- the placing of goods under a customs procedure;
 - their entry into a free zone or free warehouse;
 - their re-exportation from the customs territory of the Republic of Albania;
 - their annihilation;
 - their abandonment and transfer to the State budget.
16. ‘*Customs procedure*’ means:
- release for free circulation;
 - transit;
 - customs warehousing;
 - inward processing;
 - processing under customs control;
 - temporary allowance;
 - outward processing;
 - exportation.
17. ‘*Customs declaration*’ means the act whereby a person expresses in the prescribed forms and manners, the wish to place goods under a given customs procedure.
18. ‘*Date of acceptance of declaration at Customs*’ means the moment when the declaration is presented at the Customs and is accepted by the Customs office.

19. ‘Declarer’ means the person making the customs declaration in his own name or the person in whose name a customs declaration is made.

20. ‘*Presentation of goods at customs*’ means the notification to the customs authorities, in the manner provided, of the arrival of goods at the customs office or at any other place designated or approved by the customs authorities.

21. ‘*Release of goods*’ means the act whereby the customs authorities make a good available for the purposes provided by the customs procedure under which it is placed.

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

23. ‘*Holder of the authorization*’ means the person to whom an authorization has been granted.

CHAPTER 2 ORGANIZATION OF CUSTOMS ADMINISTRATION, OF PERSONNEL AND CUSTOMS ACTIVITIES

SECTION 1 ORGANIZATION OF THE CENTRAL AND LOCAL CUSTOMS ADMINISTRATION

Article 9³ (Levels of organization)

1. The Customs Administration comprises the General Directorate, the Regional Directorates and the customs branches. It is subordinate to and under the supervision of the Ministry of Finance.

2. The Regional Directorates are subordinate to and under the supervision of the General Directorate of Customs. They are comprised of one or many customs branches, over which they exercise control.

3. The powers and the organization of the Customs Administration are established in the Implementing Provisions of the Customs Code.

³ Article amended by art. 3 of law no. 8473 dated 14.4.1999

4. Within the structures of the General Directorate of Customs is created the department of the fight against smuggling and illicit traffic that carries out the functions of the judicial police. Law determines the duties and rights of the personnel carrying out the functions of the judicial police.

Article 10⁴
(Timetable of offices)

The working hours of the Customs Administration offices are determined in the sub-legal Implementing Provisions of this Code.

SECTION 2

FORMALITIES, CONTROLS, SURVEILLANCE AND POWERS OF CUSTOMS AUTHORITIES

Article 11⁵

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

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

3. The customs authorities are responsible for:

- a) carrying out all the activities determined in this Code with regard to the goods entering or leaving the Albanian customs territory, in conformity with the rules provided for in the Implementing Provisions of this Code;
- b) verifying and collecting the customs duties legally due;
- c) preventing, verifying and fighting against the smuggling activity, offenses and illicit traffic of prohibited goods;
- d) ascertaining and verifying violations of the provisions of the this Code, as provided for in Title VIII;

e) preparing and signing international agreements and conventions in customs matters, according to the authorization;

f) prepare, collect and upon a written request distribute the statistical data of foreign trade to the Ministry of Trade and other public institutions established by the dispositions in force;

g) supervising goods that are under the customs supervision, in the entire customs territory of the Republic of Albania;

4. In order to guarantee the respecting of the provisions established by this Code and other normative acts, whose application is a duty of the customs authorities, the customs officers exercise control on any goods, means of transport, and passengers crossing the customs line in the customs areas and along the land and sea borderline, in the inland waters and in airspace, which are under customs surveillance. With a view to more efficient controls, the customs authorities may sign agreements with Albanian or foreign, public or private organizations, for exchanging information in this field.

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

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

⁴ *Article amended by art. 4 of law no. 8473 dated 14.4.1999*

⁵ *Article amended by art. 5 of law no. 8473 dated 14.4.1999*

7. With a view to ensuring the implementation of the customs legislation and other normative acts, the implementation of which is entitled to the customs, Customs Authorities may carry out all the necessary controls at the premises of the declarer or any other person, involved directly or indirectly in the release of goods, in accordance with the Implementing Provisions of this Code.

8. When other authorities, operating in the customs territory of the Republic of Albania, have suspicions or become aware of information concerning violations of the provisions of this Code, its Implementing Provisions or other normative acts, whose application is assigned to the customs authorities, they inform immediately the customs office competent for that territory. The latter carries out all the appropriate verifications and formalities, including notification of the judicial authorities, according to the procedures provided for in Title VIII of this Code.

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

Article 12⁶
(Territorial powers)

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

2. The General Director, in derogation from the rule laid down in the previous paragraph, when the circumstances require the application of specific controls, may decide that the customs formalities regarding some categories of goods may be

concentrated at the border crossing customs office, or at one or more inland customs offices.

3. The Heads of the customs houses, when the needs of the trade so require and upon request of the person concerned, may allow that some of the customs controls be carried out at the premises of the declarers, or in other places proposed by them, which are deemed suitable to perform all the necessary controls by the customs authorities. The General Director of Customs, taking into account the time spent for the control and the distance of the premises from the customs office, establishes the costs of the above mentioned service, which is charged to the declarer.

SECTION 3
ORGANIZATION CHART, EMPLOYMENT AND
WORKING INTERRELATIONS OF CUSTOMS
ADMINISTRATION PERSONNEL

Article 13
(Organization chart and salaries)

1. Within 15 days from the entry into force of this Code, the Council of Ministers, upon proposal of the Minister of Finance, establishes the organization chart of the customs administration in order to guarantee, on one hand, the protection of the fiscal interests of the Republic of Albania, and on the other hand an organization suitable to the dynamism and the peculiarity of the customs activity. The General Director of Customs takes all the measures for appointing the personnel in the head and local customs offices.

2. In the organization chart, the personnel, depending to the proper tasks is divided into high level officers, senior customs officers, and other customs personnel, as categorized in the Implementing Provisions of this Code.

3. The tasks and functions assigned to the aforementioned categories, as well as the promotion procedures, are laid down in the Implementing Provisions of this Code.

4. The Council of Ministers within 15 days from the date when this Code comes into force, determines the salary level for each category of the personnel provided for in the Implementing Provisions of this Code in accordance with the legislation in force.

⁶ Article amended by art. 6 of law no. 8473 dated 14.4.1999

Article 14⁷

(Appointment of personnel)

1. The General Director of Customs is appointed upon decision of the Council of Ministers, upon proposal of the Minister of Finance. The Deputy General Directors of Customs are appointed by the Minister of Finance upon proposal of the General Director of Customs, in accordance with employing provisions of this Code.

2. The personnel of the Customs Administration, with exception of the auxiliary personnel, is employed through public competition, according to the procedures established by the law “For the Civil Service” and its sub-legal implementing provisions, as well as by the Implementing Provisions of this Code and other specific provisions regulating the functioning of the General Directorate of Customs.

3. The auxiliary personnel are employed on a nominal basis by the Director General of Customs.

Article 15⁸

(Administering of incomes and rewards)

1. The General Directorate of Customs is given, besides the incomes referred to in Article 296 of this Code, 2% of the annual customs incomes to be used for investments, improvement of the working and living conditions of the Customs Administration personnel, as well as rewards to the latter.

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

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

⁷ Article amended by art. 7 of law no. 8473 dated 14.4.1999

⁸ Article amended by art. 8 of law no. 8473 dated 14.4.1999

3. The General Director of Customs, based on the criteria provided for in paragraph 2 above, delivers the incentive payments between the Customs Administration personnel.

Article 16⁹

(Judicial police, service uniform and provision with weapon)

1. The judicial police as referred to in article 9 (4) of this Code enjoys the status of military member. It acts according to legislation in force.

2. The customs personnel wear the service uniform and at the discretion of the General Director of Customs may be provided with weapons. In the events that service needs make it necessary to work without wearing a uniform, the customs personnel must show the Identity Card, issued by the General Directorate of Customs.

3. The provision with weapons and their use by the customs personnel is done in accordance with the provisions in force regarding the weapons and the use of firing weapons.

4. Customs personnel are not allowed to accept directly or indirectly, rewards in cash or kind for the customs services performed. Customs officers are not allowed to carry on any kind of business or advising activity, incompatible with the performance of the customs activity.

5. Customs personnel are obliged to preserve the professional secret regarding all activities related to the performance of the task.

6. In application of the provisions provided for in the Criminal Code and the provisions in force in the customs field, the General Director of Customs takes the disciplinary measures in cases of violations of this article.

**CHAPTER 3
GENERAL PROVISIONS RELATING IN
PARTICULAR TO THE RIGHTS AND
OBLIGATIONS OF PERSONS WITH
REGARD TO CUSTOMS RULES**

**SECTION 1
RIGHT OF REPRESENTATION**

⁹ Article amended by art. 9 of law no. 8473 dated 14.4.1999

Article 17
(Types of representation)

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

SECTION 2
DECISIONS RELATED TO THE APPLICATION OF
CUSTOMS LEGISLATION

Article 18
(Taking of decisions)

1. When a person requests that the customs authorities take a decision related to the application of customs rules, that person should supply all the information and documents required by customs authorities in order to take a decision.
2. Such decision is taken and notified to the applicant within 30 days from the date when the request is presented.
3. Decisions taken and notified to the applicant by the customs authorities in writing which either reject requests or are detrimental to the persons to

whom they are addressed, should set out the grounds on which they are based. They should refer to the right of appeal provided for in article 19 and 20 of this Code.

4. Customs authorities should immediately enforce decisions taken and notified to the applicant. In cases where the disputed decision requires the payment of import duties or export duties and this decision is opposed by the person concerned, suspension of implementation of that decision may be subject to the existence or lodging of a guarantee only.

Article 19
(Annulment of decision)

1. A decision favorable to the person concerned is annulled if it was issued on the basis of incorrect or incomplete information and:
 - a) the applicant knew or should reasonably have known that the information supplied was incorrect or incomplete, and
 - b) such decision could not have been taken based on correct or complete information.
2. The persons to whom the decision is addressed shall be notified immediately of its annulment.
3. Annulment shall take effect from the date on which the annulled decision was taken. Annulment can have power only within the period of time the authorization is valid.
4. The person concerned may appeal against the decision of annulment of authorization at the General Directorate of Customs, within 10 days from the day of notification. The General Director of Customs replies within 20 days on acceptance or denial of the appeal. In the event, the General Director of Customs does not reply within this term, the request shall be presumed to have been accepted.

Article 20
(Revocation and change of decision)

1. A decision favorable to the person concerned, is revoked or amended where, in cases other than those referred to in Article 19, one or more of the conditions laid down for its issue can no longer be fulfilled.
2. A decision favorable to the person concerned may be revoked when the person to whom it is addressed fails to fulfill an obligation imposed on him under that decision.

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

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

5. The person concerned may appeal against the revocation or amendment of the decision at the General Directorate of Customs, within 10 days from the notification. The General Director of Customs replies within 20 days on the acceptance or denial of the appeal. In the event, the General Director does not reply within this term, the request shall be presumed to have been accepted.

SECTION 3 INFORMATION

Article 21 (Binding tariff information)

1. Natural and legal persons whilst performing customs formalities, as well as state institutions in exercising the functions and powers entitled to them by law, may request information concerning the application of customs legislation from the customs authorities. Such request may be refused where it does not relate to an ongoing import or export operation.

2. The information shall be supplied to the applicant free of charge. However, when the customs authorities incur special costs, for example because of analyses or expert reports on goods, or the return of the goods to the applicant, he is charged the relevant amount.

Article 22 (Validation of binding tariff information)

1. The customs authorities issue binding tariff information upon written request.

2. Binding tariff information shall be binding on the customs authorities as against the holder of the information only in respect of the tariff classification of goods. Binding tariff information is binding on the customs authorities only for goods on which customs formalities are fulfilled after the date on which they supplied the information.

3. The holder of such information must prove that the declared goods correspond to those described in the information in every respect.

4. The binding tariff information is valid for 6 years. By way of derogation from article 19, binding tariff information shall be annulled when it

is based on inaccurate or incomplete information from the applicant.

5. Binding tariff information shall cease to be valid:

a) when the information no longer conforms to the normative acts in force.

b) when it is no longer compatible with the explanatory notes or amendments to the Nomenclature of the Harmonized Commodity Description and Coding System adopted by the World Customs Organization. In that case the date on which binding tariff information ceases to be valid, shall be the date of publication of the above mentioned measures;

c) the holder of information is notified of its revocation or amendment.

6. The General Directorate of Customs does the tariff classification; it is binding and can be changed only upon the decision of the Nomenclature Commission at the World Customs Organization.

SECTION 4 OTHER PROVISIONS

Article 23 (Right of control)

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

Article 24 (Obligation to provide the documentation)

For the purposes of applying customs legislation, any person directly or indirectly concerned in the operations for the purposes of trade of goods, shall provide the customs authorities with all the required documents and information, irrespective of the medium used, and all the necessary assistance, at their request and by the time limit prescribed by the customs authorities. In such cases, Article 26 shall apply.

Article 25 (Perseverance of secrecy)

All information which is by nature confidential or which is provided on a confidential basis is covered by the obligation of professional secrecy. It is not disclosed by the customs authorities without the expressed permission of the person concerned or

authority providing it. The communication of information is permitted when the customs authorities may be obliged or authorized to do so, according to the provisions in force, particularly in respect of data protection, or in connection of legal proceedings.

Article 26
(Preservation of documents)

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

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

- d) in the case of goods placed in a free zone or free warehouse, from the end of the year on which they leave the free zone or warehouse.

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

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

Article 27
(Exchange rate)

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

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

CHAPTER 1
CUSTOMS TARIFF AND TARIFF
CLASSIFICATION OF GOODS

Article 28
(The customs tariff)

1. Duties legally due when a customs debt is incurred shall be based on the Customs Tariff of the Republic of Albania.

2. The other measures prescribed by provisions governing specific fields relating to trade in goods are, when appropriate, applied according to the tariff classification of those goods.

3. The Customs Tariff of the Republic of Albania comprises:

- a) the Nomenclature of goods based on the harmonized system;
- b) any other nomenclature which is wholly or partly based on the Harmonized system or which adds any subdivisions to this system and which is established by other provisions governing specific fields with a view to the application of tariff measures related to trade in goods;
- c) the customs duties' rates and other charges normally applicable to goods covered by the nomenclature based on the harmonized system;
- d) the preferential tariff measures contained in agreements which the Republic of Albania concludes with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;
- e) autonomous suspension measures providing for a reduction in or relief from import duties chargeable on certain goods;
- f) other tariff measures provided for in the framework of Albanian trade policy.
- g) other tariff measures provided for in other Albanian laws.

4. The measures referred to in subparagraph 3 (d) and (e) shall apply to the declarer request instead of those provided for in subparagraph 3 (c) where the goods concerned fulfill the conditions laid down by those first-mentioned measures. An application may be presented after the event as well, if the relevant conditions are fulfilled.

5. When application of the measures referred to in subparagraph 3 (d) and (e) is restricted to a certain volume of imports, it ceases to be valid:

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

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

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

under which the previously mentioned goods are to be classified.

