

# TURKISH CUSTOMS CODE

*dated 27/10/1999*  
*no.4458*

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# **CUSTOMS CODE No.4458 of 27/10/1999**

## **TITLE I**

### **GENERAL PROVISIONS**

#### **CHAPTER ONE**

##### **Scope and Basic Definitions**

ARTICLE 1- The scope of this Code is to lay down the customs rules that shall apply to goods and means of transport entering into and exiting from the Customs Territory of the Republic of Turkey.

ARTICLE 2- The Customs Territory of the Republic of Turkey shall comprise the territory of the Republic of Turkey. The Customs Territory shall include the territorial waters, the inland maritime waters and the airspace of Turkey.

For the purposes of this Code, "The Customs Territory of Turkey" and "The Customs Territory" shall mean the Customs Territory of the Republic of Turkey.

ARTICLE 3- For the purposes of this Code, the following definitions shall apply:

1. ' the Undersecretariat' means the Undersecretariat for Customs<sup>1</sup>.

2. a)'Customs Administration' or 'Administrations' means all the hierarchical administrative units within the central or regional organizations where the procedures defined in the customs legislation are partially or completely carried out;

b)"Customs office of entry" means the customs office to which goods brought into the customs territory of Turkey are conveyed without delay and at which they are subject to appropriate risk-based entry controls;

c) "Customs office of import" means the customs office where the formalities for assigning goods brought into the customs territory of Turkey to a customs-approved treatment or use, including appropriate risk-based controls, are to be carried out;

d) "Customs office of export" means the customs office where the formalities for assigning goods leaving the customs territory of Turkey to a customs-approved treatment or use, including appropriate risk-based controls, are to be completed;

e) "Customs office of exit" means the customs office to which goods must be presented before they leave the customs territory of Turkey and at which they will be subject to customs controls relating to the completion of exit formalities, and appropriate risk-based controls."

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<sup>1</sup> The Undersecretariat of Customs has been abolished and a new organization under the name of Ministry of Customs and Trade was established under the Decree no. 640 in 2011. The Undersecretariat of Customs referred here will actually mean the Ministry of Customs and Trade. However, the Undersecretary of Customs is a post kept under the Ministry of Customs and Trade and refers to the highest public officer reporting to the Minister of Customs and Trade.

3. 'Person' means a natural person, and a legal person, as well as where possibility is provided for under the rules in force, an association of persons recognized as having the capacity to perform legal acts but lacking the legal status of a legal person.

4. 'Person established in the Customs Territory of the Republic of Turkey' means:

a) in the case of a natural person, any person who is normally settled there,  
b) in the case of a legal person or an association of persons, any person that has in the territory its registered office, central headquarters or a permanent business establishment.

5. 'Decision' means any official act by the customs administration pertaining to the Customs Legislation giving a ruling on a particular case, including binding tariff and origin information matters, such act having legal effects on one or more persons.

6. a)'Goods in free circulation' means goods wholly obtained in the customs territory of Turkey under provisions of Article 18 and not incorporating goods imported from countries or territories other than the customs territory of Turkey, or goods obtained from goods placed under a suspensive arrangement and are deemed not to have a special economic importance in accordance with the procedure under which they are placed, or goods imported from countries or territories other than the customs territory of Turkey which have been released for free circulation, or goods obtained or produced in the customs territory of Turkey, either from one or more of the goods referred to above.

b) 'Goods not in free circulation' means goods other than those included in the goods in free circulation, or without prejudice to transit provisions, goods which leave the customs territory of Turkey.

7. 'Customs status' means the status of goods as released for free circulation in the Customs Territory of Turkey or not.

8. a)'Customs duties' means all the export or import duties applied to goods subject to the relevant legislation in force.

b)'Customs liabilities' means the obligation of the debtor to pay the customs duties.

9. 'Import duties' means

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

b) duties and other charges payable on importation that are introduced under the agricultural policy or under specific arrangements applicable to some products obtained by the processing of agricultural products.

10. 'Export duties' means

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

b) duties and other charges payable on exportation that are introduced under the agricultural policy or under specific arrangements applicable to some products obtained by the processing of agricultural products.

11. 'Debtor' means any persons liable for the fulfilment of a customs debt.

12. 'Supervision by the customs administration' means action taken in general by the customs administrations with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed.

13. "Customs controls" means specific acts performed by the customs authorities in order to ensure the correct application of customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the Customs Territory of Turkey and other countries and the presence of goods that are not in free circulation; such acts may include examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official inquiries and other similar acts.

14. 'Customs-approved treatment or use of goods' means:

- (a) the placing of goods under a customs procedure;
- (b) their entry into a free zone;
- (c) their re-exportation from the Customs Territory of Turkey;
- (d) their destruction;
- (e) their abandonment to the Exchequer;

15. 'Customs procedure' means:

- (a) release for free circulation;
- (b) transit;
- (c) customs warehousing;
- (d) inward processing;
- (e) processing under customs control;
- (f) temporary admission;
- (g) outward processing;
- (h) exportation;

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

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

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

19. 'Release of goods' means the act whereby the customs administrations release the goods for the purposes stipulated by the customs procedure under which they are placed.

20. a)'Holder of the procedure' means the person who makes the declaration in his own name and on his behalf or the person on whose behalf the customs declaration was made or the person to whom the rights and obligations of the above-mentioned persons in respect of a customs procedure have been transferred.

b)"The principal" means the holder of the procedure of transit.

21. 'Holder of authorization' means the person to whom an authorization has been granted.

22. 'Handling' means the act, without changing their essential characteristics, whereby the goods subject to customs supervision are stacked, replaced, moved from big packages to smaller ones, ventilated, screened, mixed etc. or renewal or repair of packages.

23. 'Goods' means all kinds of material, product and value.

24. "Risk" means the likelihood of an event occurring, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Turkey and other countries and the presence of goods that are not in free circulation, which

a) prevents the correct application of international or national measures, or

b) compromises the financial interests of the State, or

c) poses a threat to the State's security and safety, to public health, to the environment or to consumers.

25. "Risk management" means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international and national sources and strategies.

**26.** "Customs clearance value" means the sum of the CIF value and customs duties for imported goods and the sum of FOB value and customs duties for exported goods, determined in accordance with the Customs Valuation Agreement.

ARTICLE 4- Any person in contact with the customs administrations shall be responsible to comply with the provisions of this Code and the rules, decrees and regulations adopted under this Code; to be subject to the supervision and controls by the customs administrations pertaining to both this Code and other Acts, decrees and regulations; to pay or guarantee all kinds of taxes, duties, fees and charges that the customs administrations collect either in the name of themselves or in the name of, or on behalf of the other administrations; to perform all kinds of acts made obligatory by the provisions of acts, decrees, regulations and rules.

## **CHAPTER TWO**

### **Sundry General Provisions Relating in Particular to the Rights and Obligations of Persons with Regard to the Customs Legislation**

#### **SECTION 1**

##### **Right of Representation and Authorized Economic Operator**

ARTICLE 5- Any person may appoint a representative in his dealing with the customs administrations to perform the acts and formalities laid down by the customs legislation.

Except for the ones performing transportation in transit or making an occasional declaration, the representative must be established within the Customs Territory of Turkey.

Such representation may be direct, in which case the representative shall act in the name of and on behalf of another person, or indirect, in which case the representative shall act in his own name but on behalf of another person. A representative must state that he is acting on behalf of the person represented, specify whether the representation is direct or indirect and must produce the evidence of his powers to act as a representative. A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.

The persons covered in paragraph 1 of Article 225 may perform the legal acts within the customs administration as an indirect representative.

5/A – 1. The Undersecretariat, if necessary following the consultation with other competent authorities, shall grant, subject to the criteria provided for in paragraph 2, the status of "authorised economic operator" to any economic operator established in the customs territory of Turkey.

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

2. The criteria for granting the status of authorised economic operator shall be as follows:

- an appropriate record of compliance with requirements referred to in Article 4,
- a satisfactory system of managing commercial and transport records, which allows appropriate customs controls,
- where deemed necessary by the Undersecretariat, proven financial solvency, and
- appropriate security and safety standards.

3. The conditions referred to in Paragraph 2 and the procedures and principles governing the issues below shall be laid down by regulations:

- a) granting the status of authorised economic operator,
- b) granting authorisations for the use of simplifications,
- c) establishing which customs administration is competent to grant such status and authorisations,
- d) determining the type and extent of facilitations that may be granted in respect of customs controls relating to security and safety, taking into account the arrangements for risk management,
- e) consultation with, and provision of information to, other relevant authorities, and
- f) conditions under which the status of authorised economic operator may be suspended or withdrawn.

## **SECTION 2**

### **Decisions relating the application of customs legislation**

ARTICLE 6- 1. Where a person requests that the customs administrations take a decision relating to the application of customs rules that person shall supply all the information and documents required by those administrations in order to take a decision.

2. The request for a decision must be made in writing. The decision shall be made within 30 days, starting on the date on which the said request is received by the customs administrations. Such a decision must be notified in writing to the applicant.

However, that period may be exceeded where the customs administrations are unable to comply with it. In that case, those administrations shall so inform the applicant before the expiry of the above-mentioned period, stating the grounds which justify exceeding it and indicating the further period of time which they consider necessary in order to give a ruling on the request.

3. Decisions adopted by the customs administrations in writing which either reject requests or are detrimental to the persons to whom they are addressed shall set out the grounds on which they are based. They shall refer to the right of appeal provided for in Title XII.

4. Decisions adopted shall be immediately enforceable by customs administrations.

ARTICLE 7- 1. A decision favorable to the person concerned shall be annulled where the below-mentioned cases co-exist:

- (a) if the decision was issued on the basis of incorrect or incomplete information and
- (b) if the applicant knew or should reasonably have known that the information was incorrect or incomplete, and

(c) if it is found out that such decision could not have been taken on the basis of correct or complete information.

2. A decision favorable to the person concerned, shall be revoked or amended where,

(a) one or more of the conditions on the basis of which the decision was taken, were not or are no longer fulfilled.

(b) the person to whom a decision favourable is addressed fails to fulfill an obligation imposed on him under that decision.

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

4. Annulment subject to paragraph 1 shall take effect from the date on which the annulled decision was taken. As provided in paragraph 2, the revocation or amendment of the decision shall take effect from the date of notification. However, in exceptional cases where the legitimate interests of the person to whom the decision is addressed so require, under the conditions determined in the regulation in force, the customs administrations may defer the date when revocation or amendment takes effect.

### **SECTION 3**

#### **Information**

ARTICLE 8- 1. Any person may request information concerning the application of customs legislation from the customs administrations.

2. The information shall be supplied to the applicant free of charge. However, where special costs are incurred by the customs administrations, in particular as a result of chemical analyses or expert reports on goods, or the return of the goods to the applicant, he may be charged the relevant amount.

ARTICLE 9- 1. The Undersecretariat or the authorized customs administration shall issue binding tariff and binding origin information on written request.

2. Binding tariff or origin information shall be binding on the customs administrations as against the holder of the information only in respect of the tariff classification or determination of origin of goods and only for goods on which customs formalities are completed after the date on which the information was supplied by them.

Binding origin information shall be issued in compliance with the provisions regarding the determination of the origin of goods set out in Articles 17 to 22.

3. The holder of such information must prove that:

(a) for binding tariff information, the goods to be declared correspond to those described in the information in every respect;

(b) for binding origin information, the goods to be declared and the situation raising the right of origin correspond to those described in the information in every respect.

4. Binding tariff information shall be valid for a period of six years and binding origin information shall be valid for a period of three years from the date of issue. Binding information shall be annulled where it is based on inaccurate or incomplete information from the applicant.

5. Binding tariff information shall cease to be valid:

(a) where an amendment is made in the Turkish Customs Tariff and the information no longer conforms to the provisions laid down thereby;

(b) where it is no longer compatible with the amendments in the decisions of the World Customs Organization regarding the nomenclatures, explanatory notes and tariff headings with which the republic of Turkey has to comply;

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

In the cases referred to in subparagraphs (a) and (b), binding tariff information shall cease to be valid starting from the date when the above-mentioned amendments are published in the Official Gazette.

6. Binding origin information shall cease to be valid:

(a) where a regulation is adopted or an amendment in compliance with an international agreement is made in the rules of origin and the information no longer conforms to the provisions laid down thereby;

(b) where it is no longer compatible with the amendments in the decisions of the World Trade Organization regarding the Agreement on Rules of Origin, and the explanatory notes and decisions under this Agreement with which the Republic of Turkey has to comply;

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

In cases referred to in subparagraphs (a) and (b) hereof, the date on which the binding origin information will cease to be valid, shall be the date on which the amendments in question are issued in the Official Gazette.

7. The holder of binding tariff or origin information which ceases to be valid pursuant to paragraphs 5 and 6 may still use that information six months from the date of publication or notification provided that he concluded binding contracts for the purchases or sale of the goods in question, on the basis of the binding information before that tariff or origin measure was adopted. However, in the case of products for which an import, export or advance fixing certificate is submitted when customs formalities are carried out, the period of six months is replaced by the period of validity of the certificate. The Council of Ministers shall be authorized to bring an exception to the provisions of this paragraph.

8. The provisions of paragraph 7 regarding binding tariff or origin information shall be applied only for the purpose of:

- (a) determining import or export duties,
- (b) calculating export refunds and any other amounts granted for imports or exports as part of the agricultural policy,
- (c) using import, export or advance-fixing certificates which are submitted when formalities are carried out for acceptance of the customs declaration concerning the goods in question, provided that such certificates were issued on the basis of the tariff or origin information concerned.

## **SECTION 4**

### **Other Provisions**

ARTICLE 10- 1.a) Upon the suggestion of the Undersecretariat, the Minister to whom the Undersecretariat is affiliated, shall be entitled to scrutinize and remove the problems and hesitations arising with regard to the permission durations, security arrangements, relief from Customs duties and exceptions, and amendment of declarations laid down in this Code and the legislation issued on the basis of this Code.

b) Provided that their records are kept and the procedures that should be fulfilled in accordance with the legislation related with customs will be subsequently completed, the Minister to whom the Undersecretariat is affiliated, shall be entitled to allow the entry into the Customs Territory of Turkey, of the paraphernalia, machinery, equipment and similar materials to be brought from abroad to be used in crisis regions in cases of such major chemical and technological incidents as natural disasters, hazardous and epidemic diseases, conflagration, radiation and air pollution, and such crisis conditions as big population movements; and to decide the re-exportation of any such paraphernalia, machinery and equipment that have thus entered the Customs Territory, or the releasing for free circulation of them depending on the requirements and the current conditions.

c) The Undersecretariat for Customs shall take all the measures deemed necessary to ensure that customs legislation is correctly applied. In this framework, the Undersecretariat shall be entitled to set out the methods and principles regarding the execution by Customs brokers meeting the criteria to be stipulated by the Undersecretariat, of certain identification procedures deemed necessary by the Undersecretariat for placing the goods under the customs-approved treatments or use.

2. The methods and principles governing the conditions and cases under which the applications laid down in the customs legislation are simplified, shall be determined by regulation.

ARTICLE 10/A – 1. Customs authorities may, in accordance with the conditions laid down by the legislation, carry out the customs controls they deem necessary to ensure that customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Turkey and other countries and the presence of goods that are not in free circulation are correctly applied. Customs controls for the purpose of the correct application of the legislation may be carried out in another country where an international agreement provides for this.

2. Customs controls, other than spot-checks, shall be based on risk analysis using automated data processing techniques, with the purpose of identifying and quantifying the risks and developing the necessary measures to assess the risks, on the basis of criteria developed at national and, where available, international level.

3. The Undersecretariat shall form a risk management framework, and establish criteria and priority control areas. For that purpose, the Undersecretariat shall be authorised to collect, store and process data on customs formalities, customs offences and smuggling acts with a view to determining the risk criteria. The procedures and principles governing the collection, storage and processing of data shall be laid down by regulations:

4. Where controls are performed by authorities other than the customs authorities, without prejudice to the provisions of Article 19 of Anti-Smuggling Act. 55607 of 21.03.2007, such controls shall be performed in the coordination of the customs authorities, wherever possible at the same time and place.

5. In the context of the controls provided for in this Article, customs and other competent authorities may; in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Turkey and other countries and the presence of goods that are not in free circulation, communicate between each other the data received where this is required for the purposes of minimising risk.

6. Without prejudice to the provisions of Article 12, communication of confidential data to the customs authorities and other bodies (e.g. security agencies) of third countries shall be allowed only in the framework of an international agreement.

ARTICLE 11- Only for the purposes of applying customs legislation, any person directly or indirectly involved in the customs operations concerned shall provide the Undersecretariat for Customs or the customs administrations with all the requisite documents, information and assistance at their request and by any time limit prescribed.

The person being asked for such information on these matters can not evade giving information by bringing about the provisions of secrecy laid down by special Acts.

ARTICLE 12- 1. The customs administrations and other authorized institutions are obliged to keep all information which is by nature confidential or which is provided on a confidential basis. This information shall not be disclosed without the express permission of the person or authority providing it; in other words, the customs administrations may submit such information to the relevant authorities pursuant to the provisions in force, in respect of data protection or judicial decisions.

2. The provisions regarding the collection, usage, preservation, preservation period and disclosure to a third person of the confidential information provided for the purposes of customs procedures shall be laid down by regulation.

ARTICLE 13- The persons concerned shall keep the documents and information referred to in Article 11 for the purposes of control by the customs authorities for a period of 5 years. That period shall run from the end of the year in which:

(a) in the case of goods released for free circulation in circumstances other than those referred to in subparagraph (b) or goods declared for export, from the end of

the year in which the declarations for release for free circulation or export are registered;

(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, from the end of the year on which they leave the free zone concerned.

ARTICLE 14- 1. The period, date or time limit laid down in this Code shall not be extended or deferred unless specific provision exists. In the case that the last day of this period, date or time limit coincides with an official holiday, it shall end at the end of the first working day.

2. In the case the period is determined in terms of weeks or months, the period shall end after the working hours of the day corresponding to the starting date in the last week or month. In the case the corresponding day does not exist in the last month, the period shall end after the working hours of the last day of the month.

3. A written application to customs authorities under this Code may be sent by registered post. In that case, the date of delivery to the postal service shall be deemed as the date on which the application is lodged with the customs authorities.

## **TITLE II.**

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

#### **CHAPTER ONE**

##### **Customs Tariff and Tariff Classification of Goods**

ARTICLE 15.1. Customs duties legally owed shall be based on the customs tariff, which is in force on the date that the customs debt has been initiated.

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

3. The Customs Tariff shall comprise:

(a) The Turkish Customs Tariff adopted by the Council of Ministers;

(b) Any other nomenclature which is wholly or partly based on the Turkish Customs Tariff or which adds sub-divisions to it, and which is established for the application of tariff measures relating to trade in goods;

(c) The rates and other items of charge covered by the Turkish Customs Tariff as regards

- customs duties; and

- import duties levied under the agricultural policy or specific arrangements applicable to certain products obtained as a result of the processing of agricultural products;

(d) the preferential tariff measures contained in agreements which Turkey has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;

(e) preferential tariff measures adopted unilaterally by Turkey in respect of certain countries, group of countries or territories;

(f) suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;

(g) other tariff measures apart from above.

4. Without prejudice to the rules on flat-rate charges, the measures referred to in paragraph 3 (d), (e) and (f) shall apply at the declarant's request instead of those provided for in subparagraph (c) where the goods concerned fulfil the conditions laid down by those first-mentioned measures, provided that the relevant conditions are fulfilled, an application may be made after the customs formalities or after release of the goods.

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

(a) in the case of tariff quotas, as soon as the stipulated limit on the volume of imports is reached;

(b) in the case of tariff ceilings by Decree of the Council of Ministers.

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

(a) the subdivisions of the Turkish Customs Tariff or the subheading of any other nomenclature referred to in paragraph 3 (b); or

(b) the subdivisions of other nomenclature which is wholly or partly based on the Turkish Customs Tariff or which adds any subdivisions to it, and which is established by the Decree of the Council of Ministers governing specific fields with a view to the application of measures other than tariff measures relating to trade goods.

7. The Customs Tariff, its explanatory notes and the index of goods shall be issued by the Undersecretariat and published in the Official Gazette. The texts published in this way, shall be considered a basis for administrative and judicial applications.

ARTICLE 16- 1. The preferential tariff treatment from which certain goods may benefit by reason of their nature or end-use shall be subject to conditions laid down by the Council of Ministers. When an authorization is required, Articles 80 and 81 shall be applied.

2. For the purposes of paragraph 1, the expression "preferential tariff treatment" means a reduction in import duties or suspension arrangement even under a tariff quota.

## **CHAPTER TWO**

### **Origin of Goods**

#### **SECTION 1**

#### **Non-preferential origin of goods**

ARTICLE 17- Articles 18 to 21 define the non-preferential origin of goods for the purposes of:

- (a) applying the Turkish Customs Tariff with the exception of the measures referred to in Article 15 (3) (d) and (e);
- (b) applying measures laid down by the Council of Ministers other than the tariff measures relating to trade in goods,
- (c) the preparation and issue of certificates of origin.

ARTICLE 18-1. Goods originating in a country shall be those wholly obtained or produced in that country.