7. The favorable tariff treatment from which certain goods may benefit because of their nature or end -use are subject to the conditions laid down in the Implementing Provisions of this Code. When an authorization is required, Articles 109 and 110 shall apply.

8. For the purposes of paragraph 7, the expression 'favorable tariff treatment' means a reduction in or suspension of an import duty as provided for in Article 8(10), even in the framework of a tariff quota.

CHAPTER 2 ORIGIN OF GOODS

SECTION 1 NON-PREFERENTIAL ORIGIN

Article 29

(Goods wholly produced in a country)

1. Goods originating in a country shall be those wholly obtained or produced in that country.
2. The expression “goods wholly obtained or produced in a country” means:
 - a) mineral products extracted within that country;
 - b) vegetable products harvested therein;
 - c) live animals born and raised therein;
 - d) products derived from live animals raised therein;
 - e) products of hunting or fishing carried on therein;
 - f) products of sea fishing and other products taken from the sea outside a country’s territorial waters by vessels registered or recorded in the country concerned and flying the flag of that country;
 - g) goods obtained or produced on board factory ships from the products referred to in subparagraph (f), originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
 - h) products taken from the seabed or subsoil beneath the seabed outside the territorial waters provided that, that country has exclusive rights to exploit that seabed or subsoil;
 - i) waste and scrap products derived from manufacturing operations and out of use articles, if they were collected therein and are fit only for the recovery of raw materials;
 - j) goods, which are produced wholly and exclusively from goods, referred to in subparagraphs from (a) to (i) or their derivatives at any stage of production.
3. For the purposes of paragraph 2, the expression ‘country’ covers also the territorial waters of that country.

Article 30

(Production of goods in more than a country)

Goods whose production involves more than one country shall be deemed to originate from the country where they underwent their last,

substantial, economically justified treatment or elaboration, which is done in a enterprise having this scope and as a result of which, it is produced a new product or that represents an important stage of elaboration.

Article 31¹⁰

(Certificate of origin)

1. Customs legislation may provide for the submission of a document proving the origin of goods.
2. Chamber of Commerce, under whose jurisdiction the good was produced, issues the certificate of non-preferential goods originating from Albania.
3. Irrespective of the submission of this document, in case of serious doubt, the customs authorities may require additional proofs ensuring that the indication of origin complies with rules set in the relevant legislation.
4. The rules of non-preferential origin determine the conditions that the goods must meet in order to be considered originating from a certain country. They serve:
 - a) to implement the Customs Tariff of the Republic of Albania, excluding the measures referred to in Article 28(3) (d);
 - b) to implement different measures from these tariffs laid down in specific dispositions in the field of trade of goods.

The formalities regarding the issuance of the non-preferential origin certificate are laid down in the Implementing Provisions of this Code.

SECTION 2 PREFERENTIAL ORIGIN OF GOODS

Article 32

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

¹⁰ Article amended by art. 10 of law no. 8473 dated 14.4.1999.

preferential origin are described in the Implementing Provisions of this Code.

CHAPTER 3 VALUE OF GOODS FOR CUSTOMS PURPOSES

Article 33 (Field of application)

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

Article 34 (Transaction value as a customs value)

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

- a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
 - i) are imposed or required by law or by the public authorities of the Republic of Albania,
 - ii) do not substantially affect the value of the goods;
- b) that the sale or price is not subject to some conditions or considerations for which a customs value may not be determined with respect to the goods being valued;
- c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, except of case when an appropriate adjustment is made in accordance with Article 37; and
- d) that the buyer and seller are not related, or, when the buyer and seller are related, the transaction value is acceptable for customs purposes under paragraph 2.

2. a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related does not represent in itself a sufficient ground for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale are examined and the transaction value is accepted provided that the

relationship did not influence the price. If, in the light of information provided by the declarer or otherwise, the customs authorities have grounds for considering that the relationship influenced the price, they communicate their grounds to the declarer and he is given a reasonable opportunity to respond. If the declarer so requests, the communication of the grounds shall be notified in writing;

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

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

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

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

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

b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 37, are not considered to be

an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or due in determining the customs value of imported goods.

*Article 35
(Alternative methods)*

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

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

- a) the transaction value of identical goods sold for export to the Republic of Albania and exported at or about the same time as the goods being valued;
- b) the transaction value of similar goods sold for export to the Republic of Albania and exported at or about the same time as the goods being valued;
- c) the value based on the unit price at which the imported goods for identical or similar imported goods are sold within the Republic of Albania in the greatest aggregate quantity to persons not related to the sellers;
- d) the computed value, consisting of the sum of:
 - i) the cost or value of materials and fabrication or any other processing used in producing the imported goods,
 - ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Republic of Albania,
 - iii) the cost or value of the items referred to in Article 37 (1) (e).

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

*Article 36
(The method of best determination and restrictions)*

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

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

2. No customs value shall be determined under paragraph 1 based on:

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

*Article 37¹¹
(Elements to be added)*

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

- a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or due for the goods:
 - i) commissions and brokerage, except the buying commissions,

¹¹ Article amended by art.11 of law no. 8473 dated 14.4.1999

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| <p>ii) the cost of containers which is treated as being one, for customs purposes, with the goods in question,</p> <p>iii) the cost of packing, whether for labor or materials;</p> <p>b) the value apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:</p> <p>i) materials, components, parts and similar items incorporated in the imported goods,</p> <p>ii) tools, dies, molds and similar items used in the production of the imported goods,</p> <p>iii) materials consumed in the production of the imported goods,</p> <p>iv) engineering and development work, artwork, design work, and plans and sketches undertaken elsewhere than in the Republic of Albania and necessary for the production of the imported goods;</p> <p>c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued to the extent that such royalties and fees are not included in the price actually paid or due;</p> <p>d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;</p> <p>e) (i) the cost of transport and insurance of the imported goods, and
(ii) loading and handling charges associated with the transport of the imported goods,</p> <p>2. Additions to the price actually paid or due are made under this Article only based on objective and quantifiable data.</p> <p><u>2.1. No additions shall be made to the price actually paid or due in determining the customs value except as provided in this Article.</u></p> <p>3. For the purpose of this Chapter, the term ‘buying commission’ means fees paid by an importer to his agent for the service of representing him in the purchase of the goods being valued.</p> <p>4. Notwithstanding, paragraph 1 (c):</p> | <p>a) charges for the right to reproduce the imported goods in the Republic of Albania are not added to the price actually paid or due for the imported goods in determining the customs value, and</p> <p>b) payments made by the buyer for the right to distribute or resell the imported goods are not added to the price actually paid or due for the imported goods, if such payments are not a condition of the sale for export to the Republic of Albania of the goods.</p> <p>c) <u>The payments concerning the royalties right and license fee for the cinematography movies imported in the Republic of Albania with the reproduction and distribution right shall not be added to the price actually paid or that should be paid¹².</u></p> <p style="text-align: center;"><i>Article 38</i>
<i>(Elements to be deducted)</i></p> <p>Provided that they are shown separately from the price actually paid or due for the imported goods, the following are not included in the customs value:</p> <p>a) charges for the transport of goods after their arrival at the place of introduction into the customs territory of the Republic of Albania;</p> <p>b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plants, machinery or equipment;</p> <p>c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer may demonstrate that:</p> <p>i. such goods are actually sold at the price declared as the price actually paid or due, and</p> <p>ii. the claimed rate of interest does not exceed the level for such transactions prevailing in the country, where, and at the time when, the finance was provided;</p> |
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¹² Paragraph added by art. 1 of law no. 8719 dated 19.12.2000

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| d) charges for the right to reproduce imported goods in the Republic of Albania; | used for the application of Article 27 for the rest of that period. |
| e) buying commissions; | |
| f) import duties or other charges due in the Republic of Albania because of the importation or sale of the goods. | |

Article 39

(Customs value of Information technology)

Specific rules to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions are laid down in the Implementing Provisions of this Code.

Article 40¹³.

(Determination of daily exchange rate)

1. The provisions of this Chapter shall be without prejudice to the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.

2. The customs value of perishable goods usually delivered on consignment may, at the request of the declarer, be determined under simplified rules without being subject to the evaluation criteria established in Articles 34, 35, and 36

3. When there is a need to determine the customs value of imported goods and it is expressed in a currency other than Albanian Lek, the following procedure shall be used:

- a) New exchange rates shall be determined each month , with the exception mentioned in paragraph 3(d);
- b) Exchange rates shall be valid from the 6 of a month to the 5 of the following month;
- c) The rate of exchange to be used shall be the exchange rate published by the Bank of Albania on the last working day of the month before the period mentioned in paragraph 3(b);
- d) When a rate of exchange published by the Bank of Albania differs by 5% or more from the rate decided in accordance with paragraph 3(c) for use in accordance with paragraph 3(b), it shall replace the latter rate and enter into use from the second working day following its publication as the rate to be

¹³ *Article amended by art. 12 of law no. 8473 dated 14.4.1999*

TITLE III
PROVISIONS APPLICABLE TO GOODS IN ENTRY AND EXIT FROM THE
CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA UNTIL THEY ARE
ASSIGNED A CUSTOMS-APPROVED TREATMENT OR USE

CHAPTER 1
ENTRY AND EXIT OF GOODS FROM
THE CUSTOMS TERRITORY OF THE
REPUBLIC OF ALBANIA

Article 41
(Entry of goods)

1. “Moment of entry or exit” is considered the moment when the goods, regardless of the way it is transported, cross the state border of the Republic of Albania to enter or leave the customs territory.
2. “Manifest of goods” is considered the document accompanying the goods entering or leaving the customs territory of the Republic of Albania by air, sea, rivers, or lakes. Such a document should contain information regarding the nationality, flag, and crew of the means of transport, as well as all the information necessary for the identification of the cargo, as provided for in the Implementing Provisions of this Code.
3. Goods brought into the customs territory of the Republic of Albania shall, from the time of their entry, be subject to the customs supervision. They may be subject to control by the customs authorities.
4. They shall remain under such supervision for as long as necessary to determine their customs status, if appropriate, and in the case of non-Albanian goods and without prejudice to Article 105 (1), until their customs status is changed, or they enter a free zone or free warehouse or they are re-exported, or destroyed or passed to the state budget.

Article 42
(Goods brought into customs)

1. Goods brought into the customs territory of the Republic of Albania should be conveyed by the person bringing them into the Republic of Albania without delay, by the route specified by the customs authorities and in accordance with their instructions, if any:
 - a) to the customs office designated by the customs authorities or to any other place designated or approved by those authorities;or,

- b) to a free zone, if the goods are to be brought into that free zone directly by sea, air, or land.

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

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

4. Without prejudice to the implementation of the rules in force regarding the protection of the interests of the Republic of Albania, paragraph 1 do not apply to goods on board of vessels or aircraft crossing the territorial sea or airspace of the Republic of Albania without having as their destination a port or airport situated in the Republic of Albania. In any case, the customs authorities may take measures to carry out all the necessary controls for ensuring that the goods transported by the above mentioned means of transport, are not presented illegally in the customs territory of the Republic of Albania.

Article 43
(Obstacles during transportation)

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

2. When by reason of unforeseeable circumstances or force majeure, a vessel or aircraft covered by Article 42 (4) is forced to enter temporarily into a port, or to land in the customs territory of Republic of Albania and the obligation

laid down in Article 42(1) may not be fulfilled, the person bringing the vessel or aircraft in the customs territory of Republic of Albania or any other person acting on his account, should inform immediately the customs authorities about the situation.

3. The customs authorities determine the measures to be taken to enable the customs surveillance of goods provided for in paragraph 1, as well as those on board vessels or aircraft's in the circumstances specified in paragraph 2, and to ensure, when appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the customs authorities.

CHAPTER 2
SPECIAL PROVISIONS APPLICABLE
TO GOODS BROUGHT INTO OR
LEAVING THE CUSTOMS TERRITORY
OF THE REPUBLIC OF ALBANIA
CONSIGNED BY AIR, SEA OR RAIL
AND PASSENGER AND POSTAL
TRAFFIC.

A. GENERAL PROVISIONS

Article 44

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

2. Specific provisions regarding customs control, supervision and customs formalities to be carried out at the moment of entry and exit for goods brought into or leaving the customs territory of the Republic of Albania are laid down in the Implementing Provisions of this Code.

B. AIR TRAFFIC

Article 45

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

2. The commander of aircraft, before leaving an airport authorized for services as referred to in paragraph 1, should present at the competent customs office the manifest of goods regarding all goods leaving the Albanian customs territory. The customs authorities may carry out all the necessary controls to verify that the goods indicated in the manifest are effectively loaded on the aircraft.

Article 46

1. Aircraft, aircraft and cabin crew, crew luggage, passengers, passenger baggage, and transported goods are subject to customs supervision at the first airport of arrival in the Republic of Albania.

2. An airport authorized for international traffic is subject to customs supervision.

3. Captain of aircraft or an authorized person by him should lodge a manifest on all goods being carried, with the customs office as soon as the aircraft lands at an authorized airport.

4. Aircraft should refrain from throwing goods whilst flying.

Article 47

(Exception from obligation of presenting a manifest)

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

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

Article 48

(The control extend)

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

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

Article 49

(Control of aircraft's flying in departure)

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

Article 50

(Aircraft's forced landing)

If, in cases of emergency or *force majeure*, an aircraft has to land at an airport not authorized for receiving international air traffic, the captain of the aircraft shall inform the nearest customs authority which shall place the aircraft, crew, passengers and goods under customs control and supervision.

C. WATER TRAFFIC

Article 51

(Harboring places)

1. Vessels carrying goods brought into the customs territory of the Republic of Albania may only call ports approved for international traffic.
2. In cases of emergency or *force majeure*, vessels referred to in paragraph 1 of this Article may also call at other points. The captain of the vessel shall inform the nearest customs office or the nearest government authority, which shall report immediately to the nearest customs authority.

Article 52

(Carrying of manifest and exemptions)

1. Vessels carrying goods brought into or leaving the customs territory of the Republic of Albania and sailing in the customs border zone at sea, on navigable lakes or rivers shall carry a manifest of goods referred to in Article 41(2), unless provided otherwise.
2. Another document or collection of documents containing the information prescribed for the manifest may be accepted as a manifest according to the Implementing Provisions of this Code.
3. The following vessels need not carry a manifest of goods:
 - a) vessels used for scientific purposes;
 - b) fishing vessels used only for fishing;

- c) sports vessels and private boats on condition that they do not transport goods subject to customs control.

Article 53

(Customs surveillance)

1. Customs surveillance starts immediately after the vessel is anchored, arrives at the roadstead or harbor until the moment when the goods are unloaded from the vessel and assigned a customs approved treatment or use.
2. Customs authorities may carry out all the necessary controls on board of the vessel immediately after the police and phytosanitarian inspection.

Article 54

(Presenting of the manifest)

Within 24 hours from the arrival of the vessel at the roadstead or harbor the captain of the vessel should present at the customs authorities the manifest of goods according to the procedures laid down in the Implementing Provisions of this Code.