2. The expression 'goods wholly obtained in a country' means:

- (a) mineral products extracted within that country;
- (b) vegetable products harvested therein;
- (c) live animals born and raised therein;
- (d) products derived from live animals raised therein;
- (e) products of hunting or fishing carried on therein;
- (f) products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in any country and flying the flag of that country;
- (g) goods obtained on board factory ships from the products referred to in subparagraph (f) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag;
- (h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea provided that that country has exclusive rights to exploit that seabed or subsoil;
- (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for the recovery of raw materials;
- (j) goods which are produced therein exclusively from goods referred to in subparagraphs (a) to (i) or from their derivatives, at any stage of production.

3. For the purposes of paragraph 2, the expression 'country' covers that country's territorial sea.

ARTICLE 19- Goods whose production involved more than one country shall be deemed to originate in a country provided that a new product is manufactured in that country or the latest economically justified workmanship and act are done in that country and in the facilities equipped particularly for that purpose.

ARTICLE 20- Any processing or working in respect of which it is established, or in respect of which the facts as ascertained, create the impression, that its sole object was to circumvent the provisions applicable by Turkey to goods from specific countries, shall not be deemed to confer on the goods thus produced the origin of the country where it is carried out within the meaning of Article 19.

ARTICLE 21- 1. The procedures and principles governing the conditions as to where a certificate of origin is to be required and, the form and content of such certificates shall be laid down by regulations.

2. Notwithstanding the submission of the certificate of origin, in the event of serious doubts, the customs administrations are authorized to require additional proof.

## **SECTION 2**

### **Preferential origin of goods**

ARTICLE 22- The rules on preferential origin of the goods to benefit from the preferential tariff measures referred to in Article 15 shall:

(a) in the case of goods covered by the agreements referred to in Article 15 (3) (d), be determined in those agreements;

(b) in the case of goods benefiting from the preferential tariff measures referred to in Article (15) (e), be determined in accordance with the Decree of the Council of Ministers.

## **CHAPTER THREE**

### **Value of Goods for Customs Purposes**

ARTICLE 23- The provisions of this Chapter shall determine the customs value of the goods for the purposes of applying the Customs Tariff and non-tariff measures laid down on specific fields relating to trade in goods.

ARTICLE 24-1. The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Turkey, adjusted, where necessary, in accordance with Articles 27 and 28, provided:

(a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:

- are imposed or required by the legislation of Republic of Turkey or by the public authorities designated by them,
- limit the geographical area in which the goods may be resold,
- do not substantially affect the value of the goods;

(b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) that any 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, an addition may be made to the prices of goods actually paid or payable in accordance with Article 27.

(d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable as customs value under paragraph 2.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. In such cases, where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the declarant in writing. The declarant shall reserve the right to respond within the prescribed time limit.

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

- the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods sold for export to Turkey;
- the customs value of identical or similar goods, as determined under Article 25 (2) (c);
- the customs value of identical or similar goods, as determined under Article 25 (2) (d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 27 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 values set forth in subparagraph (b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said subparagraph.

3. (a) The price actually paid or payable is the total payment made or should be made by the buyer to the seller or for the benefit of the seller for the imported

goods. This price 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 payments may take the form of a transfer of money and they may be made by the way of letters of credit or negotiable instruments or 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 as per Article 27, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller. Their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

ARTICLE 25- 1. Where the customs value cannot be determined under Article 24, it is to be determined by proceeding sequentially through subparagraphs (a), (b), (c) and (d) of paragraph 2. It is only when such value cannot be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph shall be applied. The order of application of subparagraphs (c) and (d) shall be reversed on condition that the written request of the declarant is deemed appropriate by the customs administration.

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

(a) the transaction value of identical goods sold for export to Turkey and exported at or about the same date as the goods being valued;

(b) the transaction value of similar goods sold for export to Turkey and exported at or about the same date 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 Turkey in the greatest aggregate quantity to persons not related to the sellers;

the computed value, consisting of the sum of the cost or value of materials and fabrication or other processing employed in producing the imported goods, and an amount for normal 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 Turkey, and the other costs or values of the items referred to in Article 27 (1) (e).

3. Any further methods and principles for the application of paragraph 2 above shall be determined in accordance with regulation.

ARTICLE 26- 1. Where the customs value of imported goods cannot be determined under Articles 24 or 25, it shall be determined, on the basis of data available in Turkey, using reasonable means consistent with the principles and general provisions of:

(a) the Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994,

(b) Article VII of the General Agreement on Tariffs and Trade 1994,

(c) the provisions of this Chapter.

2. No customs value shall be determined under paragraph 1 on the basis of:
- (a) the selling price within Turkey of goods produced in Turkey;
  - (b) a system which provides for the acceptance by the customs administrations 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 25 (2) (d);
  - (e) prices for the goods exported to a country from Turkey;
  - (f) minimum customs values; or
  - (g) arbitrary or fictitious values.

ARTICLE 27- 1. In determining the customs value under Article 24, following additions shall be made to the price actually paid or payable for the imported goods:

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
- (i) commissions and brokerage, except buying commissions,
  - (ii) the cost of packages which are treated as being one, for customs purposes, with the goods in question,
  - (iii) the cost of packing, including the costs of labor or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (i) materials, components, parts and similar items incorporated in the imported goods,
- (ii) tools, dies, moulds and similar items used in the production of the imported goods,
- (iii) materials consumed in the production of the imported goods,
- (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Turkey and necessary for the production of the imported goods;

(c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods to be valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;

(e) without prejudice to Article 28 (a), the costs of transport and insurance formalities of the imported goods, carried out up to the port or place of entry of Turkey, and the costs of loading and handling regarding the transportation of the goods up to the port or place of entry.

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

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

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

5. In determining the customs value of the imported goods;

(a) payments for the right to reproduce the imported goods in Turkey, and

(b) payments made by the buyer for the right to distribute or to resell the imported goods provided that no condition of the sale for export to Turkey of the goods exists, shall not be considered within the extent of paragraph 1 (c) or shall not be added to the price actually paid or payable for the imported goods.

ARTICLE 28- Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:

(a) charges for the transport of goods and insurance after their arrival at the place of introduction into the Customs Territory of the Republic of Turkey and into the customs territories of the customs union to which Turkey is a party by agreements;

(b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation for such imported goods such as industrial plant, machinery or equipment;

(c) charges for interest incurred by the buyer under a financing arrangement relating to the purchase of imported goods

(d) charges for the right to reproduce imported goods in Turkey ;

(e) buying commissions;

(f) import duties payable in Turkey by reason of the importation or sale of the goods.

Whether the finance is provided by the seller or another person shall not be considered under circumstances mentioned in subparagraph (c). Nevertheless it is obligatory that the financing arrangement has been made in writing, and where required, the buyer must demonstrate that:

- such goods are actually sold at the price declared as the price actually paid or payable, and

- the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

ARTICLE 29- Specific rules and principals may be laid down in accordance with regulation to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions.

ARTICLE 30- The primary basis for customs value of goods shall be declared as Turkish Lira. The foreign currencies on invoices and other documents shall be converted to Turkish Lira over the rate of exchange of the Central Bank of Republic of Turkey, which is current on the date, the customs debt has been initiated.

ARTICLE 31-1. The provisions of this Chapter shall not affect the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.

2. By way of derogation from Articles 24, 25 and 26, the customs value of perishable goods usually released on consignment, shall, at the request of the declarant, be determined by the customs administration, under simplified procedures

## **CHAPTER FOUR**

### **The Weight and Packages of Goods**

ARTICLE 32-1. For the goods dutiable on the basis of weight in accordance with the Customs Tariff, the weights taken as a basis in determining the duties and the scope of certain headings and subheadings shall be considered as:

- (a) The aggregate weight covering the own weight of goods and the packing materials and packages when gross weight is referred to,
- (b) The own weight of goods when net weight or only weight is referred to.

2. In the case that goods dutiable on their gross weight, are received without packing, the concerned goods shall be subject to taxation on their received state.

3. In the case that goods that are subject to different duty rates and, at the same time, taxation on their gross weights are received within the same package, they shall be weighed on their net weight and the package weight shall be proportionally added to the net weight.

4. In the case that the declared gauge unit and the dutiable gauge unit are different, the rules and principles of conversion of these units to each other shall be laid down by regulation.

5. In the case that the packages of goods are;

- (a) not formed of usual and known materials or packed in a different way than necessary,
- (b) indicated to have different values on the invoice of goods and deemed as separate commercial goods,
- (c) imported in packing form in order to evade import duties;

these shall be declared separately and shall be dutiable in accordance with their tariff classification.

However, in the case that the duty rate of the packing materials of the kind above-mentioned that are dutiable on their own tariff is less than or equal to that of the goods therein, the customs duty imposed on packing materials shall be computed together with the goods on the basis of the duty rates which goods are subject to.

6. In the case that the customs duties of unusually packed boxes, cases and packages are higher than the duty rate of goods therein, they shall be dutiable in accordance with their specific tariff classification.

Boxes, cases and packages of goods subject to ad-valorem duty, shall not be subject to customs duty on condition that they are not deemed as commercial goods in itself and their value is included within the value of goods.

7. In the customs examination by sampling method of the goods dutiable on their weight;

(a) on the basis of the average of excessive amount, additions shall be made to the unweighed packages of the goods of same nature and description provided that any excessive amount is observed comparing to the declaration as a result of the weighing of some of the packages. Where the declarant does not accept this operation, the customs administrations shall weigh all the packages;

(b) the import duties shall be computed on the present amount in the case that any deficiency is observed in the weighed packages contrary to the declaration and that this deficiency is demonstrated to be incurred by the nature of goods or any damage or short shipment or theft thereof.

However, under such circumstances the customs administrations or the declarant shall reserve the right to have the whole packages weighed.

### **TITLE III**

#### **EXAMINATION OF VEHICLES AND PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE CUSTOMS TERRITORY OF TURKEY UNTIL THEY ARE ASSIGNED A CUSTOMS-APPROVED TREATMENT OR USE**

#### **CHAPTER ONE**

#### **Vehicles' Entry into and Exit from the Customs Territory of Turkey**

ARTICLE 33- Entry into and exit from the Customs Territory of Turkey shall be carried out through the customs offices. It is obligatory that certain routes be followed between the customs offices at the entry of the Customs Territory and the inland customs offices. The entry and exit offices and interconnecting routes and the airports where customs formalities are carried out and whereby aircraft may land on the Customs Territory of Turkey, shall be established by the Undersecretariat and shall be published in the Official Gazette after consultation with the relevant public bodies.

Public railways shall be deemed as customs route.

ARTICLE 34-1. Goods brought into or exit from the customs territory of Turkey shall be subject to customs supervision. They shall be subject to control by customs administration in accordance with the provisions in force.

2. No load or passenger shall be admitted to the vehicles in question without permission of the relevant customs administration or without concluding the examination of the vehicles arriving at the Customs Territory of Turkey by road, and the concerned vehicle shall not pass through. The combination of trains shall not be changed by switching or coupling carriages.

Goods outside the Customs Territory of Turkey may only be brought to an authorized customs administration at the frontier via vehicles other than rail. The goods brought to an unauthorized customs authority shall be rejected unless it has been referred to an authorized customs administration under the customs supervision.

The animals to be brought into the Customs Territory of Turkey on foot shall enter through the customs administrations where sanitary inspection can be made.

3. (a) Unless unforeseeable circumstances and force majeure occur or no customs control is required, the vessels arriving from the ports out of the Customs Territory of Turkey shall not change their normal route for their destination port, pause in the course of the journey, contact with other vessels or shall not board by places where no customs administration exists. The customs administrations shall be authorized to inspect the vessel, its load and the ledgers, papers and records thereof, and where necessary to seal the holds and other places that contain goods.

The vessels coming from foreign ports into the Turkish ports and rivers shall halt or make the way enough at certain places in order to be examined for customs purposes.

The equipper or operator or his agent shall inform the relevant customs administration within the duration to be laid down by the regulation for the arrival and departure of the vessels that arrive at Turkey from foreign ports or that depart from Turkey for foreign ports.

The seamen and the passengers of vessels and persons, on duty or not, who visit the vessels may enter to or exit from Turkey only through the authorized customs administrations

(b) Vessels that ply between the Turkish ports and possess an agency, shall be subject to paragraph (a) in the case that they carry goods not released for free circulation or they halt at the ports en route. The Undersecretariat shall have the authority to lay down the methods and principles in order to facilitate the control and customs formalities regarding such vessels and the passengers and loads thereof.

(c) The journey and carriage of the vessels other than those referred to in paragraph (b) may be subject to the customs supervision. Within the conditions to be laid down and the authorization to be granted by the Undersecretariat, such vessels may transit the goods not released for free circulation between the Turkish ports.

(d) Methods and principles of any customs supervision and control on the carriages referred to in paragraph (c) and of the vehicles of whatever kind navigating in the territorial waters and inland waterways shall be determined by regulation.

4. The aircraft that have arrived to Turkey and that are to depart from Turkey may land on or take off from the airports where the authorized customs administrations are situated. These aircraft shall be subject to customs supervision. The pilots of the aircraft that have arrived or departed by a special permission, shall act upon the directives given.

5. Provided that they contain no goods, warfare vessels of the Turkish Navy and navies of foreign countries warfare, crafts of the Turkish Air Force and the foreign warfare crafts that have arrived upon the permission of the Council of Ministers, shall not be subject to customs supervision.

ARTICLE 35- Entry into and exit from the Customs Territory of Turkey and any customs formalities of whatever kind in customs administrations shall be carried out within the regular working hours.

Nevertheless;

(a) a line of coupled railway carriages and regularly plying sea, river, land and air vehicles shall reserve the right to enter into and exit from the Customs Territory at any hour of night and day. Likewise, the irregularly plying sea, river, land and air vehicles which bring passengers shall also reserve the right to enter into and exit from the Customs Territory.

(b) Vessels shall be able to load and unload goods and embark and disembark passengers at any hour of the day and night at the ports where operation facilities exist.

(c) Customs administrations shall also accept the loading and unloading requests of the vessels which, due to force majeure, had to enter or leave, out of the working hours, a port where a customs administration is situated. Vessels, carrying passengers and tourists, may, out of the working hours, enter and leave a port where a customs administration is situated.

## **CHAPTER TWO**

### **Summary Declaration and Entry of the Goods into the Customs Territory of Turkey**

ARTICLE 35/A-1. Goods brought into the customs territory of Turkey shall be covered by a summary declaration, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.

2. The summary declaration shall be lodged at the customs office of entry. The summary declaration may be allowed to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry. The Undersecretariat may accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in the debtor's computer system.

3. The summary declaration shall be lodged before the goods are brought into the customs territory of Turkey.

4. The following shall be laid down by regulations in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and debtors and where international agreements provide for special security arrangements:

- the time limit by which the summary declaration is to be lodged before the goods are brought into the customs territory of Turkey,

- the rules for exceptions from, and variations to, the time limit referred to in the first indent, and
- the conditions under which the requirement for a summary declaration may be waived.

#### Article 35/B

1. The format and content of the summary declaration shall be laid down by regulations, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.

3. The Undersecretariat may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

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

5. Notwithstanding the obligation of the person referred to in paragraph 4 and in accordance with the conditions laid down in regulations, the summary declaration may be lodged instead by:

(a) the person who acts in the name of the person referred to in paragraph 4 (b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or

(c) a representative of one of the persons referred to in paragraph 4 or points (a) or (b).

6. Customs authorities shall authorise to amend one or more particulars of the summary declaration after it has been lodged upon the request of the persons referred to in paragraphs 4 and 5. However, no amendment to the summary declaration may be allowed after;

(a) having informed the person who lodged the summary declaration, that the goods will be examined; or

(b) having established that the particulars in questions are incorrect; or

(c) having allowed the removal of the goods.

#### Article 35/C

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in Article 35/A(3) or (4), a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration that are laid down in Article 35/B and, until such time as the former is accepted in accordance with Article 61, it shall have the status of a summary declaration. The customs declaration may be allowed to be lodged at a customs office different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.

2. Where the customs declaration is lodged other than by use of data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

ARTICLE 36- 1. Goods brought into the Customs Territory of Turkey shall, from the time of their entry, be subject to customs supervision. They shall be subject to control by the customs administration in accordance with the provisions in force.

2. They shall remain under such supervision for as long as necessary to determine their customs status, and in the case of goods not released for free circulation and without prejudice to Article 77 (1), until their customs status is changed, or they enter a free zone or they are re-exported or destroyed in accordance with Articles 163 and 164.

ARTICLE 37- 1. Goods brought into the Customs Territory of Turkey shall be conveyed by the person bringing them without delay, under the rules specified by the Undersecretariat:

- (a) to the customs administration designated or to any other place approved by those administrations; or,
- (b) directly to a free zone by sea or air, or by land without passing through a part of the Customs Territory of Turkey.

2. Any person who assumes responsibility for the carriage of goods after they have been brought into the Customs Territory of Turkey, as a result of transshipment, shall become responsible for compliance with the obligation laid down above.

3. Without prejudice to provisions in force with respect to supervision and control by the customs administrations, the Undersecretariat is authorized to lay down special provisions regarding passengers, inhabitants of boundaries, postal traffic and goods of negligible economic importance.

4. The paragraphs above and Articles 35/A to 35/C and 38 to 50 shall not apply to goods which temporarily leave the customs territory of Turkey while moving between two points in that territory by sea or air, provided that the carriage is effected by a direct route and by regular air or shipping services without a stop outside the customs territory of Turkey.

5. Paragraph 1 shall not apply to goods on board vessels or aircraft crossing the territorial sea or airspace of Turkey without having as their destination a Turkish port or airport.

ARTICLE 38- 1. Where, by reason of unforeseeable circumstances or force majeure, the obligation laid down in Article 33 and paragraphs 1 and 3 of Article 34 cannot be complied with, the person bound by that obligation or any other person acting in his place shall inform the customs administration of the situation and the location and condition of the goods without delay.

2. Where, by reason of unforeseeable circumstances or force majeure, a captain of a vessel or a person carrying goods within the Turkish territorial waters is forced to

drop these goods into the sea or disembark, transfer or collect them, he shall inform the nearest customs administration of the situation and the location and condition of the goods without delay in order to enable the determination of their customs status and other necessary measures.

3. Where, by reason of unforeseeable circumstances or force majeure, a vessel or aircraft covered by paragraph 5 of Article 34 is forced to put into port or land temporarily in the Customs Territory of Turkey and the obligation laid down in paragraphs 1,3 and 4 of Article 34 cannot be complied with, the person bringing the vessel or aircraft into the Customs Territory of Turkey or any other person acting in his place shall inform the customs administration of the situation without delay.

4. The Undersecretariat shall determine the measures to be taken in order to permit customs control of the goods referred to in paragraph 1 as well as those on board a vessel or aircraft in the circumstances specified in paragraph 2 and to ensure, where appropriate, that they are subsequently conveyed to a customs administration or other place designated or approved.

## **CHAPTER THREE**

### **Presentation of Goods to Customs**

ARTICLE 39- Goods entering the customs territory of Turkey shall be presented to customs by the person who brings them into that territory or, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory of Turkey without a stop within this territory. The person presenting the goods shall make a reference to the summary declaration or customs declaration previously lodged in respect of the goods.

ARTICLE 40- Other than the provisions of Article 39, the Undersecretariat may lay down special rules relating to goods:

- (a) carried by passengers;
- (b) placed under a customs procedure but not presented to customs.

ARTICLE 41- Goods may, once they have been presented to customs, and with the permission of the customs administration, be examined or samples may be taken, in order that they may be assigned a customs-approved treatment or use. Such permission shall be granted, on request, to the person concerned and authorized to assign the goods such treatment or use.

## **CHAPTER FOUR**

### **Unloading of Goods Presented to Customs**

ARTICLE 45- 1. Goods may be unloaded or transhipped from the means of transport carrying them with the permission of the customs administrations in places designated or approved by those customs administrations

However, such permission shall not be required in the event of the imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the nearest customs administrations shall be informed accordingly forthwith.

2. For the purpose of inspecting goods and the means of transport carrying them, the customs administrations may if appropriate require goods to be unloaded and unpacked.

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

## **CHAPTER FIVE**

### **Obligation to Assign Goods Presented to Customs a Customs-approved Treatment or Use**

ARTICLE 46- 1. Goods presented to customs shall be assigned a customs-approved treatment or use.

2. Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within:

(a) 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;

(b) 20 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.

3. Where circumstances so warrant the Undersecretariat may set a shorter period or authorize an extension of the periods referred to in paragraph 2 and in Article 48 (2). Such extension shall not, however, exceed the genuine requirements, which are justified by the circumstances.

## **CHAPTER SIX**

### **Temporary Storage of Goods**

ARTICLE 47- Until such time as they are assigned a customs-approved treatment or use, goods presented to customs shall, following such presentation, have the status of goods in temporary storage. Such goods shall hereinafter be described as 'goods in temporary storage'.

ARTICLE 48- 1. Goods in temporary storage shall be stored only in places approved by the customs administrations under the conditions laid down by those administrations.