Article 55

(Transshipment of goods)

1. Transshipment of goods from one vessel to another shall be approved by the customs authorities and shall be carried out under customs supervision.
2. In cases of unforeseeable circumstances, goods may be transshipped from one vessel to another without the approval of the customs authorities. In such cases, the captain of the vessel should request from the competent seaport or harbor authority a report as to the reasons for the transshipment. This document is presented immediately to the competent customs authorities.
3. The competent customs authorities that receive the report will make sure that there are no customs violations involved. In that case, they will take the appropriate decisions according to what is provided for in Title VIII of the Code.

Article 56

(Movements in lakes and rivers)

Vessels bringing or sending away goods from the customs territory of the Republic of Albania via lakes and rivers may arrive or depart only from points authorized by the customs authorities. These vessels are subject of the same formalities referred to in Articles 51 to 55 of this Code.

Article 57

(Exemption from customs control)

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

Article 58

1. Albanian vessels in scheduled service between two border customs zones within the Albanian customs territory, authorized for transport of goods and passengers, do not need present a manifest of goods provided for that they are not subject of customs control and surveillance.

2. In any case, the customs authorities may carry out in the customs areas of surveillance all the necessary controls to verify eventual violations of the dispositions of this Code and its Implementing Provisions.

D. RAIL TRAFFIC

Article 59

1. The Railway Company, which accepts to enter the goods, transported by railway in the customs territory of the Republic of Albania accompanied by a consignment note shall be the responsible body for customs formalities.

2. The Railway Company shall make all the records held at the accounting offices available to the Customs Administration, related to transported goods.

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

E. POSTAL GOODS

Article 60

1. All mail containing consignments for commercial purposes as well as mail containing consignments of an aggregate value, for each consignment exceeding the threshold laid down by the provisions in force issued by the Minister of Finance, are subject to a customs declaration.

2. Postal goods shall be accepted and delivered between a foreign post office and the

Albanian post office under customs supervision. In case of quickened consignments, the Director General of Customs may authorize immediate release of goods towards a guarantee and lodging of the appropriate general and periodical customs declaration, according to the form determined by the Director General of Customs.

3. The exchange post office shall forward all mail shipments containing goods brought in the customs territory of the Republic of Albania under customs supervision, to the post office approved by the customs authorities, for all the necessary controls.

4. Postal shipments shall remain under customs supervision while customs formalities are completed in the post office.

Article 61

(Exempt from declaration)

The following postal consignments are not subject of declaration:

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

Article 62

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

F. PASSENGER TRAFFIC

Article 63

(Definitions)

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

- A. on entry:
 1. any person temporarily entering the customs territory of the Republic of

Albania, and not normally resident there, and

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

B. on exit

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

Article 64

(Luggage control and exempts)

1. While entering or leaving the Republic of Albania, the passenger shall declare and, at the customs authority's request, show all goods being carried.
2. In order to check the declaration referred to in paragraph 1 of this article, the customs authority may, if necessary, control the goods carried by the passenger.
3. Goods carried by diplomatic couriers based on a diplomatic courier's letter shall not be subject to customs control. Customs control will not be performed also for members of the Parliament as well as any other person, to whom by law is given special status, their luggage, and the mail addressed to them. This article is applied for any other person that benefits these exempts according to other provisions.

**CHAPTER 3
PRESENTATION OF GOODS TO
CUSTOMS**

Article 65

(Time-period for presenting the goods)

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

- i. when transported by sea within two hours from the arrival, and
- ii. when transported otherwise than by sea within one hour from the arrival.

Article 66

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

Article 67

(Goods verification and taking of samples from the keeper)

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

**CHAPTER 4
SUMMARY DECLARATION AND
UNLOADING OF GOODS PRESENTED
AT CUSTOMS**

Article 68

(Time-period for depositing the summary declaration)

1. Subject to Article 70, goods presented to customs within the meaning of Article 65 shall be covered by a summary declaration that should be lodged:

- i. when transported by sea, within two hours from the presentation of goods at the customs, and
- ii. when transported otherwise than by sea, within one hour after the presentation of goods at customs.

2. The summary declaration shall be lodged with the customs authorities, within the time limit determined in paragraph 1(i) and (ii). The customs authorities may, however, allow a period for lodging the declaration, which shall not extend beyond the first working day following the day on which the goods are presented at customs.

Article 69

(The form and the person that deposits the summary declaration)

1. The summary declaration shall be made in the form corresponding to the model prescribed by the customs authorities. However, the customs authorities may permit the use, as a summary declaration, of any commercial or official document, which contains the particulars necessary for identification of the goods, as provided for in the Implementing Provisions of this Code. .

2. The summary declaration shall be lodged by:

- a) the person who brought the goods into the customs territory of the Republic of Albania or by any person who assumes responsibility for carriage of the goods following such entry; or
- b) the person in whose name the persons referred to in subparagraph (a) acted.

Article 70

(Exception from the obligation to deposit the summary declaration)

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

Article 71

(The vehicles and aircraft's vehicles control)

1. Goods shall be unloaded or transhipped from the means of transport carrying them solely with the permission of the customs authorities in places designated or approved by those customs authorities. However, such permission shall not be required in case of the imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs authorities shall be informed accordingly forthwith.

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

3. When customs authorities have suspicions that a customs violation has been committed they are allowed to verify the means of transport and the goods introduced in the customs territory of the Republic of Albania, even before the summary declaration is lodged. The person who introduced the goods, the person who assumes responsibility for the carriage of goods following such entry or the declarant shall be entitled to be present whilst the goods are examined. The customs authorities shall notify their intention to proceed with the examination to the person concerned. If within two hours the said person does not declare his will to be present during the examination the customs authorities shall proceed without his presence.

Article 72

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

**CHAPTER 5
OBLIGATION TO ASSIGN A CUSTOM
DESTINATION TO THE GOODS
PRESENTED TO CUSTOMS**

Article 73

Non-Albanian goods presented at customs shall be assigned a customs destination –permitted for such goods.

Article 74

(Time period to assign the destination)

1. Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs destination- must be carried out within the following time limits:

- a) 10 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
- b) 5 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.

2. Where circumstances so warrant the customs authorities may set a shorter period or authorize an extension of the periods referred to in paragraph 1. Such extension shall not, however, exceed the genuine requirements that are justified by the circumstances.

**CHAPTER 6
TEMPORARY STORAGE OF GOODS**

Article 75

(The meaning of the temporary storage)

From the moment of presentation of the goods in custom and until such time as they are assigned a customs destination, such goods, have the status of goods in temporary storage. Such goods shall hereinafter be described as “goods in temporary storage”.

Article 76

(Places of temporary storage and guaranties)

1. Goods in temporary storage shall be stored in customs areas or any other places approved by the customs authorities, where they are stored within the time limit provided for in Article 74.

2. The customs authorities may require the person holding the goods to provide security with a view to ensuring payment of any customs debt on importation which may arise under Articles 218 or 219.

Article 77
(Permitted elaboration's)

Without prejudice to the provisions of Article 67, goods in temporary storage shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

Article 78
(The regulation of the situation)

1. The customs authorities shall without delay take all measures necessary, including the sale of the goods, to regularize the situation of goods in respect of which the formalities necessary for them to be assigned a customs destination - are not initiated within the periods determined in accordance with Article 74.

2. The customs authorities may, at the risk and expense of the person holding them, have the goods in question transferred to a special place, which is under their supervision, until the situation of the goods is regularized.

CHAPTER 7
PROVISIONS APPLICABLE TO NON-
ALBANIAN GOODS WHICH HAVE
MOVED UNDER A TRANSIT
PROCEDURE

Article 79

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

Article 80

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

CHAPTER 8
OTHER PROVISIONS

Article 81
(Destruction of goods)

Where the circumstances so require, in cases of danger for the life or health of humans or pollution, the customs authorities may have goods presented to customs destroyed. The customs authorities shall inform the holder of the goods accordingly. The expenses of destroying the goods shall be borne by the holder.

Article 82
(The regulation of unregulated situation)

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

2. Once the non-Albanian goods that circulate under transit procedure reach their destination in the customs territory of the Republic of Albania irregularly, or having withheld from customs surveillance, the customs authorities, besides the implementation of the sanctions referred to in Part VIII of this Code, take all the measures necessary, sale of goods included, in order to regulate their status.

3. The Council of Ministers may decide on any restriction or licensing of imports or exports or transit of specific goods, which is deemed necessary by reason of protection of public or economic interest.

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

TITLE IV
CUSTOMS Destination

CHAPTER 1
GENERAL PROVISIONS

Article 83

(The right to undertake any custom destination)

1. Unless otherwise provided by a decision of the Council of Ministers, goods may at any time and under the conditions laid down, be assigned customs destination, irrespective of their nature or quantity, or their country of origin, or destination.
2. Paragraph 1 does not preclude the imposition of prohibitions, upon decision of the Council of Ministers, or restrictions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

CHAPTER 2
CUSTOMS PROCEDURES

SECTION 1
PLACING OF GOODS UNDER A CUSTOMS
PROCEDURE

Article 84

(Declaration of the goods imposed on the same procedure)

1. All goods intended to be placed under a customs procedure shall be covered by a declaration for that customs procedure, within the time limit determined in Article 74.
2. Albanian goods declared for an export, outward processing, transit or customs warehousing procedure shall be subject to customs supervision from the time of acceptance of the customs declaration until such time as they leave the customs territory of the Republic of Albania or are destroyed or the customs declaration is invalidated.

Article 85

(The offices competencies related to the procedure)

Specific rules are included in the Implementing Provisions of this Code or provisions enacted by

the Minister of Finance upon the proposal of the Director General of Customs, which determine the competence of customs authorities and of various customs offices, taking account of the nature of the goods and the customs procedure under which they are to be placed.

Article 86

(Types of declaration)

The customs declaration shall be made:

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

A. DECLARATION IN WRITING

Article 87

(The declaration form and accompanied documents)

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

Article 88

(Acceptance of the declaration)

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

Article 89¹⁴

(The person that makes the declaration)

1. Without prejudice to Article 17, a customs declaration may be made by any person who is able to present the goods in question or to have them presented to the competent customs authority, together with all the documents which are required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.
2. However,
 - a) where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person himself or the person who acts on his behalf;
 - b) the declarant must be established in the Republic of Albania. However, the conditions regarding establishment in the Republic of Albania shall not apply to persons who make a declaration for transit through the customs territory of the Republic of Albania, having as destination a third country, or make temporary importation declarations.
3. Paragraph 2 (b) shall not preclude the application by the Republic of Albania of bilateral agreements concluded with another country or with group of countries, under which citizens of such countries may make customs declarations in the customs territory of the Republic of Albania.

Article 90

(The correction of the declaration)

1. The declarant shall, at his request, be authorized to amend one or more of the particulars of the declaration after it has been accepted by customs. The amendment shall not have the effect of rendering the declaration applicable to goods other than those originally covered.
2. However, no amendment shall be permitted where authorization is requested after the customs authorities:
 - a) have informed the declarant that they intend to examine the goods; or,
 - b) have established that the particulars in question are incorrect; or,
 - c) have released the goods.

Article 91

(Invalidity of the declaration)

1. The customs authorities shall, at the request of the declarant, invalidate a declaration already accepted where the declarant provides proof that goods were declared in error for the customs procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified. Nevertheless, where the customs authorities have informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted until after the examination has taken place.
2. The declaration shall not be invalidated after the goods have been released, except as otherwise provided in the Implementing Provisions of this Code.
3. Invalidation of the declaration shall be without prejudice to the application of the provisions provided for in Part VIII of this Code.

Article 92

(The date of acceptance)

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

Article 93

(Verification of the declaration)

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

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

Article 94

(Taking of samples)

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

¹⁴ Article amended by art. 13 of law no. 8473 dated 14.4.1999

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

Article 95¹⁵
(Partially control)

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

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

Article 96
(Usage of the results of verification)

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

Article 97
(The identification of the goods)

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

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

Article 98
(Released of the goods)

1. Without prejudice to Article 99, where the conditions for placing the goods under the

procedure in question are fulfilled and provided that the goods are not subject to any prohibitive or restrictive measures, the customs authorities shall release the goods as soon as the particulars in the declaration have been verified.

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

Article 99
(The payment of debt as condition to the release)

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

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

Article 100
(Regulation of the situation)

Customs authorities take any necessary measures, including confiscation and sale, shall be taken to deal with goods which:

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

¹⁵ Article amended by art. 14 of law no. 8473 dated 14.4.1999

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

B. OTHER DECLARATIONS

Article 101

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

C. POST-CLEARANCE EXAMINATION OF DECLARATIONS

Article 102

(The posteriori controls)

1. The customs authorities may, on their own initiative or at the request of the declarant, amend the declaration after release of the goods.

2. The customs authorities may, after releasing the goods and in order to satisfy themselves as to the accuracy of the particulars contained in the declaration, inspect the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document and data for business purposes. Those authorities may also examine the goods where it is still possible for them to be produced.

3. Where revision of the declaration or post-clearance examination indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs authorities, besides the implementation of the sanctions provided for in Part VIII of this Code, in accordance with any provisions laid down, take the measures necessary to regularize the situation, taking account of the new information available to them.

SECTION 2 RELEASE FOR FREE CIRCULATION

Article 103

(Changes of the status)

1. Release for free circulation shall confer on non-Albanian goods the customs status of Albanian goods.

2. It shall entail application of commercial policy measures; completion of the other formalities laid down in respect of the importation of goods and the charging of any import duties.

Article 104

(Mutual classification)

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

Article 105

(Supervising of the privileged goods)

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

2. Articles 111 and 113 shall apply *mutatis mutandis* to the goods referred to in paragraph 1.

Article 106

(Loosing of the Albanian status)

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

- a) the declaration for release for free circulation is invalidated after release of goods in accordance with Article 91, or
- b) the import duties payable on those goods are repaid or remitted:
 - i) under the inward processing procedure in the form of the draw back system; or

- ii) in respect of defective goods or goods which fail to comply with the terms of the contract, pursuant to Article 251; or
- iii) in situations of the type referred to in Article 252 where reimbursement or remission is conditional upon the goods being exported or re-exported or by giving an equivalent customs destination.

SECTION 3
SUSPENSE ARRANGEMENTS AND CUSTOMS
PROCEDURES WITH ECONOMIC IMPACT

A. PROVISIONS COMMON TO SEVERAL
PROCEDURES

Article 107
(Definitions)

1. In Articles 108 to 113:
 - a) when the term ‘suspensive procedure’ is used, it is understood as applying, in the case of non-Albanian goods, to the following arrangements:
 - i. transit;
 - ii. customs warehousing;
 - iii. inward processing in the form of a system of suspension;
 - iv. processing under customs control;
 - v. temporary importation;
 - b) when the term ‘customs economic procedure’ is used, it is understood as applying to the following procedure:
 - i. customs warehousing;
 - ii. inward processing;
 - iii. processing under customs control;
 - iv. temporary importation;
 - v. outward processing.
2. “Import goods” means goods placed under a suspensive procedure and goods, which, under the inward processing procedure in the form of drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Article 146.
3. ‘Goods in unaltered state’ means goods, which, under the inward processing procedure or

the procedures for processing under customs control, have undergone no form of processing.

Article 108
(Authorization)

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

Article 109
(Conditions for authorization)

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

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

Article 110
(Content of authorization)

1. The conditions under which the procedure in question is used shall be set out in the authorization.
2. The holder of the authorization shall notify the customs authorities of all factors arising after the authorization was granted which may influence its continuation or content.

Article 111
(Guaranties)

1. The customs authorities may make the placing of goods under a suspensive arrangement conditional upon the provision of security in order to ensure that any customs debt, which may be incurred in respect of those goods, will be paid.
2. Special provisions, concerning the provision of security for a specific suspensive arrangement are laid down in the sublegal acts for the implementation of this Code.

Article 112
(Closure of the procedure)

1. A suspensive economic procedure shall be terminated when a new customs destination is assigned either to the goods placed under that arrangement or to compensating or processed products placed under it.
2. The customs authorities shall take all the measures necessary to regularize the situation of

goods in respect of which a procedure has not been terminated under the conditions prescribed.

Article 113
(*Transfer of the rights and duties*)

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

B. TRANSIT

I. GENERAL PROVISIONS

Article 114
(*Transit meaning*)

1. The transit procedure shall allow the movement from one point to another within the customs territory of the Republic of Albania of:

- a) non-Albanian goods, without such goods being subject to import duties and other charges or to commercial policy measures;
- b) Albanian goods, which are subject to measures involving their export to other countries and in respect of which the corresponding customs formalities for export, have been carried out.

2. Movement as referred to in paragraph 1 shall take place:

- a) under the transit procedure; or
- b) under cover of a TIR carnet (TIR Convention) provided that such movement:
 - i) began or is to end outside the customs territory of the Republic of Albania;
 - ii) relates to consignments of goods which must be unloaded in the customs territory of the Republic of Albania and which are conveyed with goods to be unloaded in another country; or
- c) under cover of an ATA carnet (ATA Convention) used as a transit document; or
- d) by post (including parcel post).

3. The transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under an economic customs procedure.

Article 115
(*Closure of the procedure*)

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

II. SPECIFIC PROVISIONS RELATED TO TRANSIT

Article 116

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

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

Article 117
(*Guaranties*)

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

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

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

Article 118
(*Exceptions from the guaranties*)

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

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

- a) who are established in the Republic of Albania;

- b) who are regular users of the transit procedure;
 - c) whose financial situation is such that they can meet their commitments;
 - d) who have not committed any infringement of customs or fiscal laws; and
 - e) who, in accordance with the determined specimen form, undertake to pay, upon the first application in writing by the customs authorities, any sums claimed in respect of their transit operations.
3. The guarantee waiver granted in accordance with paragraphs 1 and 2 shall not apply to transit operations involving goods:
- a) of total value exceeding an amount determined in accordance with the sub-legal acts for the Implementation of this Code; or
 - b) which present increased risks because of the level of import duties, to which they are subject in the Republic of Albania.
4. The General Directorate of Customs, which grants the waiver, shall issue to each person obtaining it one or more copies of a guarantee waiver certificate.

Article 119

(The main responsible person)

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

Article 120

1. The detailed rules for the operation of the said procedure and the respective exemptions shall be determined in provisions laid down in the sub-legal acts for the Implementation of this Code.

2. Provided that the implementation of measures applying to goods is guaranteed, the Minister of Finance is entitled to establish simplified procedures in certain circumstances for goods not required to move on the territory of another country.

C. CUSTOMS WAREHOUSES

Article 121

(Custom Warehouse meaning)

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

Article 122

(Warehouse types and definitions)

1. A customs warehouse may be either a public warehouse or a private warehouse:
- a) "public warehouse" means a customs warehouse available for use by any person for the warehousing of goods;
 - b) "private warehouse" means a customs warehouse reserved only for the warehousing of goods by the warehousekeeper.
2. "The warehousekeeper" is the person authorized by the customs administration to administrate the customs warehouse.
3. "The depositor" shall be the person bound by the declaration placing the goods under the customs warehousing procedure or to whom the

rights and obligations of such a person have been transferred.

Article 123
(Authorization for the (regime) procedure)

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

Article 124
(The warehouse keeper responsibilities)

The warehouse keeper shall be responsible for:

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

Article 125
(The depositor responsibilities)

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

Article 126
(Transfer of the responsibilities)

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

Article 127
(Guaranty)

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

Article 128
(The registers of warehouse)

1. The person designated by the customs authorities shall keep stock records of all the goods placed under the customs warehousing procedure in a form approved by those authorities.
2. Subject to the application of Article 109, the customs authorities may dispense with stock records where the responsibilities referred to in Article 124 (a) and/or (b) lie exclusively with the depositor and the goods are placed under that procedure on the basis of a written declaration forming part of the normal procedure.

Article 129
(Distinctive cases)

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

- a) Albanian goods other than those referred to in Article 121 (1) (b) to be stored on the premises of a customs warehouse;
- b) non-Albanian goods to be processed on the premises of a customs warehouse under the inward processing procedure, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined in the sublegal acts in the implementation of this Code;
- c) non-Albanian goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure. The formalities, which may be dispensed within a customs warehouse, shall be determined in the sublegal acts in the implementation of this Code.

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

3. The customs authorities may require the goods referred to in paragraph 1 to be entered in the stock records provided for in Article 128.

Article 130
(Registration of goods)

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

Article 131
(Time depositing in the warehouse)

1. The goods may remain under the customs warehousing procedure for a period up to twelve months. The customs authorities, on the depositor's request, may accept an extension up to 12 other months.
2. However, where exceptional circumstances so warrant, the customs authorities may set, within reasonable limits, a shorter time limit by which the depositor must assign the goods a new customs destination.

Article 132
(Permitted treatments)

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

Article 133
(Temporary postpones from warehouse)

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

Article 134
(Transfer of goods)

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

Article 135
(Customs value of the warehousing goods)

1. When a customs debt is incurred in respect of import goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs need not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.
2. Where the said goods have undergone the usual forms of handling within the meaning of article 132, the type of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into account for the goods, at the time referred to in Article 229, if they had not undergone such handling.
3. However, derogation from paragraph 2 shall be determined in the sublegal acts of this Code, if necessary.

D. INWARD PROCESSING

I. GENERAL PROVISIONS

Article 136
(The meaning the inward processing procedure and other definitions)

1. Without prejudice to Article 137, the inward processing procedure shall allow the following goods to be used in the customs territory of the Republic of Albania in one or more processing operations:
 - a) non-Albanian goods intended for re-export from the customs territory of the Republic of Albania in the form of compensating products, without such goods being subject to import duties or commercial policy measures;
 - b) goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory of the Republic of Albania in the form of compensating products.
2. The following expressions shall have the following meanings:

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

II. GRANT OF THE AUTHORIZATION

Article 137

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

Article 138

(Limits in the issuing of the authorization)

The authorization shall be granted only:

- a) to persons established in the Republic of Albania. However, the authorization may be granted to persons established outside the country in respect of imports of a non-commercial nature;
- b) when, without prejudice to the use of goods referred to in Article 136(2)(c)(iv), the import goods can be identified in the compensating products.

- c) when the inward processing procedure may help create the most favorable conditions for the export or re-export of compensating products, provided that the essential interests of Albanian producers are not adversely affected (economic conditions).

III. OPERATION OF THE PROCEDURE

Article 139

(Time period for re-exportation)

1. The customs authorities shall specify the period within which the compensating products must have been exported, re-exported, or assigned another customs destination. That period shall take account of the time required to carry out the processing operations and dispose of the compensating products.

2. The period shall run from the date on which the non-Albanian goods are placed under the inward processing procedure. The customs authorities may grant an extension on submission of a duly substantiated request by the holder of the authorization.

Article 140

(Exploitation coefficient)

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

2. When circumstances so warrant and, in particular, in the case of processing operations customarily carried out under clearly defined technical conditions involving goods of substantially uniform characteristics and resulting in the production of compensating products of uniform quality, standard rate of yield is set in the sublegal acts of this Code, on the basis of actual data previously ascertained.

Article 141

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

Article 142

(The referring date for the debt payment)

1. Subject to Article 143, when a customs debt is incurred, the amount of such debt shall be

determined on the basis of the taxation elements appropriate to the import goods on the date of acceptance of the declaration for placing these goods under the inward processing procedure.

2. If at the time referred to in paragraph 1, the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the same date of acceptance of the declaration of release for free circulation.

Article 143

By way of derogation from Article 142, compensating products:

- a) shall be subject to import duties calculated in accordance with the rules applicable to the customs procedure in question or to free zones or free warehouses when they have been placed under a suspensive arrangement or in a free zone or free warehouse;

However,

- i. the person concerned may request that duty be assessed in accordance with Article 142;
- ii. in cases when the compensating products have been assigned a customs destination or use referred to above other than processing under customs control, the amount of the import duty and other charges levied shall be at least equal to the amount calculated in accordance with Article 142.

- b) may be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control when the import goods could have been under that procedure;
- c) shall enjoy favorable tariff treatment owing to the special use for which they are intended, when provision is made for such treatment in the case of identical goods;
- d) shall be admitted free of import duty when such duty - free provision is made in the case of identical goods imported in accordance with Article 199.

IV. PROCESSING PROCEDURES IN A FOREIGN COUNTRY

Article 144

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

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

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

V. SPECIAL PROVISIONS RELATING TO THE DRAWBACK SYSTEM

Article 145 (Drawback cases)

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

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

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

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

Article 146

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

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

Article 147

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

Article 148

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

Article 149
(The drawback conditions)

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

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

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

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

3. The period within which the application for repayment must be made shall be determined in the sub-legal acts in the implementation of this Code.

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

duties repaid or remitted shall be considered to constitute the amount of the customs debt.

E. PROCESSING UNDER CUSTOMS CONTROL

Article 150
(The meaning of process under the customs control)

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

Article 151
(The permitted processing's list)

The list of cases in which the procedure for processing under customs control may be used shall be determined in the sub-legal acts in the Implementation of this Code.

Article 152
(The authorization)

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

Article 153
(The authorization conditions)

Authorization shall be granted only:

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

essential interests of Albanian producers of similar goods (economic conditions) are fulfilled.

Article 154
(The procedure function)

Articles 139 and 140 shall apply *mutatis mutandis*.

Article 155
(Debt amount definition)

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

Article 156
(The preferential fiscal treatment)

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

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

F. TEMPORARY IMPORTATION

Article 157
(The temporary permission meaning)

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

Article 158
(Authorization)

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

Article 159
(The authorization conditions)

1. The customs authorities shall refuse to authorize use of the temporary permission procedure in case it is impossible to ensure that the import goods may be identified.

2. However, the customs authorities may authorize use of the temporary importation procedure without ensuring that the goods may be identified when, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure.

Article 160
(Re-import terms)

1. The customs authorities shall determine the period within which import goods must have been re-exported or assigned a new customs-approved treatment or use. Such period must be long enough for the objective of authorized use to be achieved.

2. Without prejudice to the special periods laid down in accordance with Article 161, the period during which goods may remain under the temporary importation procedure shall be 12 months. The customs authorities may, at a duly substantiated request of the person concerned, extend the periods referred to in paragraph 1 for a maximum period of another 12 months in order to permit the authorized use.

3. However, when exceptional circumstances so warrant, the customs authorities may, within reasonable limits, determine shorter periods with the agreement of the person concerned.

Article 161
(Specific conditions)

The cases and the special conditions under which the temporary importation procedure may be used

with total relief from import duties shall be determined in the sub legal acts in the Implementation Provisions of this Code.

Article 162

(Goods for which the temporary permission is granted)

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

2. The list of goods in respect of which the temporary permission procedure with partial relief from import duties may not be used shall be drawn up in the sub legal acts in the implementation of this Code.

Article 163

(The monthly debt amount)

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

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

3. Transfer of the rights and obligations deriving from the temporary permission procedure pursuant to Article 113 shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.

4. Where the transfer referred to in paragraph 3 is made with partial relief for both persons authorized to use the procedure during the same month, the holder of the initial authorization shall

be liable to pay the amount of import duties due for the whole of that month.

Article 164

(The references for the debt calculation)

1. Where a customs debt is incurred in respect of import goods, the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods at the time of acceptance of the declaration of their placing under the temporary importation procedure. However, where the provisions of Article 161 so provide, the amount of the debt shall be determined based on the taxation elements appropriate to the goods in question at the time referred to in Article 229.

2. When, for a reason other than the placing of goods under the temporary permission procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the said procedure, the amount of that debt shall be equal to the difference between the amount of duties calculated pursuant to paragraph 1 and that payable pursuant to Article 163.

G. OUTWARD PROCESSING

I. GENERAL PROVISIONS

Article 165¹⁶

(The outward processing meaning)

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

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

3. The following definitions shall apply:

- a) ‘temporary export goods’ means goods placed under the outward processing procedure;

¹⁶ *Article amended by art. 15 of law no. 8473 dated 14.4.1999*

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

Article 166
(Conditions to be placed under the outward processing)

1. The outward processing procedure shall not be open to Albanian goods:
 - a) whose export gives rise to repayment or remission of import duties;
 - b) which, prior to export, were released for free circulation with total relief from import duties by virtue of end use, for as long as the conditions for granting such relief continue to apply;
 - c) whose export gives rise to the granting of export refunds or financial advantages given in this case.
2. However, derogation from paragraph 1 (b) may be determined in provisions enacted by the Minister of Finance.

II. GRANT OF THE AUTHORIZATION

Article 167
(Issuing of the authorization)

1. Authorization to use the outward processing procedure shall be issued at the request of the person who arranges for the processing operations to be carried out.
2. By way of derogation from paragraph 1, authorization to use the outward processing procedure may be granted to another person in respect of goods of Albanian origin within the meaning of Title II, Chapter 2, Section 1, when the processing operation consists in incorporating those goods into goods obtained outside the customs territory of the Republic of Albania and imported as compensating products, provided that the use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of Albanian producers of products

identical or similar to the imported compensating products.

3. The cases in which and the arrangements under which the preceding paragraphs shall apply are determined in the sub legal acts in the implementation of this Code.

Article 168
(The conditions for the issuing of the authorization)

Authorization shall be granted only:

- a) to persons established in the Republic of Albania;
- b) when it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods. The cases in which derogation from this subparagraph may apply and the conditions under which such derogation shall apply shall be determined in the sublegal acts in the implementation of this Code;
- c) when authorization to use the outward processing procedure is not liable seriously to harm the essential interests of Albanian producers and processors (economic conditions).

III. FUNCTIONING OF THE PROCEDURE

Article 169
(The terms for re-import)

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

Article 170
(Exceptions from the import obligations)

1. The total or partial relief from import duties provided for in Article 171 (1) shall be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:
 - a) the holder of the authorization, or
 - b) any other person established in the Republic of Albania provided that that

person has obtained the consent of the holder of the authorization and the conditions of the authorization are fulfilled.

2. The total or partial relief from import duties provided for in Article 171 shall not be granted where one of the conditions or obligations relating to the outward processing procedure is not fulfilled, unless it is established that the failures have no significant effect on the correct functioning of the said procedure.