The customs administrations may require the person holding the goods in temporary storage to provide security with a view to ensuring payment of any customs debt which may arise for such goods and in accordance with Article 183 and 184.

2. The goods placed in the customs stores special to passengers' goods can be kept there for a period of 3 months following presentation before they are assigned a customs-approved treatment or use.

ARTICLE 49- Without prejudice to the provisions of Article 41, 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. The rules of handling shall be determined by regulation.

ARTICLE 50- 1. Where they are not involved in administrative or judicial proceedings, goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use are not initiated within the periods

determined in Article 46 and paragraph 2 of Article 48 shall be disposed of in accordance with Articles 177 to 180.

2. The customs administrations 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 SEVEN**

### **Provisions applicable to Goods Which Have Moved Under a Transit Procedure**

ARTICLE 51- Article 37 to 50, with the exception of paragraph 1 (a) of Article 37, shall not apply when goods already placed under a transit procedure are brought into the Customs Territory of Turkey.

ARTICLE 52- Once goods that will move under a transit procedure in the Customs Territory of Turkey are presented to customs in accordance with the rules governing transit, Article 41 to 50 shall apply.

## **CHAPTER EIGHT**

### **Other Provisions**

ARTICLE 53- Where the circumstances so require, the customs administrations may have goods presented to customs destroyed. The customs administrations shall inform the holder of the goods accordingly. The costs of destruction of the goods shall be borne by the holder.

ARTICLE 54- Where customs administrations find that goods have been brought, as contrary to the provisions laid down by this Code, into the Customs Territory of Turkey or have been withheld from customs control, the Anti-Smuggling Act and relevant provisions of other Acts shall apply.

## **TITLE IV**

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

#### **CHAPTER ONE**

##### **General Provisions**

ARTICLE 55- 1. Save as otherwise provided, goods may at any time, under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature or quantity, or their country of origin, consignment or destination.

2. Regarding the assignment of goods a customs-approved treatment or use, The Council of Ministers may adopt prohibitions or restrictions justified on grounds of public morality, public order or public security, the protection of health and life of humans, animals and plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and intellectual property rights.

3. The Council of Ministers is authorized to adopt prohibitions or restrictions or to apply different procedures or tariff, as a reprisal, for the goods and means of transport belonging to foreign countries which do not have an agreement made with Turkey on trade, customs, transportation or have partially or totally withdrawn from the provisions of the signed agreements unilaterally ahead of time or have adopted prohibitions or restrictions for Turkish means of land transport, vessels and aircraft or apply different procedures for them.

ARTICLE 56- 1. The importation of goods to Turkey having a name or sign, either on themselves or their inner or outer coverings, which shows or rises a suspicion that they are products of a country other than their producer countries shall not be permitted. Undersecretariat may permit their transit, storage in warehouses or likewise places, or re-exportation. Where it is doubtful whether the goods may be considered within the content of this Paragraph, relevant procedures shall apply after consultation with the Ministry of Industry and Trade. Handling activities whose procedures and principles will be determined by Regulation, may be allowed with a view to remove the names and signs concerned, or to indicate the real origin of the goods.

2. The importation of all kinds of blank envelopes, tapes, labels, stamps and likewise goods with prints or writings in foreign languages on them which shows or rises a suspicion that they are products of a foreign country into Turkey in order to be used for goods of Turkish origin and, with the exception of the proforma invoices of foreign firms not established in Turkey, the importation of blank invoices to Turkey, either signed or not, which may make documents issued in Turkey seem as issued in other countries shall not be permitted.

Such goods of the firms established in Turkey and of the foreign firms which have signed agreements of license, royalty or patent shall not subject to this provision.

ARTICLE 57-1. a) In reference to the rights that must be protected under the legislation on intellectual and industrial rights, the Customs offices shall detain or suspend the customs procedures of the goods infringing the authorizations of the right holder, upon the request of the right holder or his representative. The decision to detain or suspend shall be notified to the right holder or his representative and to the declarant or the persons referred to in Article 37.

b) In cases where no request has yet been made at the Customs Office, and where solid evidence is available showing that the goods in question are in breach of intellectual and industrial property rights; with a view to ensure the valid application of the right holder, these goods may be subjected to ex officio customs detention for a duration of three business days or the Customs procedures of the goods may be suspended by the Customs offices.

2. The acceptance of an application lodged at the customs by virtue of the infringement of intellectual and industrial property rights, shall not grant a right of indemnity to the right holder on grounds that the goods have been released without being duly examined by the relevant customs office or no measure has been taken for the detention of the goods. Within the framework of the fight against the goods infringing the intellectual and industrial rights, the relevant Customs office and authorities shall not be held responsible for the losses incurred by the relevant persons upon the application of the customs office or due to acting on its own account.

3. Where no interim injunction is imposed by the right holder within three business days for the perishable goods and within ten business days for other goods as from the notification of the suspension or detention decision of the Customs office to the right holder, the provisions of the customs procedure under which the declarant lodged his request, shall apply. In case of a justifiable excuse and upon the request of the right holder, the relevant customs office may grant an additional time up to ten business days.

4. Goods whose customs procedures have been suspended or that have been detained by the relevant customs office, shall be destroyed or disposed of, through the alteration of their essential characters in accordance with the decision of the duly empowered court.

5. The provisions of this Article shall not apply to the personal effects of the passengers and the souvenirs having a non-commercial nature and covered within the relief from Customs duties. In cases where the goods protected under the rights that are required to be protected in accordance with the legislation on intellectual and industrial rights and produced under the authorization of the right holder are subjected to a customs procedure without the consent of the right holder; or where they are produced under conditions other than those approved by the right holder or bear a different brand, these goods shall be excluded from the provisions of this Article.

6. Without the decision of the court regarding the infringement of the intellectual and industrial rights, the Customs authorities may permit the destruction of the goods whose customs procedures have been suspended or that have been detained by the Customs authorities, under Customs control and within facilitated destruction. The methods and principles regarding the facilitated destruction shall be laid down by regulations.

7. The methods and principles governing the return, under a security with an amount specified by the right holder, of the goods whose customs procedures have been suspended and that have been detained by the Customs authorities, shall be laid down by regulations.

## **CHAPTER TWO**

### **Customs Procedures**

#### **SECTION 1**

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

ARTICLE 58- 1. All goods intended to be placed under a customs procedure shall be covered by a declaration for that customs procedure.

2. Goods in free circulation declared for an export, outward processing, transit or customs warehousing procedure shall be subject to customs supervision from the time of registration of the customs declaration until such time as they leave the customs territory of Turkey or are destroyed or the customs declaration is invalidated.

ARTICLE 59- 1. The customs declaration may be made:

- (a) in writing; or
- (b) using a data-processing technique; or
- (c) orally; or
- (d) by means of any other act whereby the holder of the goods expresses his wish to place them under a customs procedure.

#### **A. Declarations in writing**

##### **I. Normal procedure**

ARTICLE 60- 1. Declarations in writing shall be made on the form mentioned in paragraph 4. 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. a) The declaration shall be accompanied by all the documents required for the implementation of the provisions governing the customs procedure for which the goods are declared.

b) Where the Customs declaration is made through the data processing technique, the Customs authorities may not require the submission of the documents that should be accompanying the declaration, together with the declaration. In this case, the documents concerned shall be kept by the declarant in order to be submitted when required by the Customs authorities.

3. Declarations with erasures and wiping shall not be accepted by the customs administrations. However; where erroneous writing is voided by striking through, provided that it is still legible, the re-arranged information is written aside, and the declaration is signed by the holder of goods, declaration shall be officially stamped and corrected during registration .

4. Customs formalities shall be fulfilled by the declaration forms and other documents, formats and contents of which are determined by regulations. The Methods and principles regarding their printing and distribution are determined by the Undersecretariat. The Undersecretariat is authorized to accept the above-mentioned documents prepared on computers.

5. In the following cases, the official letters of the authorities shall be accepted as a declaration and the customs formalities of the goods shall be performed on the basis of these letters.

- a) The letters to be sent by the Secretariat General of Presidency, regarding the personal and household belongings of the President of the Republic
- b) The letters sent by the mission chiefs or the delegation heads holding an exemption right with regard to the goods to be released only in the name of the person who holds the diplomatic exemption and privilege rights or in the name of the Embassy on condition of mutuality; and the courier letters of courier bags; the form and the information they will cover and the operations they will be subjected to, will be determined jointly by the Ministry of Foreign Affairs and the Undersecretariat of Customs.

ARTICLE 61- 1. Declarations which comply with the conditions laid down in Article 60 shall be registered, provided that the goods to which they refer are presented to customs. The registration procedure shall mean that a registration date and number are given by the system by entering the information regarding the declaration to the customs computer system over the local area network or wide area network; or the declaration or the document used as a declaration is stamped and given a number and date, and the information regarding this declaration is written into the registration book.

2. Save as otherwise provided, the date to be taken as the base for the purposes of all the provisions governing the customs procedure for which the goods are declared shall be the date of registration of the declaration.

3. A declaration, with the nature of a commitment, registered shall bind the declarant with regard to the duties and fines to which it refers and it shall be the base to assess the customs duties.

ARTICLE 62-1. Without prejudice to Article 5, a customs declaration may be submitted by any person having the authorization to present the goods concerned and to produce the documents required for the implementation of the provisions governing the customs procedure for which the goods are placed, or who is able to provide this submission to the competent customs administrations.

2. However, where registration of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person or on his behalf and the declarant must be established within the Customs Territory of Turkey.

Nevertheless, the condition regarding establishment within the Customs Territory of Turkey shall not apply to persons who make a declaration for transit or temporary importation and persons who declare goods on an occasional basis, provided that the customs administration consider this to be justified.

ARTICLE 63- Provided that it will not give rise to the declaration of other goods; customs authorities may permit, at the request of the declarant, the amendment of one or more of the particulars of the declaration.

However, no amendment shall be permitted after the customs administrations:

- (a) have informed the declarant that they intend to examine the goods;
- (b) have established that the particulars in question are incorrect;
- (c) without prejudice to Article 73, have released the goods.

ARTICLE 64- 1. The customs administrations shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified; and may permit the declarant to make a new declaration if appropriate.

Nevertheless, where the customs administrations have informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted until the outcome of the examination has been taken place.

- 2. Where goods are entirely damaged; customs administrations, upon request, shall permit their destruction or release out of the Customs Territory.
- 3. Once the declaration has been registered, the import duties shall not be reduced as a result of amendment or deterioration regarding the nature of goods.

However,

a) The customs administrations shall permit the declaration of goods which gain the properties of primary materials as "primary materials". Where they deem it necessary, the customs administrations shall take measures to prevent their usage in forms other than primary materials.

b) Where it is possible to separate partially damaged goods to pieces, the damaged part shall be covered by the provisions of paragraph (a). In the case it is impossible to separate the damaged and undamaged parts, at the request of the declarant, both the provisions of paragraph (a) may be applied and also the goods' exit from the Customs Territory or their destruction may be permitted.

4. The declaration shall not be invalidated after the goods have been released, except in cases defined in regulation.

5. Invalidation of the declaration shall not be without prejudice to the application of the penal provisions in force.

ARTICLE 65- 1. For the verification of declarations which they have accepted, the customs administrations may:

(a) examine the documents covering the declaration and the documents accompanying it. The customs administrations 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.

2. Where the goods covered in the declaration are examined, the outcome of the examination; where the goods are not examined, the information in the declaration shall be used for the application of the rules governing the related customs procedure.

3. For verification; the customs investigators, their assistants, customs controllers, intern controllers and Heads of customs administrations may, at any time, re-examine the goods which have already been examined and of which the formalities have been completed. Likewise, the above mentioned persons are authorized to inspect the customs procedures at any stage.

4. The persons who check the declaration and examine or re-examine the goods shall be liable, individually or jointly where appropriate, for the control or examination performed, the calculation of the customs debts or the application of the provisions of relief.

ARTICLE 66-1. The examination of goods shall be performed in places and warehouses where the goods are kept under the permission of customs administrations. The procedure and principles regarding examination of goods in places other than these, shall be laid down with regulations.

The procedures regarding the courier bags shall be determined together by the Ministry of National Defense and Ministry of Foreign Affairs, and the Undersecretariat for Customs.

2. The declarant shall bear the cost of 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, as well as the costs relating to packing and consignment of the samples.

3. 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 administrations 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.

4. Provided that samples are taken in accordance with the provisions in force, the customs administrations shall not be liable for payment of any compensation in respect thereof. The cost of the analysis or examination to be performed by the customs administrations in laboratory or to be performed outside, shall be borne by the declarant.

5. The samples remaining from the analysis, in the case they are not taken back within one month after the results have been stated to the person concerned, shall be deemed to be left to the customs.

6. The procedures and principles regarding laboratory analysis and the determination of the tariff of fares of the customs laboratories in consultation with relevant institutions, shall be laid down by regulation.

ARTICLE 67- 1. Where a declaration form covers only one item and only part of the goods covered by the 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 examination of the entire goods if he considers that the results of the partial examination are not valid as regards the remainder of the goods declared.

2. Where a declaration form covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration. The deficiency or excess in an item can not be passed on the account of the deficiency or excess in another one.

The goods covered in the divisions of the same tariff heading in the Turkish Customs Tariff and subject to the same autonomous or conventional duty rates shall be taken as one single item.

ARTICLE 68- 1. The customs administrations shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the conditions governing the customs procedure for which the said goods have been declared.

2. Means of identification such as labels, seals or the like affixed to the goods or means of transport shall be removed or destroyed only by the customs administrations 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 69- 1. Where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the customs administrations shall release the goods as soon as the particulars in the declaration have been verified or where appropriate without verification. However, where such verification cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes, customs administrations shall release the goods.

The procedure and principles regarding the goods subject to prohibitive or restrictive measures shall be determined by regulation.

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.

3. Where registration 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, this provision shall not apply to the temporary importation procedure with partial relief from import duties.

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

ARTICLE 70- 1. Where goods cannot be released within the period laid down in Article 46 for reasons attributable to the declarant, because:

(a) it has not been possible to start or continue examination of the goods;

(b) the documents which must be produced before the goods can be placed under the customs procedure requested have not been produced;

(c) 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;

the goods shall be examined. As a result of examination, the situation in which a fine or other proceedings are required or not shall be laid down by a statement and afterwards, subject to Articles 177 to 180 the goods shall be disposed of.

2. For goods stored in customs warehouses, in the case a declaration regarding the assignment of a customs-approved treatment or use, is submitted, the customs procedures shall be fulfilled within 30 days following the registration of the declaration. The provisions in paragraph 1 shall apply to the goods of which the customs procedures have not been fulfilled within the given period.

## **II. Simplified Procedure**

Article 71-1. In order to simplify the completion of the formalities and the procedures as far as possible while ensuring that the customs operations are conducted in a proper manner in accordance with the provisions in force, the customs administrations shall, under conditions laid down in the regulations, grant permission;

(a) The declaration referred to in Article 60 to omit the certain documents that have to accompany and certain information that has to be recorded.

(b) a commercial or administrative document, accompanied by the request for the goods to be placed under the related customs procedure in question, to be lodged instead of the above-mentioned declaration,

(c) the goods to be entered for the related customs procedure by means of the entry in the records.

Where subparagraph (c) is applied, the declarant may be relieved from the requirements of presentation of the goods to the customs.

The declaration made through the simplified procedure, commercial or administrative document or entry in the records must contain at least the information necessary for the identification of the goods. Where the goods are entered in the records, the date of such entry must be included.

2. The declarant shall make a complementary declaration which may be of a general, periodic or recapitulative nature. The situations where the requirement for a complementary declaration will be waived shall be determined by regulation.

3. Complementary declarations and the declarations referred to in subparagraphs 1 (a), (b) and (c) shall be deemed to constitute a single, indivisible instrument taking effect on the registration of the simplified declarations. In the cases referred to in subparagraph 1 (c), entry in the records shall have the same legal force as registration of the declaration referred to in Article 60.

### **B. Other Declarations**

ARTICLE 72- The proceedings regarding the declarations mentioned in Article 59 paragraph 1 (b), (c) and (d), shall be laid down by regulation within the framework of Articles 60-71.

### **C. Post-Clearance Examination of the Declaration**

ARTICLE 73-1. The customs administrations 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 formalities in respect of the goods concerned or to subsequent commercial formalities 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. Where appropriate the goods may be examined.

2. The customs administrations may, on their own initiative or at the request of the declarant, amend the declaration after release of the goods in accordance with the methods and principles laid down by regulation.

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 administrations shall, without prejudice to the penalty provisions laid down in this Code, take the necessary measures to amend the declaration taking account the new findings available.

## **SECTION 2**

### **Release For Free Circulation**

ARTICLE 74- Release for free circulation of the goods that came to the Customs territory of Turkey 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 duties legally due. The Council of Ministers shall be authorized to determine the methods and principles regarding the release for free circulation of goods, without being brought to the Turkish Customs territory.

ARTICLE 75-1. Provided that, except the agricultural fiscal obligations, the rate of duty is reduced after the date of declaration for release for free circulation but

before the payment or securing the customs duties, the declarant may request the application of the favorable rate.

2. Paragraph 1 shall not apply where it has not been possible to complete the customs formalities for reasons attributable to the declarant.

ARTICLE 76- Where the goods covered by one single transport document falling within different tariff classification, 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 additional work and expense disproportionate to the import duties chargeable, the customs administrations 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 77-1. The customs supervision of the goods released for the free circulation at a reduced or zero rate of duty because of end-use, shall end with the production or use that is accepted as the end-use. Furthermore, the customs supervision shall also end when the condition laid down for granting such a reduced or zero rate of duty cease to exist where the goods are exported or destroyed or where the use of the goods for purposes other than those laid down for the application of the reduced or zero rate of duty is permitted subject to payment of the duties due.

2. Article 81 (2) or Article 83 shall be apply, where appropriate, to the goods released for free circulation by virtue of end-use.

ARTICLE 78- Goods released for free circulation shall lose this status where;

- (a) The declaration for release for free circulation is invalidated,
- (b) The customs duties payable on the goods which are exported after an operation under the inward processing procedure applying the drawback system, are repaid or remitted,
- (c) The customs duties of defective goods or goods which fail to comply with the terms of the contract pursuant to the Article 213 are repaid or remitted,
- (d) In accordance with the Article 214, the customs duties are repaid or remitted because of the exportation, re-exportation or assignment of a customs-approved treatment or use.

### **SECTION 3**

#### **Suspensive Arrangements and Customs Procedure with Economic Impact**

##### **A. Common Provisions**

ARTICLE 79- 1. For the purpose of Articles 80 to 83;

(a) Where the term "suspensive arrangement" is used, it is understood as applying, in the case of the goods that are not in free circulation, to the following procedures:

- Transit,
- Customs Warehousing,
- Inward processing in the form of a system of suspension,
- Processing under customs control,
- Temporary importation,

(b) Where the term "customs procedure with economic impact" is used, it is understood as applying to the following procedures:

- Customs warehousing,
- Inward processing,
- Processing under customs control,
- Temporary importation,
- Outward processing.

2. "Import goods" means goods placed under a suspensive procedure and goods which, under the inward processing procedure in the form of the drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Article 118.

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

ARTICLE 80- 1. Rules and principals relating to the inward processing and outward processing procedures shall be determined by the Council of Ministers.

2. Without prejudice to the special conditions governing the procedure in question, the authorization related to the use of the procedures with economic impact and the authorization to operate the customs warehouse referred to in paragraph 1 of the Article 95 shall be granted only;

(a) Where guarantees and undertakings necessary for the proper conduct of the operations are granted;

(b) Where the administrative arrangements that customs administrations must introduce for supervising or monitoring the procedure in question is proportionate to the economic objectives targeted by that procedure

ARTICLE 81-1. The conditions under which the procedure in question is used shall be set out in the authorization. The holder of the authorization shall notify the relevant authorities of all factors arising after the authorization was granted which may influence its continuation or content

2. Placing the goods under a suspensive arrangement shall be depended upon securing the customs debts of all kind may be incurred in respect of those goods.

3. Goods obtained from the goods placed under suspensive arrangements and goods proved to have a specific economic value in accordance with the rules of the customs procedure under which they are placed, shall be deemed to have been placed under the same procedure.

ARTICLE 82- A suspensive arrangement with economic impact shall be discharged when a new customs-approved treatment or use is assigned either to the goods placed under that arrangement, equivalent or processed products placed under it.

Customs administrations shall, where a procedure is not ended under the circumstances provided, apply the penalty provisions laid down in Title XI.

ARTICLE 83- The rights and liabilities of the holder of a customs procedure with economic impact, may, on the conditions laid down by regulation, be transferred successively to other persons who fulfil conditions in order to benefit from the procedure in question. The new right holder may transfer his right to other persons who fulfil the same conditions.

## **B. Transit Procedure**

### **I. General Provisions**

ARTICLE 84-1. The transit procedure shall apply for the movement under the customs supervision, within the Customs Territory of Turkey from one point to another, of the goods;

- a) not released for free circulation and not subjected to import duties and other charges or to commercial policy measures;
- b) whose customs formalities of exportation have been completed.

2. Customs administrations shall grant permission of the goods placed under the transit procedure in Customs Territory of Turkey from;

- (a) A foreign country to a foreign country,
- (b) A foreign country to Turkey,
- (c) Turkey to a foreign country,
- (d) An inland customs to another inland customs.