Article 171

(The import obligations calculation)

1. The total or partial relief from import duties provided for in Article 165 shall be effected by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into the customs territory of the Republic of Albania from the country in which they underwent the processing operation or last processing operation.

2. The amount to be deducted pursuant to paragraph 1 shall be calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration relating to the release for free circulation of the compensating products. The value of the temporary export goods shall be that taken into account for those goods in determining the customs value of the compensating products in accordance with Article 37 (1) (b) (i) or, if the value may not be determined in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means.

However,

- a) certain charges specified in the sub legal acts in the implementation of this Code shall not be taken into account in calculating the amount to be deducted;
- b) when, prior to being placed under the outward processing procedure, the temporary export goods were released for free circulation at a reduced rate by virtue of their specific use, and for as long as conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the

amount of import duties actually levied when the goods were released for free circulation.

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

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

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

Article 172

(Free repaired goods)

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

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

Article 173

(The goods repaired by paying)

When the purpose of the processing operation is the repair of temporary export goods and such repair is carried out in return for payment, the partial relief from import duties provided for in Article 165 shall be granted by establishing the amount of the duties applicable on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of release for free circulation of those products and taking into account as the customs

value an amount equal to the repair costs, provided that those costs represent the only consideration provided by the holder of the authorization and are not influenced by any links between that holder and the operator.

IV. OUTWARD PROCESSING WITH USE OF THE STANDARD EXCHANGE SYSTEM

Article 174

1. Under the conditions laid down in Articles 174 to 179, which are applicable in addition to the preceding provisions, the standard exchange system shall permit an imported product, hereinafter referred to as a ‘replacement product’, to replace a compensating product.

2. The customs authorities shall allow the standard exchange system to be used where the processing operation involves the repair of Albanian goods.

3. Without prejudice to Article 179, the provisions applicable to compensating products shall also apply to replacement products.

4. The customs authorities shall, under the conditions they lay down, permit replacement products to be imported before the temporary export goods are exported (prior importation). In case of prior importation of a replacement, security shall be provided to cover the amount of the import duties.

Article 175

(Substitute product characteristics)

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

2. When the temporary export goods have been used before export, the replacement products must also have been used and may not be new products. The customs authorities may, however, grant derogation from this rule if the replacement product has been supplied free of charge either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

Article 176

(Conditions for authorization)

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

Article 177

(Terms of Export)

1. In the case of prior importation, the export goods shall be temporarily exported within a period of two months from the date of acceptance by the customs authorities of the declaration relating to the release of the replacement products for free circulation.

2. However, when exceptional circumstances so warrant, the customs authorities may, at the request of the person concerned, extend within reasonable limits the period referred to in paragraph 1.

Article 178

(The amount to be deduced in the prior import)

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

Article 179

(Limits in applying)

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

V. OTHER PROVISIONS

Article 180

(The outward processing and the trade policy measures)

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

SECTION 4

EXPORT

Article 181

(The export meaning)

1. The export procedure shall allow Albanian goods to leave the customs territory of the Republic of Albania. Exportation shall entail the application of exit formalities including commercial policy measures and, when appropriate, export duties.

2. With the exception of goods placed under the outward processing procedure, all Albanian goods intended for export shall be placed under the export procedure.

3. The case in which and the conditions under which goods leaving the customs territory of the Republic of Albania are not subject to an export declaration shall be determined in the in the sublegal acts in the implementation of this Code and provisions enacted by the Minister of Finance, if necessary.

4. The export declaration must be lodged at the customs office responsible for supervising the place where the exporter is established or when the goods are packed or loaded for export shipment. Derogation shall be determined in the sublegal acts in the implementation of this Code, if necessary.

Article 182
(Release for export)

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

CHAPTER 3
OTHER TYPES OF CUSTOMS-
APPROVED TREATMENT OR USE

SECTION 1
FREE ZONES AND FREE WAREHOUSES

A. GENERAL PROVISIONS

Article 183
(The free zones meaning)

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

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

Article 184
(Free zones designation)

1. The Council of Ministers may designate parts of the customs territory of the Republic of Albania as free zones. The construction of any building in a free zone shall require the prior approval of the Minister of Finance. The Minister of Finance approves the establishment of free warehouses.

2. The Council of Ministers shall determine the area covered by each free zone.

3. Free zones shall be carefully defined and enclosed. The Council of Ministers shall define the entry and exit points of each free zone. The Minister of Finance shall define the entry and exit points of each free warehouse.

Article 185
(Customs supervising in the free zones)

1. The borders and the entry and exit points of free zones and free warehouses shall be subject to supervision by the customs authorities.

2. Persons and means of transport entering or leaving a free zone or free warehouse may be subjected to a customs check.

3. Access to a free zone or free warehouse may be denied to persons who do not provide every guarantee necessary for compliance with the rules provided for in this Code.

4. When goods enter or leave a free warehouse, a copy of the transport document, which shall accompany those goods, shall be handed to the customs authority. When goods enter or leave a free zone, a copy of the transport document, which shall accompany those goods, shall be kept to the disposal of the customs authority. The customs authorities may check goods entering, remaining, or leaving in a free zone or free warehouse. When such checks are required, the goods shall be made available to those authorities.

B. PLACING OF GOODS IN FREE ZONES OR FREE WAREHOUSES

Article 186

1. Both Albanian and non-Albanian goods may be placed in a free zone or free warehouse.

2. However, the customs authorities may require that goods which present a danger or are likely to spoil other goods or which, for other

reasons, require special facilities be placed in premises specially equipped to receive them.

Article 187
(*Customs formalities*)

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

C. FUNCTIONING OF FREE ZONES AND FREE WAREHOUSES

Article 188
(*Time limits*)

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

Article 189
(*The authorization to act*)

1. Any industrial, commercial or service activity shall, under the conditions laid down in this Code, be authorized in a free zone or free warehouse. The carrying on of such activities shall be notified in advance to the customs authorities.
2. The customs authorities may impose certain prohibitions or restrictions on the activities referred to in paragraph 1, having regard to the

nature of the goods concerned or to the requirements of customs supervision.

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

Article 190
(*Possible destinations*)

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

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

Article 191
(*Limits to usage and consume*)

1. Where Article 190 is not applied, non-Albanian goods and the Albanian goods referred to in Article 183 (b) shall not be consumed or used in free zones or in free warehouses.
2. Without prejudice to the provisions applicable to supplies or stores, where the procedure concerned so provides, paragraph 1 shall not preclude the use or consumption of goods, the

release for free circulation or temporary permission of which would not entail application of import duties or measures under commercial policy. In that event, no declaration of release for free circulation or temporary permission shall be required. Such declaration shall, however, be required if such goods are to be charged against a quota or ceiling.

Article 192
(Approved registers)

1. All persons carrying on an activity involving the storage, working or processing, or sale or purchase, of goods in a free zone or free warehouse shall keep stock records in a form approved by the customs authorities. Goods shall be entered in the stock records as soon as they are brought into the premises of such person. The stock records must enable the customs authorities to identify the goods, and must record their movements.

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

D. EXIT OF GOODS FROM FREE ZONES OR FREE WAREHOUSES

Article 193
(Exit from free zones or free warehouse)

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

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

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

Article 194
(Customs value)

1. When a customs debt is incurred in respect of non-Albanian goods and the customs value of

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

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

Article 195
(The customs status certificate)

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

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

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

Article 196

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

SECTION 2
RE-EXPORTATION, DESTRUCTION AND
ABANDONMENT

Article 197¹⁷

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

¹⁷ Article amended by art. 16 of law no. 8473 dated 14.4.1999

TITLE V

GOODS LEAVING THE CUSTOMS TERRITORY OF THE REPUBLIC OF ALBANIA

Article 198

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

2. Goods leaving the customs territory of the Republic of Albania should be presented at the competent border customs office, according to the means of transport, where they are subject to all the controls and formalities considered necessary to verify whether the export duties have been paid as well as to record on the accompanying customs documents, when circumstances so warrant, the exit of the goods by the said territory.

TITLE VI

PRIVILEGED OPERATIONS

CHAPTER 1

RELIEF FROM CUSTOMS DUTY

Article 199¹⁸

1. Relief from import duties is granted in the cases referred to in paragraph 2, or when necessary, by specific law. The manner, the quantitative and value-based limits, the formalities, and the conditions on which relief from import duties is granted are laid down in the sub legal act in the implementation of the Code.

2. Relief from import duties is granted in the following cases:

- a) personal property belonging to natural persons transferring their normal place of residence from another country to the Republic of Albania;
- b) goods imported on occasion of marriage;
- c) personal property acquired by inheritance;
- d) school outfits, scholastic materials and other scholastic household effects for use by pupils or students, having no commercial character;

- e) consignment of negligible value;
- f) goods contained in traveler's personal luggage;
- g) laboratory animals and biological or chemical substances needed for research;
- h) therapeutic substances of human origin and blood grouping and tissue typing reagents, human organs for transplants;
- i) reference substances for the quality control of medicinal products;
- j) pharmaceuticals products used at international sport event to be held in the customs territory of the Republic of Albania;
- k) goods for charitable, philanthropic, or assistance purposes for charitable organizations, religious institutions, public entities, as well as budget funded state entities;
- l) honorary decorations or awards;
- m) presents received in the context of international relations;
- n) goods to be used by the head of state;

¹⁸ *Article amended by art. 17 of law no. 8473 dated 14.4.1999*

- o) goods imported for trade promotion purposes and activities' publicity;
- p) consignments sent to organizations protecting copyrights or industrial or commercial patent rights;
- q) tourist information literature;
- r) miscellaneous documents and articles, as detailed in the sub legal act in the implementation of this Code;
- s) ancillary materials for the stowage and protection of goods during their transport;
- t) litter, fodder and feeding stuff for animals during their transport;
- u) fuel and lubricants present in motor vehicles;
- v) coffins, funerary urns, and their ornaments or funerary articles of them, as well as materials for construction, maintenance, and ornamentation of memorials to or cemeteries for, war victims.
- x) stores and necessary equipment for the normal function of means of transport.

3. Relief from import duties is given also in every other case provided for in bilateral or multilateral agreements signed by the government of the Republic of Albania and ratified by the People's Assembly, for as much as these agreements explicitly provide for relief from import duties.

4. The Minister of Finance may authorize opening of duty free shops in the ports and airports of the customs area or the customs territory of the Republic of Albania for the sale of products with relief from import duties. The formalities and procedures followed in these cases are laid down in the sub legal act in the implementation of this Code.

CHAPTER 2 RETURNED GOODS

Article 200

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

However:

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

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

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

Article 201

(Conditions for granting the relief)

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

Article 202

1. Articles 200 and 201 shall apply *mutatis mutandis* to compensating products originally exported or re-exported subsequent to an inward processing procedure.

The amount of import duty legally owed shall be determined based on the rules applicable under the inward processing procedure, the date of re-export

being regarded as the date of release for free circulation.

**CHAPTER 3
PRODUCTS OF SEA-FISHING AND
OTHER PRODUCTS TAKEN FROM THE
SEA**

Article 203

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

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

**TITLE VII
CUSTOMS DEBT**

**CHAPTER 1
SECURITY TO COVER CUSTOMS DEBT**

Article 204

(The persons that provides securities)

1. Where, in accordance with the customs rules, the customs authorities require security to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable or who may become liable for that debt.

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

3. The customs authorities may authorize the security be provided by a person other than the person from whom it is required.

Article 205

(The optional securities)

1. When customs rules provide that the provision of security is optional, such security shall be required at the discretion of the customs authorities in so far as they consider that a customs debt which has been or may be incurred is not certain to be paid within the prescribed period. When the security referred to in the preceding sentence is not required, the customs authorities may nevertheless require from the person referred to in Article 204(1) an undertaking to comply with the obligations which that person is legally obliged to fulfill.

2. The security referred to in the above paragraph shall be required:

- a) at the time of application of the provisions requiring such security to be provided, or
- b) at any subsequent time when the customs authorities find that the customs debt, which has been or may be incurred is not certain to be paid within the prescribed period.

Article 206

(The comprehensive security limits)

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

Article 207

(The securities amount)

1. Where the customs rules make it compulsory for security to be provided, the customs authorities shall fix the amount of such security at a level equal to:

- a) the precise amount of the customs debt or debts in question where that amount may be established with certainty at the time when the security is required,
- b) the maximum amount, as estimated by the customs authorities, of the customs debt or debts, which have been or may be incurred.

When comprehensive security is provided for customs debts which vary in amount over time, the amount of such security shall be set at a level

enabling the customs debts in question to be covered at all times.

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

*Article 208
(The security forms)*

Security may be provided by either:

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

*Article 209
(The money deposits)*

1. A cash deposit shall be made in the official currency of the Republic of Albania.

2. The following shall be deemed equivalent to a cash deposit:

- a) submission of a check, the payment of which is guaranteed by the institution on which it is drawn in any manner acceptable to the customs authorities,
- b) submission of any other instrument recognized by the customs authorities as a means of payment.

3. Security in the form of a cash deposit or payment deemed equivalent to cash deposit shall be given in accordance with the provisions in force.

*Article 210
(Guarantee)*

1. The guarantor shall undertake in writing to pay jointly and severally with the debtor the secured amount of a customs debt, which falls to be paid.

2. The guarantor must be a third person established in the Republic of Albania and approved by the customs authorities.

3. The customs authorities may refuse to approve the guarantor or type of security proposed where the latter do not appear certain to ensure payment of the customs debt within the prescribed period.

*Article 211¹⁹
(The selection of the securities type)*

1. When the dispositions provide so, in accordance with the sub legal act in the implementation of this Code, The person required to provide security shall be free to choose between the types of security laid down in Article 208.

2. Without prejudice to the sub legal acts in the implementation of this Code, the customs authorities may refuse to accept the type of security proposed when it does not comply with the normal function of the said procedure. The same procedure shall be applied relating to the proposed security. The customs authorities may require that the type of security chosen be maintained for a specific period.

*Article 212²⁰
(Other types of securities)*

1. The customs authorities may accept types of security other than those referred to in Article 208 and the sub legal acts in the implementation of this Code, only where they provide equivalent assurance that the customs debt will be paid.

2. The customs authorities shall refuse the security proposed by the debtor when they do not consider that such security is certain to ensure payment of the customs debt.

3. Subject to the reservation referred to in the second paragraph, the customs authorities may accept a cash deposit without the conditions laid down in Article 209 (1) being fulfilled.

*Article 213
(Additional securities)*

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

*Article 214
(Release of Security)*

1. The security shall not be released until the customs debt in respect of which it was given is extinguished or can no longer arise. Once the customs debt is extinguished or can no longer arise, the security shall be released forthwith.

2. Once the customs debt has been extinguished in part or can arise only in respect of part of the amount which has been secured, part of

¹⁹ Article amended by art. 18 of law no. 8473 dated 14.4.1999

²⁰ Article amended by art. 19 of law no. 8473 dated 14.4.1999

the security shall be released accordingly at the request of the person concerned, unless the amount involved does not justify such action.

Article 215
(*Exceptions*)

Derogation from the provisions contained in this Chapter shall, when necessary, be made only when International Conventions, in which the Republic of Albania has adhered, provide otherwise.