3. Movement of the goods placed under the transit procedure within the Customs Territory of Turkey, shall take place:

- (a) Under the transit procedure declaration,
- (b) Under cover of a TIR carnet,
- (c) Under cover of an ATA carnet used as a transit document,
- (d) Under cover of the form 302 provided for in the Convention between the Parties to the NATO Atlantic Treaty Regarding the Status of Forces,
- (e) By postal way including postal packages,
- (f) CIM consignment note for railway transportation; TR Transfer Note for transportation by large containers; and goods manifest for the airway and seaway transportation, to be determined in accordance with the Regulation.

4. a) 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 governing the procedure in question.

b) Where it is established that the transit procedure has been duly completed as a result of the comparison of the information and documents at the at the customs Office of departure with those at the customs Office of destination, the procedure shall be discharged.

5. The transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under a customs procedure with economic impact, which will be determined by the Undersecretariat. Without being dependent on the provisions hereunder, the Undersecretariat shall be authorized to make arrangements relating to the nature and type of goods and nature of movement or within the framework of the liabilities of Turkey that have arisen from the international agreements.

## **II. Specific Provisions**

ARTICLE 85- A guarantee shall be provided in order to ensure payment of any customs duties which may be incurred in respect of the transit goods.

However, except in cases to be determined by relevant regulation, no guarantee need to be furnished for;

- (a) carriage by air
- (b) carriage by pipelines
- (c) carriage by railways; and
- (d) carriage by sea.

2. Guarantee might be as

- a) individual guarantee for a single transit operation,
- b) comprehensive guarantee for several transit operations where it is permitted by the Undersecretariat.

3. The permit mentioned in subparagraph (b) of paragraph two may only be granted to persons;

- a) resident within the Customs Territory of Turkey,
- b) using the transit procedure regularly or determined by the Customs administration to be fulfilling its obligations relating to this procedure,
- c) not having violated the Customs or tax legislation in the manner defined by Regulation.

4. Persons proved by the Customs authorities to meet reliability standards may be granted the permit for a comprehensive guarantee with a reduced amount, or for a guarantee waiver. For the permit of comprehensive guarantee with a reduced amount or guarantee waiver, the following shall be required:

- a) the accurate use of the transit procedure at a definite period of time,
- b) cooperation with customs authorities,
- c) the proving by the persons concerned, of their financial capacity to be fulfilling their commitments. The methods and principles related with the permit granted under this paragraph shall be laid down by regulation.

5. The permit for a guarantee waiver granted under paragraph 4 shall not apply to the transit operations of the goods determined by the Undersecretariat to be containing a high risk.

6. The Undersecretariat shall be authorized to temporarily suspend:

- a) the comprehensive guarantee with an amount reduced for the purpose of the provisions of paragraph 4 as an exceptional measure in specific cases,
- b) the comprehensive guarantee for the goods that may be the subject of a wide-scale smuggling

ARTICLE 86- 1.The principal shall be liable to present the goods intact and without any deficiency at the customs administration of destination within the prescribed time limit and by complying with the measures adopted by the customs administrations to ensure identification, and to fulfill the provisions relating to transit procedure.

2. Notwithstanding the principal's obligations under paragraph 1, a carrier or recipient of goods who accepts goods knowing that they are moving under transit procedure shall also be responsible for presentation of the goods intact and without any deficiency at the customs administration of destination by the prescribed time limit and by fulfilling the measures adopted by the customs administration to ensure identification.

ARTICLE 87-1. The detailed rules for the functioning of the transit procedure and the exemptions shall be determined by regulation.

2. It is possible that the goods subject to transit procedure may be transhipped or stored for a while in customs warehouses that are under the supervision of the customs administrations or in the places permitted by customs administrations.

### **III. Customs Formalities Relating Transit**

ARTICLE 88-1. Goods under transit procedure shall, excepting the cases of suspicion or denunciation, be directed to customs administrations of entry, without being examined. Where deemed necessary, they shall be directed by affixing the seal or they shall be accompanied by customs officials.

2. Where deemed necessary, goods carried under transit procedure from warehouses or other places permitted by customs administrations shall be examined. The examination of goods to be carried under the transit procedure shall be made in accordance with the provisions of Articles 61 to 70. The principal, his representative or the persons responsible for the transportation of goods may be present during the examination of goods subject to this Article.

ARTICLE 89- In the cases covered in Article 55 (2) and Article 56 (1), the Undersecretariat is authorized to adopt regulations regarding the examination of goods under transit procedure, providing security, consignment accompanied by officials and taking other measures.

ARTICLE 90- In the case denunciation is made on or suspicion arisen against a ship on the territorial waters of Turkey, the doors of store-houses or similar places where goods are stored may be sealed by the customs administrations. Such ships may be accompanied by officials or externally observed while sailing.

The measures set above shall be ceased from when the ship leaves the territorial waters of Turkey.

ARTICLE 91- The Undersecretariat is authorized to adopt regulations regarding the transit periods, the routes, the control points and the halting-places of the means of land transportation carrying goods under transit procedure within the Customs Territory of Turkey,

ARTICLE 92- 1. Where, by reason of unforeseeable circumstances or force majeure, a means of transport carrying goods under transit procedure cannot go on its way, the nearest customs administration shall be informed of this situation without delay.

The transshipment of goods from the said vehicle to another one shall be performed under the supervision of the customs administrations and this situation shall be registered by a report.

2. Where it is proved that, by reason of unforeseeable circumstances or force majeure, goods under transit procedure within the Customs Territory of Turkey are destroyed or lost, the customs duties shall not be demanded.

### **C. Customs Warehousing Procedure**

ARTICLE 93-1. The customs warehousing procedure shall allow the storage in a customs warehouse of:

a) the goods not in free circulation, without such goods being subject to import duties or commercial policy measures,

b) the goods in free circulation being placed in a customs warehouse shall attract the application of measures normally attaching to the export of such goods.

2. The warehousekeeper is the person authorized to operate the customs warehouse.

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.

3. Customs warehouse means the place established for storing the goods that is under and by the supervision of the customs administrations and established under the conditions laid down in accordance with the regulations.

4. Cases in which the goods referred to in paragraph 1 being stored in places other than customs warehouses, however accepted as customs warehouses by the customs administrations, may be placed under the customs warehousing procedure shall be determined by regulation.

ARTICLE 94- 1. A customs warehouse may be 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 for only the warehousing of goods by the warehousekeeper.

2. Inflammables and explosives or goods which constitute a hazard, which are likely to affect other goods aside or which require special installations or buildings shall be accepted only by public or private warehouses appropriate for their characteristics. Such goods shall be determined by regulation.

3. The fairs and exhibitions where goods not in free circulation are exhibited shall also be deemed as warehouses.

ARTICLE 95-1. The Undersecretariat shall be entitled to authorize the opening and operating of customs warehouses and with a private customs warehouse status of shops and the storehouses of such shops. Methods and principles regarding the granting of authorization; the temporary or permanent revoking of such authorizations; and the acts, documents and registration system of such authorizations; and the persons that may purchase goods and the description and quantity of the goods that may be sold to such persons, shall be laid down by regulation.

2. Any person wishing to operate a customs warehouse shall make a request in writing including the information required for granting the authorization, in particular, demonstrating that an economic need for warehousing exists. The authorization shall lay down the conditions for operating a customs warehouse.

3. Authorization shall be issued only to persons established in Turkey.

4. The rights and obligations of a warehousekeeper may, under the authorization of Undersecretariat for Customs, be transferred to another person.

ARTICLE 96- The warehousekeeper 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;

(c) complying with the particular conditions specified in the authorization.

ARTICLE 97- 1. By way of derogation from Article 96, where the authorization is granted to operate a public warehouse, it may be provided that the responsibilities referred to in Article 96 (a) or (b) devolve exclusively upon the depositor.

2. The depositor shall in any case be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure.

ARTICLE 98- Without prejudice to Article 81 (2), the customs administrations shall demand that the warehouse-keeper provide a guarantee in connection with the responsibilities specified in Article (96) subject to conditions laid down by regulation.

However, a guarantee shall not be demanded for the goods; placed in exhibitions and fairs or, exempt from import duties or, stored in warehouses in order to be exported

Even where guarantee has been provided; goods shall not, entirely or partially, be allowed from warehouses before the customs procedures are started, finished and an authorization is given by the customs administration.

ARTICLE 99- Warehousekeeper shall keep stock records of all the goods placed under the warehousing procedure when they are brought into the customs warehouse. Stock records of all the goods in warehouses that are not operated by customs administrations shall be kept by the warehousekeeper. These records should, at all times, be ready to be inspected by customs administration. The methods and principles regarding the said stock records and the stock records mentioned in Article 100 shall be determined by regulation.

ARTICLE 100- Where an economic need exists and customs supervision is not adversely affected, the following may be allowed under the conditions laid down by Undersecretariat for Customs:

(a) placing into the bonded warehouse of the goods in free circulation other than those to be exported,

(b) placing the goods, not in free circulation, to processing at the bonded warehouse within the framework of the provisions relating to the inward processing or processing under the customs control procedures.

The goods shall not be placed under the customs warehousing procedure in cases referred to in paragraph one.

Customs authorities may obligate the keeping of the goods cited in paragraph 1, into the warehousing records in the manner referred in Article 99.

ARTICLE 101- 1. There shall be no limit to the length of time goods may remain under the customs warehousing procedure. However, in cases deemed necessary by the customs administrations, they may set a time limit by which the depositor must assign the goods a new customs-approved treatment or use.

2. Specific time limits for the agricultural goods which are able to benefit from the measures of exportation may be laid down by the Undersecretariat.

ARTICLE 102- 1. Import goods may undergo the usual forms of handling, the rules of which are laid down by regulation, intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

The forms of handling may be restricted for the agricultural products by the Undersecretariat in order to ensure the smooth operation of the organization of the market.

2. The forms of handling applicable to the agricultural products, which are able to benefit from the measures of exportation and are placed under the warehousing procedure shall be set by regulation.

3. The forms of handling provided for in this Article may be performed in accordance with the permission of customs administrations.

ARTICLE 103- 1. Under the authorization of the customs administrations, goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse.

While they are outside the customs warehouse, the goods may undergo the forms of handling referred to in Article 102 on the conditions set out therein.

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

ARTICLE 104- 1. Where a customs debt is incurred in respect of import goods, the cost of warehousing and of preserving goods while they remain in the warehouse, needs 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 102, the nature of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into account for the goods, at the time referred to in Article 193, as if they had not undergone such handling. However, derogation from this provision may be adopted by the Undersecretariat.