CHAPTER 2
INCURRENCE OF A CUSTOMS DEBT

Article 216
(*Internal consummation*)

1. A customs debt on importation shall be incurred through:

- a) the release for free circulation of goods liable to import duties; or
- b) the placing of such goods under the temporary permission procedure with partial relief from import duties.

2. A customs debt shall be incurred at the date of acceptance of the customs declaration in question.

3. The debtor shall be the declarant. In case of indirect representation, the person on whose behalf the customs declaration is made shall also be a debtor. When a customs declaration in respect of one of the procedures referred to in paragraph 1 is drawn up on the basis of information which leads to all or part of the duties legally owed not being collected, the persons who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known that such information was false, may also be considered debtors in accordance with the provisions in force.

Article 217
(*Unlawful Introduction*)

1. A customs debt on importation shall be incurred through:

- a) the unlawful introduction into the customs territory of the Republic of Albania of goods liable to import duties, or
- b) the unlawful introduction into another part of that territory of such goods located in a free zone or free warehouse.

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

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

3. The debtors shall be:

- a) the person who introduced such goods unlawfully,
- b) any persons who participated in the unlawful introduction of the goods and who were aware or should reasonably have been aware that such introduction was unlawful, and
- c) any persons who acquired or held the goods in question and who were aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

Article 218
(*Removal from Supervision*)

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

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

3. The debtors shall be:

- a) the person who removed the goods from customs supervision,
- b) any persons who participated in such removal and who were aware or should reasonably have been aware that the goods were being removed from customs supervision,
- c) any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been removed from customs supervision, and
- d) when appropriate, the person required to fulfill the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods are placed.

Article 219
(*Non-compliance of determined Obligations*)

1. A customs debt on importation shall be incurred through:

- a) non-fulfillment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or
- b) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the specific use of the goods,

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

2. The customs debt shall be incurred either at the moment when the obligation whose non-fulfillment gives rise to the customs debt ceases to be met or at the moment when the goods are placed under the customs procedure concerned when it is established subsequently that a condition governing the placing of the goods under the said procedure or the granting of a reduced or zero rate of import duty by virtue of the specific use of the goods was not in fact fulfilled.

3. The debtor shall be the person who is required, according to the circumstances, either to fulfill the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they have been placed, or to comply with the conditions governing the placing of the goods under that procedure.

*Article 220
(Consume in the free zone)*

1. A customs debt on importation shall be incurred through the consumption or use, in a free zone or a free warehouse, of goods liable to import duties, under conditions other than those laid down by the legislation in force. Where goods disappear and when their disappearance cannot be explained to the satisfaction of the customs authorities, those authorities may regard the goods as having been consumed or used in the free zone or the free warehouse.

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

3. The debtor shall be the person who consumed or used the goods and any persons who participated in such consumption or use and who were aware or should reasonably have been aware that the goods were being consumed or used under conditions other than those laid down by the legislation in force. When customs authorities regard goods which have disappeared as having been consumed or used in the free zone or the free warehouse and it is not possible to apply the preceding sentence, the person liable for payment of the customs debt shall be the last person known to these authorities to have been in possession of the goods.

*Article 221
(Non occurrence of Debt)*

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

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

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

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

Article 222

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

Article 223

When in accordance with Article 218 or 219 a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their specific use, the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt. This provision shall apply *mutatis mutandis* when a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

Article 224

(Exportation of Goods with Export Obligations)

1. A customs debt on exportation shall be incurred through the exportation from the customs territory of the Republic of Albania, under cover of a customs declaration, of goods liable to export duties.
2. The customs debt shall be incurred at the time when such customs declaration is accepted.
3. The debtor shall be the declarant. In case of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

Article 225

(Removal without declaration)

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

Article 226

(Failure to comply with the exportation conditions)

1. A customs debt on exportation shall be incurred through failure to comply with the conditions under which the goods were allowed to leave the customs territory of the Republic of Albania with total or partial relief from export duties.
2. The debt shall be incurred at the time when the goods reach a destination other than that for which they were allowed to leave the customs

territory of the Republic of Albania with total or partial relief from export duties, or, should the customs authorities be unable to determine that time, the expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

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

Article 227

(Custom debt and prohibited measures)

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

Article 228

(Personal and mutual responsibility)

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

Article 229

1. Save as otherwise expressly provided by this Code and without prejudice to paragraph 2, the amount of the import duty or export duty applicable to goods shall be determined on the basis of the rules of assessment appropriate to those goods at the time when the customs debt in respect of them is incurred.

2. Where it is not possible to determine precisely when the customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the time when the customs authorities conclude that the goods are in a situation in which a customs debt is incurred. However, where the information available to the customs authorities enables them to establish that the customs debt was incurred prior to the time

when they reached that conclusion, the amount of the import duty or export duty payable on the goods in question shall be determined on the basis of the rules of assessment appropriate to the goods at the earliest time when existence of the customs debt arising from the situation may be established from the information available.

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

Article 230

(The place where the debt is incurred)

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

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

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

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

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

Article 231

(The debt and the preferential treatment)

1. In so far as existing agreements concluded between the Republic of Albania and certain foreign countries provide for the granting on importation into those countries of preferential tariff treatment for goods originating in the Republic of Albania within the meaning of such agreements, on condition that, where they have been obtained under the inward processing procedure, non-Albanian goods incorporated in the said originating goods are subject to payment of the

import duties payable thereon, the validation of the documents necessary to enable such preferential tariff treatment to be obtained in foreign countries shall cause a customs debt on importation to be incurred.

2. The moment when such customs debt is incurred shall be deemed to be the moment when the customs authorities accept the export declaration relating to the goods in question.

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

4. The amount of the import duties corresponding to this customs debt shall be determined under the same conditions as in the case of a customs debt resulting from the acceptance, on the same date, of the declaration for release for free circulation of the goods concerned for the purpose of terminating the inward processing procedure.

CHAPTER 3

RECOVERY OF THE AMOUNT OF THE CUSTOMS DEBT

SECTION 1

ENTRY IN THE ACCOUNTS AND COMMUNICATION OF THE AMOUNT OF DUTY TO THE DEBTOR

Article 232

(The obligation for entry in the accounts)

1. Each and every amount of import duty or export duty resulting from a customs debt, hereinafter called ‘amount of duty’, shall be calculated by the customs authorities as soon as they have the necessary particulars, and entered by those authorities in the accounting records or on any other equivalent medium (entry in the accounts).

2. The first paragraph shall not apply:

- a) when a provisional anti-dumping or countervailing duty has been introduced through another specific law
- b) when the amount of duty legally due exceeds that determined on the basis of a binding tariff information;
- c) when the provisions adopted in the sub legal acts in the implementation of this Code waive the requirement for the customs authorities to enter in the accounts amounts of duty below a given level.

3. The practical procedures for the entry in the accounts of the amounts of duty shall be determined in accordance with the sub legal acts in the implementation of this Code.

Article 233
(The accounts time period)

1. When a customs debt is incurred as a result of the acceptance of the declaration of goods for a customs procedure other than temporary permission with partial relief from import duties or any other act having the same legal effect as such acceptance the amount corresponding to such customs debt shall be entered in the accounts as soon as it has been calculated and, at the latest, on the second day following that on which the goods were released. However, provided that payment has been secured, the total amount of duty relating to all the goods released to one and the same person during a period fixed by the customs authorities, which may not exceed 31 days, may be covered by a single entry in the accounts at the end of the period. Such entry in the accounts shall take place within 5 days from expire of the period in question.

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

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

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

Article 234
(Extend of the account term)

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

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

Article 235
(Differences in the accounts' entry)

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

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

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

Article 236
(Announcement of debtor)

1. As soon as it has been entered in the accounts, the amount of duty shall be communicated to the debtor in accordance with appropriate procedures described in the sub legal acts in the implementation of this Code.

2. When the amount of duty payable has been entered, for guidance, in the customs declaration, the customs authorities may specify that it shall not be communicated in accordance with paragraph 1

unless the amount of duty indicated does not correspond to the amount determined by the authorities.

3. Communication to the debtor shall not take place after the expire of a period of three years from the date on which the customs debt was incurred. But, when for reasons of a penal proceeding, the customs authorities are not able to determine the exact amount of the duties legally due, the debtor may be notified even after the expire of the three year period.

SECTION 2

TIME LIMIT AND PROCEDURES FOR PAYMENT OF THE AMOUNT OF DUTY

Article 237

(The payment Terms)

1. Amounts of duty communicated in accordance with Article 236 shall be paid by debtors within the following terms:

- a) if the person is not entitled to any of the payment facilities laid down in the sub legal acts in the implementation of this Code, payment shall be made within the term prescribed. An extension shall be granted automatically where it is established that the person concerned received the communication too late to enable him to make payment within the term prescribed. The customs authorities at the request of the debtor may also grant extension of the period where the amount of duty to be paid results from action for post-clearance recovery. Such extended time limit shall not exceed 10 days;
- b) if the person is entitled to any of the payment facilities laid down in the sub legal acts in the implementation of this Code, payment shall be made no later than the expire of the period or periods specified in relation to those facilities.

2. When an application for the remission of duty is made in accordance with Article 250, 251 or 252 or when goods are seized with a view to subsequent confiscation in accordance with Article 246 (b), (c) (ii), or (d), the debtors obligation to pay duty shall be subsequent in accordance with conditions laid down in the sub legal acts in the implementation of this Code.

Article 238

(The way of payment)

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

Article 239

(Postponement of the payment term)

Provided the amount of duty payable by the person concerned relates to goods declared for a customs procedure which entails the obligation to pay such duty, the customs authorities shall, at the person's request, grant deferment of payment of that amount under the conditions laid down in Articles 240, 241 and 242.

Article 240

(Postponement Conditions)

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

Article 241

(Postponement Procedures)

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

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

Article 242

(Calculation of the postponed term)

1. The term for which payment is deferred shall be 30 days. It shall be calculated as follows:
 - a) when payment is deferred in accordance with Article 241 (a), the term shall be calculated from the day following the date on which the amount of duty is entered in the accounts by the customs authorities. When Article 234 is applied, the term of 30

days calculated in accordance with the preceding subparagraph shall be reduced by the number of days corresponding to the period in excess of two days used to enter the amount in the accounts;

- b) when payment is postponed in accordance with Article 241 (b), the term shall be calculated from the day following the date on which the aggregation accounts' term expires. It shall be reduced by the number of days corresponding to half the number of days in the aggregation accounts' term;
- c) when payment is postponed in accordance with Article 241 (c), the term shall be calculated from the date following the expire date of the term during which the goods in question were released. It shall be reduced by the number of days corresponding to half the number of days in the term concerned.

2. When the number of days in the term referred to in paragraph 1(b) and (c) is an odd number, the number of days to be calculated from the 30-day term pursuant to paragraph 1(b) and (c) shall be equal to half the previous lowest even number.

3. To simplify matters, when the periods referred to in paragraph 1(b) and (c) are a calendar week or a calendar month, the customs authorities may provide that the amount of duty in respect of which payment has been postponed shall be paid:

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

*Article 243
(Other facilities for payment)*

1. The customs authorities may grant the debtor payment facilities other than the postponed payment. The granting of such payment facilities shall:

- a) be conditional on the provision of security. However, such security need not be required where to require it would, because of the situation of the debtor, create serious economic or social difficulties;
- b) result in credit interest being charged over and above the amount of duty. The amount of such interest shall be calculated in such

a way that it is equivalent to the amount which would be charged for this purpose in Lek.

2. Whatever the payment facilities granted to the debtor as laid down in the sub legal acts in the implementation of this Code, the latter may in any case pay all or part of the amount of duty without awaiting expire of the term he has been granted for payment.

*Article 244
(Third party)*

A third person instead of the debtor may pay an amount of duty owed.

*Article 245
(Non payment within the prescribed term)*

1. When the amount of duty due has not been paid within the prescribed period:

- a) the customs authorities shall avail themselves of all options open to them under the legislation in force, to secure the payment of the customs debt. Special provisions shall be provided for in the sub-legal acts in the implementation of this Code, in respect of guarantors within the framework of the transit procedure;
- b) interest on arrears shall be charged over and above the amount of duty. The rate of interest on arrears may be higher than the rate of credit interest. It may not be lower than that rate.

2. In case a custom debt is born, the customs authorities, in order to secure the payment of the debt may undertake the following measures:

- a) seizure on the monetary values, on credits, precious objects, documents through which payments are effected, foreign documents deposited in banks, either property of the debtor or of a third person or a guarantor that have obligations towards the debtor.
- b) Seizure on the goods, movable and immovable properties of the debtor, or a third party, or a guarantor, that have obligations towards the debtor.

3. The customs authorities may require from the competent authorities, to suspend of the economical activity of the debtor, related to import, export, or the transit of the goods or other productive activities, for the exercise of which the debtor is registered at the tax authorities.

4. The decisions taken from the customs administration, to ensure the application of the guaranty measures and/or forced repayment of the custom debt, are considered Executive titles as soon as they are communicated to the debtor. The execution of the above decisions is made in accordance with the provisions foreseen in the articles 511 and following of the Procedural Civil Code. The executive titles issued by the custom administration once the execution order is issued by competent judicial authorities, may be applied directly from the customs bodies.

CHAPTER 4 EXTINCTION OF CUSTOMS DEBT

Article 246²¹

1. Without prejudice to the provisions in force relating to the prescription of a customs debt and non-recovery of such a debt in case of the insolvency of the debtor, proved by a Court decision, a customs debt shall be extinguished:

- a) by payment of the amount of duty;
- b) by remission of the amount of duty;
- c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties:
 - i) the customs declaration is invalidated in accordance with Article 91,
 - v) the goods, before their release, are either seized and simultaneously or subsequently confiscated, destroyed on the instructions of the customs authorities, destroyed or abandoned in accordance with Article 197, or destroyed or irretrievably lost as a result of their actual nature of unforeseeable circumstances or force majeure;
- d) when goods in respect of which a customs debt is incurred in accordance with, Article 217 are seized upon their unlawful introduction and are simultaneously or subsequently confiscated.

2. In the event of seizure and confiscation, the customs debt shall, nonetheless for the purposes of the criminal law applicable to customs offenses, be deemed not to have been extinguished where, under Part VIII of this Code, customs duties provide the basis for determining penalties or the

existence of a customs debt is a ground for taking criminal proceedings.

Article 247

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

CHAPTER 5 REPAYMENT AND REMISSION OF DUTY

Article 248 (Definitions)

The following definitions shall apply:

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

Article 249 (Repayment from inaccuracies)

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

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

²¹ Article amended by art. 20 of law no. 8473 dated 14.4.1999

themselves discover within this period that one or other of the situations described in the first and second sentences of paragraph 1 exists, they shall repay or remit on their own initiative.

Article 250

(Repayment by the invalidity of declaration)

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

Article 251

(Repayment for the defective goods)

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

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

- a) the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or do not comply with the terms of the contract;
- b) the goods are exported from the customs territory of the Republic of Albania.

At the request of the person concerned, the customs authorities shall permit the goods to be destroyed or to be placed, for the purposes of their re-exportation, under the transit procedure or the customs warehousing procedure or in a free zone or free warehouse, instead of being exported. For the purposes of being assigned one of the customs-approved treatments or uses provided for in the preceding subparagraph, the goods shall be deemed to be non-Albanian goods.

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

normally have been detected in the course of such tests.

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

Article 252

(Other cases of repayment)

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

- a) to be determined in the sub-legal acts in implementation of this Code;
- b) resulting from circumstances in which no deception or obvious negligence may be attributed to the person concerned. The situation in which this provision may be applied and the procedures to be followed to that end shall be defined in the sub-legal acts in implementation of this Code. Repayment or remission may be made subject to special conditions.

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

Article 253

(Limit of the amounts to be repaid)

Import or export duties shall be repaid or remitted under the conditions laid down in this chapter only if the amount to be repaid or remitted exceeds an amount fixed in accordance with the sub-legal acts in implementation of this Code.

Article 254

(Interests and arrears)

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

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

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

Article 255

(Repayments and remitted payments by error)

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

TITLE VIII CUSTOMS VIOLATIONS AND SANCTIONS

CHAPTER 1 GENERAL PROVISIONS AND DEFINITIONS

*Article 256²²
(Classification of violations)*

1. Customs violations consist of:
 - a) administrative customs violations;
 - b) smuggling.
2. Any act or omission which does not comply with the provisions of this Code and its sub-legal acts in implementation of it, and other dispositions in force, is considered an administrative customs violation and is punished as such, save in cases of force majeure.
3. Subtracting by any means of goods from the customs control and/or supervision of goods, with the intention of evading or attempting to evade the payment of import and export duties legally due as referred to in Article 276 until 280, and any of the behaviors referred to in the same Articles, are considered smuggling and punished as such.
4. The payment of penalties applied for customs violations, will in no case exempt the violator from the payment of customs duties legally due for the goods subject of the violation.

CHAPTER 2 ADMINISTRATIVE CUSTOMS VIOLATIONS

*Article 257
(Different quantities indicated in the manifest)*

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation, the indication in the cargo manifest of a vessel or an aircraft, of a quantity of goods different from that verified by the customs authorities.
2. A fine of 10.000 Lek for each package, or a fine of 30.000 Lek for each ton, when the cargo is in bulk, will be applied to the captain of the vessel or aircraft who commits such a violation.
3. For the purposes of this Article, when the exceeding packages have the same marks and numerical figures as the packages declared in the manifest, shall be considered as non indicated packages, only the ones to which is corresponding an higher duties tariff classification.
4. When the verified differences are smaller than 5% of the quantity indicated in the manifest, no sanction will be applied.

*Article 258
(Violations made by the captain of the vessel)*

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

²² *Article amended by art. 21 of law no. 8473 dated 14.4.1999*

-
- a) delaying the presentation of the manifest. A fine of 40.000 Lek for each 5 hours of delay will be applied. The hours that the competent customs authority is not open will not be calculated;
- b) refusing to receive customs authorities on board. A fine of 300.000 Lek to 500.000 Lek will be applied;
- c) departing without the permission of customs authorities. A fine of 300.000 Lek to 500.000 Lek will be applied;
2. The fines referred to in this Article are applied regardless of any other sanctions applicable for the same or similar reasons as provided for by the legislation on maritime navigation.

Article 259

(Violations made by the captain of an aircraft)

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

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

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

Article 260

(Violations made by the drivers)

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

- a) deviating from the itinerary determined by the customs authorities. A fine that varies from 50.000 Lek to 150.000 Lek will be applied;

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

Article 261²³

(Differences in the declaration for free circulation)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication of a quality, quantity, value or origin different from that verified by the customs authorities, while the declarant lodges the declaration for goods to be released for free circulation. This act is punished with a fine that varies from 30.000 Lek to 100.000 Lek. In cases of differences in quantity, besides the fine the undeclared goods as well as the ones found in excess are confiscated.

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

3. However, if such a difference is caused by errors made in good faith during the preparation of the customs declaration, and if the declarant has supplied all the necessary information for the customs verification, a fine that varies from one tenth to the whole amount of the difference not paid, shall be applied.

4. The fines mentioned above shall apply *mutatis mutandis* whenever the customs authorities

²³ *Article amended by art. 22 of law no. 8473 dated 14.4.1999*

verify a value or origin different from that indicated in the declaration for goods to be placed under any customs procedure, other than transit procedure.

Article 262

(Changes in the destination in transit)

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

2. A fine that varies from 100.000 Lek to 200.000 Lek will be applied to the declarant or the guarantor.

Article 263

(Differences in the quantities declared in the transit)

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

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

Article 264

(Differences in the quality declared in the transit)

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

2. A fine which varies from one to three times the amount of duties legally due on the verified goods at the customs office of destination not corresponding with the quality verified by the customs office of destination, will be applied to the declarant or the guarantor.

Article 265

(Declaration and registration in the warehouse)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation declaring and/or recording a quality or quantity of goods stored in a customs warehouse, different from that verified by the customs authorities.

2. A fine from one to three times the duties payable on goods verified to be different in quality or quantity will be applied to the warehouse keeper or the depositor, when the deposit of goods is under his responsibility.

3. Without prejudice to the provisions about smuggling, if the difference in quantity is more than 20%, for more or less, the warehouse keeper is compelled to release immediately for free circulation all the goods registered in his name. In the case there have been previously identified differences in quantity of goods deriving from the warehouses managed by the same person, exceeding 20%, even if it relates to goods of a different quality, the customs authorities revoke the authorization for the administration of the customs warehouse for at least one year.

Article 266

(Differences in the quantities declared in the transit)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the summary declaration, used for placing goods in temporary storage for the purpose of Articles 75 to 78 of this Code and its sub-legal acts of a quantity or quality of goods in temporary storage different from that verified by the customs authorities.

2. The sanctions below will be applied to the authorized person or persons referred to in Article 69 paragraph 2 who lodged the summary declaration, and committed such a violation:

- a) the payment of duties legally due on the missing goods. Duties will be calculated when possible, on the basis of the elements of the summary declaration or will be calculated on the basis of the highest applicable taxes running in the day of introduction, in temporary storage; and
- b) the payment of a fine of one to three times the duties legally due according to paragraph (a)

Article 267

(Differences in the declaration for temporary import)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of temporary permission of goods placed under inward processing procedure, of a quality or quantity different from that verified by the customs authorities.

2. The fines below, will be applied to the declarant who commits such a violation:

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

Article 268²⁴

(Differences in the declaration for re-export)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of re-exportation of goods placed under temporary permission or inward processing procedure of a quality or quantity different from that verified by the customs authorities.

2. The fines below will be applied to the declarant who commits such a violation:

- a) in the case a difference in quality is verified, the payment of a fine that varies from one to three times the duties legally due on the goods temporary imported, rather than those actually presented for re exportation.
- b) in the case a difference in quantity is verified, the payment of a fine that varies:
 - i. from two to five times the import duties legally due on the missing goods;
 - ii. from two to five times for the goods in excess.

Article 269

(Differences in the declaration for temporary export)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of temporary exportation, of goods placed under outward processing procedure, of a quality or

quantity different from that verified by the customs authorities.

2. The fines below will be applied to the declarant who commits such a violation:

- a) in the case a difference in quality is verified, a fine that varies from one to three times the amount of the difference of the duties legally due on the goods indicated from those verified;
- b) in the case a difference in quantity is verified, the payment of a fine that varies from two to five times the duties legally due on the verified difference,

Article 270²⁵

(Differences declared in the re-import)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the indication in the declaration of re-importation of goods, placed under outward processing procedure, of a quality or quantity different from that verified by the customs authorities.

2. The fines below will be applied to the declarant who commits such a violation, as well as he may be revoked the authorization:

- a) In the case a difference in quality is verified, the payment of a fine that varies from one to ten times the duties legally due on the goods verified to be different
- b) In the case a difference in quantity is verified, the payment of a fine that varies:
 - i) from two to five times the import duties on the goods in excess;
 - ii) from two to five times for the goods that are missing;

Article 271

(Passing of the authorized quantities)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the re-exportation of a quantity of goods, placed under temporary permission and inward processing procedure, lower than the quantity indicated in the authorization, after the document/s of removing the procedure is /are presented.

²⁴ Article amended by art. 23 of law 8473, dated 14.4.99

²⁵ Article amended by art. 24 of law 8473, dated 14.4.99

2. The fines below will be applied to the holder of the authorization:

- a) In the case the missing goods are verified at the location of the holder of the authorization, the payment of a fine that varies from one to three times the amount of duties legally due on those goods (compensating products or temporary imported goods in their unaltered state);
- b) In the case the missing goods are not verified at the location of the holder of the authorization, the payment of an additional fine equal to the whole amount of the duties legally due of those goods (compensating products or temporary imported goods in their unaltered state), presuming that they were released for free circulation without the relevant customs authorization, shall be applied.

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

Article 272

(Failure to lodge on time the bill of discharge)

1. Without prejudice to the provisions of smuggling it is considered an administrative customs violation the failure to lodge on time prescribed the bill of discharge for goods placed under temporary permission in the inward processing procedure as well as the award processing procedures.
2. A fine that varies from 50.000 Lek to 200.000 Lek will be applied to the holder of the authorization who commits such a violation.

Article 273

(Failure to comply with the time limits)

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

Article 274

(Failure to declare within the time limits)

1. Without prejudice to the provisions about smuggling, it is considered an administrative customs violation the failure to present the customs declaration within the terms established in this Code.

2. A fine of 20.000 Lek for each day of delay will be applied to the declarant who commits such a violation.

Article 275

(Other cases)

1. A fine that varies from 50.000 Lek to 200.000 Lek will be applied for violations as referred to in Article 256 paragraph 2 which are not specifically set forth in this Chapter.
2. When the same violator has committed more than one administrative customs violations at the same time, as referred to in the provisions of this Code, a separate fine will be applied for each violation.

CHAPTER 3 SMUGGLING

Article 276

(Smuggling at the state borders)

1. Commits smuggling by moving goods through the land borders and customs areas the person that:
 - a) introduces goods through the land borders in violation with the provisions of this Code and its sub-legal acts;
 - b) unloads or deposits goods in the intermediary space between the border and the closest customs office;
 - c) is found with goods hidden on his body, his luggage, packages or in other articles carried in any means of transport intending to avoid the control and/or the customs surveillance;
 - d) removes goods from customs areas without paying the customs duties legally due, or without having guaranteed the payment, except the cases of exemption from the obligation of providing a guarantee, as provided in this Code;
 - e) takes away from the customs territory of the Republic of Albania, in any of the conditions above, goods that are subject to export duties;
 - f) keeps goods in proximity of the customs line, for which he can produce no evidence of the legitimate derivation;

- g) refuses to present the manifest and the appropriate documents;
- h) loads, unloads, or transships goods, passengers or their luggage, without a permission from the customs authorities.

*Article 277
(Smuggling at the lakes)*

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

*Article 278
(Smuggling at the sea)*

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

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

*Article 279
(Smuggling with aircraft)*

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

- a) introduces goods in the customs territory of the Republic of Albania by air in contradiction with this Code and its Implementing Provisions;
- b) transports goods without the relevant manifest;
- c) at the time of departure does not have on board the goods, although they were supposed

to be loaded according to the manifest or other customs documents;

- d) transports goods from the place of landing of the aircraft without performing the respective customs formalities;
- e) lands out of a customs airport, and does not notify its landing to the customs authorities or other police authorities within the shortest time. In such cases it is considered introduced by smuggling, besides the cargo, even the aircraft itself.
- f) loads, unloads, or transships goods, people or their luggage without permission from the customs authorities.

*Article 280
(Other cases)*

It is also considered smuggling:

- a) use of goods, released for free circulation, after being imported with partial or total relief from customs duties by reason of their end - use or specific use, when the custom authorities certify that, their end-use or specific – use destination, is different, from the one defined in order to be relief by the customs duties.
- b) exportation or importation of prohibited goods or restricted goods save in the cases when it exists a permission in writing issued by the competent authorities;
- c) possession of goods against the restrictions and bans referred to in article 83, paragraph 2 of this Code;
- d) removal or falsification in any way of the identification number of the means of transport. Collaborators in this violation are considered and punished as such anyone who carries out respective acts, also including the technical persons, as well as the owner or any other person who benefits from this falsification or transferring;
- e) purchase, selling, preservation, and possession of goods imported from individuals, who are or should reasonably have information that these goods are introduced in smuggling;
- f) throwing goods, for which the customs duties legally due are not paid, during the trip through the customs territory of the Republic of Albania;

- g) importation, exportation, sale of goods with national cultural value, against the legal norms in force in this field;
- h) breaking the seal, substitution or changes of other security signs placed on the means of transport or on the goods.

CHAPTER 4 SANCTIONS APPLIED FOR SMUGGLING²⁶

Article 281²⁷ (Sanctions for smuggling)

1. The violation referred to in Article 256 paragraph 3 and specified in Articles 276 to 280, is punished with:

- a) confiscation of goods subject of smuggling even if they are not subject of customs duties;
- b) a fine which varies from two to five times the duties legally due on the goods that are subject of smuggling, besides the punishment provided for in the Penal Code.

2. Each violator, is liable jointly and severally, to the fine above mentioned, according to the degree of his participation.

3. The fact that they are liable jointly and severally means that each of them has the duty to fully perform the obligation and the customs authorities may demand payment or sue one or more of parties to such liability, separately or all together, depending on the option. If one of the parties pays the full amount, the others are free of any obligation to the customs authorities for the fine in question.

4. When the same violator commits at the same time several violations, referred to in this Chapter, each violation shall be punished separately.

Article 281/1²⁸ (Punishment to repeated and attempt acts)

²⁶ As amended by art. 25 of law no. 8473 dated 14.4.1999

²⁷ Article amended by art.26 of law no. 8473 dated 14.4.1999

²⁸ Article added by art. 27 of law no. 8473 dated 14.4.1999

1. In the cases of recidivism in smuggling, the sanction applicable shall be twice as the previous one.

2. The attempt of smuggling will be punished as if the act was consummated.

Article 281/2²⁹ (Penal Proceedings)

The violator, besides the administrative punishment for smuggling, provided for in this Code, shall be subject to the penal proceedings in accordance with the provisions of the Criminal Code.

Article 282 (Smuggling objects)

1. For the purpose of this Chapter “object of smuggling” means goods subject of smuggling as well as the means of transport and other objects used to transfer or to hide them. Without prejudice to other laws governing this field the said goods are seized by the customs authorities and afterwards, upon decision of the competent judicial authorities may be confiscated, and thereafter shall be treated in accordance with the legislation in force.

2. The seizure of these objects of smuggling takes place regardless of the degree of participation in smuggling of anybody who has the right on those objects.

3. Where the person responsible for smuggling possesses the seized objects referred to in this Article, as a consequence of a criminal act, the goods are given back to the owner.

4. Means of transport are exempted from the seizure, whenever:

- a) on the basis of the evidences in possession, their owner is not involved in the act of smuggling;
- b) the owner possesses the means of transport in good faith as a result of legal procedures of trade, without being reasonably able to know that this was a means or object of smuggling, or of other similar act or crime.

5. In case perishable goods are seized the judicial authorities when there are enough evidences may take a decision regarding the confiscation of those goods within 48 hours from the time the case is transferred with him, so that those goods are not depreciated.

²⁹ Article added by art. 27 of law no. 8473 dated 14.4.1999

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

Article 283
(*The smuggling objects seizure*)

Objects of smuggling as referred to in Article 282, are seized:

- a) when the act of smuggling is being performed. The act of smuggling is being performed, when the goods are not placed yet in the definitive storage place, which may be the house, the shop, the warehouse or any other location assigned to the goods by the person responsible for smuggling or any other accomplice. The act of smuggling is also considered as being performed when the responsible person is caught nearby the location smuggling is performed, having in his possession evidences or is caught pursuant to notification by other persons;
- b) when the act of smuggling is completed. In this case the object of smuggling has been definitively placed in the place assigned by the person responsible or this accomplice.

Article 284
(*Compensation of damages*)

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

CHAPTER 5
VERIFICATION OF CUSTOMS
VIOLATIONS

Article 285
(*Verification procedures*)

1. The administrative violations are ascertained and penalized by the customs authorities in accordance with the provisions of Articles 256 through 275. In the cases of smuggling, the customs authorities determine and

collect the amount of fine to be applied in the specific case, while the judicial authorities take their normal procedural measures for the application of additional measures provided for by the Penal Code.

2. For the purposes of this chapter, 'competent customs authorities' hereinafter are called the customs authorities that exercise supervision in the area where the violation has been committed and verified.

3. The violations of the provisions of this Code and its sub legal acts are certified with a written report.

4. The written report must be lodged and registered on the records of the competent customs authorities, and should be signed by at least 2 customs employees.

5. The same provision applies when other laws are violated, in cases that such application is required totally or partially by the customs authorities.

6. Customs authorities with a view to prevent, verify and repress the customs violations, may carry out all the necessary controls at the economic operators, their warehouses and all the premises where they keep their accounts.

Article 286
(*Written report form and collection of evidence*)

1. The written report shall contain:
 - a) the place, the date and the time where the violation is verified;
 - b) the names of the persons who sign the report and the authority that they represent;
 - c) identifying information related to the person or persons who have committed the customs violation;
 - d) the kind of violation committed;
 - e) the way that the violation was committed;
 - f) the identification of the means of transport;
 - g) the indication of the quantity, quality, value, origin or tariff classification of goods object of the violation;
 - h) indications of objects of smuggling which will probably be seized;
 - i) the amount of duties legally due;

- j) the articles that are violated, the articles on the basis of which the fines are fixed as well as the sanctions provided for, for each violation;
- k) the signatures of the customs employees and when possible, that of the violator.

2. The customs authorities must notify immediately the person or persons responsible for the violation about the registered report mentioned in the above paragraph.

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

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

5. The testimony has to be signed by the violator, the witnesses when they are present, and by both the customs officers or employees who lead that inquiry session.

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

*Article 287
(The file administration)*

1. The customs authorities after administering the relevant file, issues the respective decision. The relevant file contains:

- a) the registered report of verification of the violation, as laid down in Article 286;
- b) the relevant documents;
- c) the statements and testimonies of violators and/or witnesses;

2. When, in accordance with the provisions of this Code, the application of a fine provides for a minimum and maximum, the following will be taken into consideration in determining its amount:

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

*Article 288
(Transfer of the file to the competent prosecution office)*

1. When the customs violation is smuggling, the report with the relevant file as referred to in Article 287(1) shall be transferred to the competent prosecution office within 24 hours from the time of verification.

2. In cases that Article 291(1) of this Code applies, the above mentioned file is attached to the decision of the customs authorities regarding the fulfillment of the conditions referred to in the same Article.

*Article 289
(Appeal against the decision for payment of the fines)*

1. The decision of the competent customs authority for the payment of the customs duties for the purpose of Article 256 (4) and the respective fines determined according to Article 287 (2), has to be taken and notified to the person accused within 24 hours from the moment of the verification of the offense. In order to assure the customs debt the provisions of article 245 of this Code are applicable.

2. The person concerned may lodge a justified appeal against the decision of the customs authorities referred to in paragraph 1, to the Director General of Customs within 5 days from the date of notification. If the person concerned does not pay the amount mentioned in paragraph 1, and does not lodge an appeal to the Director General, the customs authorities take all the measures to proceed with collection of the amount of the customs debt and the fine, according to the provisions provided for in Article 245 of this Code.

3. In order to lodge the appeal, the appellant has to pay the total amount of the customs duties legally due, and to deposit, in advance, in a bank account with the General Directorate of Customs an amount equal to 40% of the total amount of the fine applied by the customs authorities. The amount that corresponds to the 40%, in no case shall exceed the total amount of the duties legally due on the goods subject of the violation.

4. The Director General shall take a decision within 30 days from the date the appeal was received. The Director General notifies the decision to the interested person and the competent customs authority.

5. When the appeal is rejected, the appellant shall pay the rest of the fine, 60%, and may appeal against the definitive decision of the Director General at the juridical authorities within 30 days from the date of the notification of the rejection of the appeal by the customs authorities.

6. When the juridical authorities accept the appeal, the deposited amount is paid back to the appellant. Such an amount is paid back only when the said decision becomes definitive.

Article 290

(Report to the competent judicial authorities)

When the customs violation constitutes smuggling, the customs authorities after having started the procedures referred to in Article 289 for the collection of customs duties legally due for the goods object of smuggling and the respective fines, transfer the whole file in accordance with article 287 (1) to the competent judicial authorities, within 48 hours from the moment of verification. The customs authorities determine, in the report sent to these authorities, the fine applicable in the concrete case, as provided in Article 287 (2).

Article 291

(The administrative solution to smuggling)

1. The person concerned may request to the customs authorities the solution in administrative way of the act of smuggling when the following conditions are fulfilled:

- a) the penal prosecution has not started yet;
- b) the amount of the duties legally due on the goods involved in smuggling is less than 5 million lek; and
- c) the responsible person pays the amount of the customs duties and the fines applied to him; and

- d) accepts to give up his right of appeal, referred to in Article 289.

Upon the proposal of the Minister of Finance, the Council of Ministers may change the fixed limit referred to in subparagraph (b) of this Article.

2. The seizure applied to the goods object of smuggling and the arrest of the violator, whenever it is made, is removed immediately after the customs authorities verify that all the conditions referred to in paragraph 1 of this article are fulfilled.

3. This article shall not apply when:

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

Article 292

(Initial of the penal proceedings)

The competent judicial authorities, based on the penal charges, pressed by the customs authorities in accordance with Article 288 of this Code, shall start the necessary procedures for the penal proceeding.

Article 293³⁰

(The right to arrest and detain)

1. The judicial policy authorities referred to in Article 9(4) of this Code have the right to arrest and detain, according to Article 251 and 253 of the Criminal Procedures Code, the persons who have committed smuggling.

2. When the person is released in accordance with Article 291(2) the respective file together with the decision for the solution of the case in administrative way shall be sent to the competent judicial Authorities within 24 hours.

Article 294³¹

(Access of information)

³⁰ Article amended by art. 28 of law no. 8473 dated 14.4.1999

1. The customs officers may be authorized by the Head of competent Customs authorities to access information, or search for evidences on customs violations referred to in this Code and its sub legal acts

2. This information may be searched and obtained at the proper places of production activity or commercial premises, and in any other places where documents or records related to the goods subject of the customs violations are kept. The information regarding smuggling, when the penal proceeding has started, is gathered in accordance with the provisions of the Criminal Procedure Code.

Article 295

(Assistance of other institutions)

All civil public institutions and both the border police and the ordinary police, as well as all their members or dependents are obliged to assist the customs authorities in the enforcement of the customs matters and rules, whenever those authorities so demand.

Article 296³²

(Distribution of the revenue resulting from fines and seizure)

The revenue deriving from the application of sanctions and sale of confiscated subjects of smuggling, shall be divided as follows:

- a) 50 % to the State budget;
- b) the remaining 50% shall be divided according to the percentage determined by the Minister of Finance as follows:
 - i) investments and expenses for the improvement of the working conditions for the personnel;
 - ii) incentives for the customs personnel which has participated, directly or indirectly, in the discovery and verification of these violations;
 - iii) incentives for the informers who have enabled the discovery of the violations.

³¹ *Article amended by art. 29 of law no. 8473 dated 14.4.1999*

³² *Article amended by art. 30 of law no. 8473 dated 14.4.1999*

TITLE IX FINAL PROVISIONS

Article 297³³

1. The transition period lasts one month from the date of the entry into force of this Code and its sub legal acts .With the exception of the provisions of Title VIII of this Code, during this transition period the procedures provided for in Law No. 7599, dated 02/09/1992 “For the Customs Code of the Republic of Albania” and further changes, shall continue to be applied.

2. At the end of the transition period the following Laws shall be repealed:

- (1) Law No. 7599, date 02.09.1992, “For the Customs Code of the Republic of Albania”.
- (2) Law No. 8020, date 01.11.1995, “For some changes in Law No. 7599, date 02.09.1992, “For the Customs Code of the Republic of Albania”.
- (3) Law No. 8148, date 11.09.1996, “For the approval with some changes of the Decree No. 1578, date 13.08.1996 “For some changes in Law No. 7599, date 02.09.1992, ‘For the Customs Code of the Republic of Albania’.
- (4) Law No. 8263, date 15.12.1997, “For an amendment in the Law No. 7599, date 02.09.1992, “For the Customs Code of the Republic of Albania”.
- (5) Law No. 8187, date 23.01.1997, “For the Customs Value” shall be repealed.
- (6) The articles 1, 3, 17, 18, 19, 20/1, 20/2, 20/3, 20/4, 20/5, 21 of Law No.7609, date 22.09.1992 “For the customs Tariffs”, amended by other laws, as well as any other provision of this Law that does not comply with this Code;
- (7) In the Decree No. 1074, date 02.04.1995, “For the dissolution of the Finance Police and creation of the Customs Police and Taxation Police”, approved by Law No. 7938, date

24.05.1995, the provisions regarding the Customs Police shall be repealed.

- (8) In Decree No. 1701, date 09.01.1997. “For an addition to the Decree No. 1074, date 02.04.1995, “For the dissolution of the Finance Police and creation of the Customs Police and Taxation Police”, approved by Law No. 7938, date 24.05.1995, the provisions regarding the Customs Police shall be repealed.
- (9) as well as any other provision which does not comply with this Code.
- (10) the new customs taxes shall come into force after 31 March 1999, with a specific Law.

Article 298

(Issuing of the implementing provisions)

In the transition period between the approval of this Code by the Parliament until the day when it comes into force, the Council of Ministers is entitled to approve the Implementing Provisions of this Code, in the field of the organization of the customs administration, the factors on the basis of which the customs duties shall be implemented, provisions applicable for the goods entering or leaving the customs territory, of the customs approved destination, privileged operations and the customs debt, as well as in the field of the customs violations, which shall come into force on the same date when this Code comes into force.

Article 299

(Enter in force of the law)

This Law shall enter into force 15 days after the publication on the Official Journal.

Chief

Skënder Gjinushi

³³ *Article amended by art. 31 of law no. 8473 dated 14.4.1999*

LIST OF AMENDMENTS TO THE CUSTOMS CODE during 1999 and 2000

EMENDING LAW	ARTICLE OF THE CUSTOMS CODE BEING EMENDED	EMENDING ARTICLES
<p>Law 8473 dated 14.4.1999, for some additions and changes to law no. 8449, date 27.1.1999 on the "Customs Code of the Republic of Albania"</p> <p>Published on 16.4.1999 Official Gazette Year 1999 Vol. no. 12 Page: 339</p>	Art. 25	Part VIII/Chi. 4
	Art. 7	Art. 1
	Art. 8	Art. 2
	Art. 9/p4	Art. 3
	Art. 10	Art. 4
	Art. 11	Art. 5
	Art. 12	Art. 6
	Art. 14	Art. 7
	Art. 15	Art. 8
	Art. 16	Art. 9
	Art. 31.1	Art. 10
	Art. 37/2.1	Art. 11
	Art. 40.2	Art. 12
	Art. 89	Art. 13
	Art. 95/1	Art. 14
	Art. 165	Art. 15
	Art. 197	Art. 16
	Art. 199/2/o	Art. 17
	Art. 211/2	Art. 18
	Art. 212/1	Art. 19
	Art. 246/1	Art. 20
Art. 256/2	Art. 21	
Art. 261/1	Art. 22	
Art. 268	Art. 23	
Art. 270	Art. 24	
Art. 281.1	Art. 26	
Art. 281/1	Art. 27	
Art. 281/2	Art. 27	
Art. 293	Art. 28	
Art. 294.2	Art. 29	
Art. 296/b	Art. 30	
Art. 297	Art. 31	
<p>Law 8719 dated 19.12.2000 for an addition to law no. 8449, dated 27.1.1999 on the "Customs Code of the Republic of Albania"</p> <p>Published on 4.1.2001 Official Gazette Year 2000 Vol. no. 47 Page: 2074</p>	<p><i>This law adds a paragraph to article 37 of the Customs Code "Payments for royalties and license fee for imported movies in the Republic of Albania with the right of reproduction and distribution, shall not be added to the price actually paid or that should be paid.</i></p> <p><i>This law comes into force 15 days after publication in Fletorja Zyrtare.</i></p>	

**IMPLEMENTING PROVISIONS TO THE CUSTOMS CODE PUBLISHED ON
THE OFFICIAL GAZETTE**

ARTICLE OF THE CUSTOMS CODE BEING IMPLEMENTED	NUMBER OF THE IMPLEMENTING ACT	TITLE OF THE IMPLEMENTING ACT
Art. 13	Gov't Decision no. 230/1999	For the structure and staff of the customs administration
Art. 13	Gov't Decision no. 427/1999	For some additions and changes to the Council of Ministers decision no. 230, date 22.5.1999 "For the structure and staff of customs administration"
	Gov't Decision no. 483/1999	For creating the Central Committee for checking the final classification of the Customs Administration staff
	Gov't Decision no. 497/1999	For an addition to the Council of Ministers decision no. 205, dated 13.4.1999 "For implementing provisions of the Customs Code"
	Gov't Decision no. 516/1999	For some changes to the Council of Ministers decision no. 205, dated 13.4.1999 "For implementing provisions of the Customs Code"
Art. 82	Gov't Decision no. 56/2000	For import-export of sources of radiation
	Gov't Decision no. 339/2000	For an addition to the Council of Ministers decision no. 205, dated 13.4.1999 "For implementing provisions of the Customs Code", changed by the Council of Ministers decision no. 516, date 14.11.1999
	Gov't Decision no. 341/2000	For an addition to the Council of Ministers decision no. 205, dated 13.4.1999 "For implementing provisions of the Customs Code"
	Gov't Decision no. 380/2000	For some changes to the Council of Ministers decision no. 358, dated 28.7.1999 "For approving the wage structure of Customs employees"
	Gov't Decision no. 725/2000	For the transit regime of tobaccos and cigarettes