3. Where, in accordance with subparagraph (c) of paragraph 1 of Article 71, import goods are released for free circulation without being presented to customs and before the corresponding declaration is lodged, and the duties of those goods were assessed on the basis of the duty rates and other taxation elements in force at the time when the goods were placed under the customs warehousing procedure. This provision shall be valid only where the taxation elements such as the nature, customs value and quantity of the goods have been determined on the date when they were placed under a customs procedure.

However, where the declarant requests that the procedure should be fulfilled in accordance with the state, quality and other taxation elements of the goods that were in force on the registration date of the declaration for free circulation, the procedures shall be fulfilled accordingly.

Subject to Article 73, the provisions of a post-clearance examination shall not be prejudiced.

ARTICLE 105- 1. At the end of each year, the warehousekeepers of public and private warehouses shall submit a list to the customs administration regarding the inventory of the warehouses. Each year, the goods in public and private warehouses shall be counted by the customs administration taking into consideration the lists submitted by the warehousekeepers. In cases the goods in public warehouses are too many to count, they can be counted by the customs administrations by the sampling method.

2. The customs duties of the goods which prove missing as a result of the count in the warehouses shall be collected from, depending on the situation, the warehousekeeper or the depositor.

3. The goods which prove excess as a result of the count in the warehouses shall be recorded. Unless the customs administration deems that this excessiveness results

from an acceptable reason, the said goods shall be disposed of in accordance with Articles 177 to 180.

ARTICLE 106 - 1. The warehousekeepers and, subject to Article 97 (1), the depositors shall be liable against the customs administrations for the goods stored in the warehouses in accordance with the quantity ascertained by the customs administrations. When not ascertained, the quantity recorded in their documents shall be used.

2. Customs duties shall not be demanded; in the case of loss and deficiency as a result of the characteristics of the goods or of the processes made under the control of the customs administration; in the case of destruction, loss or theft for which the warehousekeepers and depositors are demonstrated to the customs administration that they are not faulty.

In case the goods have been insured on the basis their customs value, the duties of the deficient goods shall be collected from the insurant or from the person on whose behalf the insurance was made.

3. No missing shall be accepted resulting from situations other than covered in paragraph 1 or 2. The total amount of the duties and fines regarding these shall be repared by the warehousekeepers or depositors, depending on the situation.

4. The Undersecretariat shall, after consulting with the relevant bodies, determine the loss rates of the goods which are lost in the warehouses a result of their characteristics or during transfers between warehouses as; and goods which diminish as a result of permitted handling performed in the warehouses.

ARTICLE 107- Not excepting the goods covered by agricultural policy; it is compulsory that the goods in free circulation, placed under Customs warehousing procedure and benefiting from the export measures, be exported or be subjected to another Customs-approved treatment or use governed by this Code.

#### **D. Inward processing**

##### **I. General provisions**

ARTICLE 108- 1. Goods not in free circulation intended for re-export from the Customs Territory of Turkey in the form of compensating products, without such goods being subject to import duties or commercial policy measures and after having them covered under a guarantee, can be imported temporarily under the inward processing procedure. When the goods are exported in the form of compensating products, the security shall be returned. The inward processing relief arrangements as provided, shall be termed the suspension system.

2. In the case goods released for free circulation are exported from the Customs Territory of Turkey in the form of compensating products, the import duties collected while they were released for free circulation shall be returned under the inward processing procedure. The inward processing relief arrangements as provided, shall be termed the drawback system.

3. "Processing operations" shall mean:

- (a) the working of goods, including erecting or assembling them or fitting them to other goods;
- (b) the processing of goods;
- (c) the repair of goods, including restoring them and putting them in order; and
- (d) the use of certain goods defined in advance which are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process.

4. "Compensating products" shall mean all products resulting from processing operations.

5. "Primary compensating products" shall mean the products intended to be obtained under the inward processing procedure.

6. "Secondary compensating products" shall mean the products other than the primary products obtained as a result of processing operations.

7. "Equivalent goods" shall mean goods in free circulation, which are used instead of the import goods for the manufacture of compensating products.

8. "Rate of yield" shall mean the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

ARTICLE 109- The customs administrations may allow compensating products to be obtained from equivalent goods; or compensating products obtained from equivalent goods to be exported from the Customs Territory of Turkey before release for free circulation of the import goods. Facilitation, prohibitions or restrictions may be adopted for the use of equivalent goods.

Equivalent goods must be of the same quality and have the same characteristics as the import goods. However, in specific cases determined, equivalent goods may be allowed to be more qualified at a more advanced stage of manufacture than the import goods.

Where compensating goods are obtained from equivalent goods, the import goods shall be regarded for customs purposes as equivalent goods and the equivalent goods as import goods.

Where compensating products obtained from equivalent goods liable to export duties are exported instead of goods not yet imported, the holder of the authorization shall provide a security to ensure payment of the export duties should the import goods not be imported within the period prescribed.

## **II. Grant of the Authorization**

ARTICLE 110-1. The inward processing authorization may be issued, in accordance with Article 80, at the request of the person who carries out processing operations or who arranges for them to be carried out.

2. The inward processing authorization shall be granted only;

- (a) To persons established in the Customs Territory of Turkey;

(b) Except for the use of the goods referred to in Article 108 (3) (d), in cases where the existence of the imported goods within the processed products can be identified or, in cases where the compliance with the conditions laid down in Article 109 in respect of equivalent goods, can be proven.

(c) Where the inward processing procedure can help create the most favorable conditions for the export or re-export of compensating products, provided that the essential economic interests of the producers in the Customs Territory of Turkey are not adversely affected.

The Council of Ministers shall be authorized to determine the cases mentioned in subparagraph (c)

3. It is possible to grant the authorization to persons established outside the Customs Territory of Turkey in respects of importation of goods of non-commercial nature under inward processing procedure.

### **III. Operation of the Procedure**

ARTICLE 111-1. The customs administrations shall specify the period within which the compensating products must have been exported or re-exported or assigned another customs-approved treatment or use. That period shall take account of the time required to carry out the processing operations and dispose of the compensating products.

2. The period shall run from the date on which the authorization for inward processing procedure of goods not in free circulation is granted and end on the last day of the last month within the period. Additional time may be granted depending on reasonable grounds put forward by the authorization holder. This period and the extended periods shall be determined by the Decree of the Council of Ministers.

3. Where the compensating products obtained from equivalent goods are exported before the importation of the import goods, the period for the procedure declaration shall be specified by the Council of Ministers. The period shall run from the date of registration of the export declaration relating to the compensating products obtained from the relevant equivalent goods.

ARTICLE 112-1. The rate of yield of the goods under the inward processing procedure or where appropriate, the method of determining that rate shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.

2. In case of processing operation customarily carried out under specific technical conditions involving goods of substantially essential characteristics and resulting in the production of compensating products of uniform quality, the standard rates of yield determined in accordance with the views of the relevant bodies may be set on the basis of actual data previously ascertained.

ARTICLE 113- 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 accordance with the provisions laid down regarding the release for free circulation procedure.

ARTICLE 114-1. Without prejudice to Article 115, where a customs debt is incurred under the inward processing procedure, the amount of customs debts shall be determined on the basis of the duty rate and other taxation elements appropriate to the import goods at the time of registration of the declaration of placing of these goods under the inward processing procedure.

2. If, at the time of registration of the declaration of placing the goods under the inward processing procedure, the import goods were eligible for preferential tariff treatment under certain tariff quotas or ceilings; such goods may qualify for this preferential tariff treatment providing that the concerned preferential tariff was also effective at the time of the registration of declaration of release for free circulation.

ARTICLE 115- 1. In the cases where, as a result of the processing operations appearing on the list governed by the relevant regulation in consideration of the views of the relevant bodies, secondary compensating products appearing on the said list are obtained together with the primary compensating products, and these secondary compensating products are released for free circulation; the import duties shall be computed considering the duty rate and other taxation elements effective on the registration date of the declaration of release for free circulation for the secondary compensating products at the rate of the exported portion of the primary compensating products.

However, the holder of the authorization may ask for the duty on those products to be assessed in the method referred to in Article 114;

The procedure and principles regarding the taxation of the compensating products subject to charges established under the agricultural policy shall be adopted by the Council of Ministers.

2. Import duties of the products placed under a suspensive arrangement or in a free zone, shall be computed in the manner stipulated under the suspensive arrangement or laid down by the provisions relating to the free zones.

However, in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duty levied shall be at least equal to the amount calculated in accordance with Article 114.

The person concerned may request that duty be assessed in accordance with Article 114.

3. Compensating goods shall be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control where the import goods could have been placed under that procedure;

4. In cases providing for the application of a reduced or zero rate import duty for the import goods, by virtue of the special purposeful use; the processed products shall also benefit from such application.

5. Compensating goods shall benefit from the exemptions where the import goods in question are exempt from import duties pursuant to Article 167.

#### **IV. Processing operations outside the Customs Territory of Turkey**

ARTICLE 116-1. Some or all of the compensating products or goods in the unaltered state may be temporarily exported for the purpose of further processing outside the Customs Territory of Turkey if the customs administration so authorizes, in accordance with the conditions laid down in the outward processing provisions, or for exhibition and repair purposes provided that the identification of the goods is ensured.

2. Where a customs debt is incurred in respect of reimported 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 114 and 115;

(b) import duties on products reimported after processing outside the Customs Territory of Turkey, the amount of which shall be calculated in accordance with the provisions relating to the outward processing procedure.

#### **V. Benefiting from the drawback system**

ARTICLE 117- 1. The drawback system may be used for all goods. However, the drawback system shall not apply, at the time the registration of the certificate of release for free circulation, for the goods which:

- (a) are subject to quantitative import restriction,
- (b) are subject to tariff measures under the scope of quota,
- (c) require the submission of import and export license or certificate within the framework of agricultural policy,
- (d) the export refund or duties of which are available for the compensating products.

2. In addition to the provisions mentioned in paragraph 1, in cases where the submission of the import or export license or certificate is required for the products concerned in the course of the registration of export declaration within the framework of the agricultural policy or where an export refund or duty has been imposed for such products, the import duties shall not be refunded in the drawback system.

ARTICLE 118 The declaration of release for free circulation shall indicate that the drawback system is being used and shall provide particulars of the authorization. Moreover, a copy of the said authorization shall be attached to the declaration of release for free circulation.

ARTICLE 119- Under the inward processing procedure applying the drawback, the following provisions shall not apply:

(a) to the compensating products obtained from equivalent goods shall be exported from the Customs Territory of Turkey before import goods are released for free circulation,

(b) where the import goods shall be regarded for customs purposes as equivalent goods and the equivalent goods as import goods where compensating goods are obtained from equivalent goods,

(c) where compensating products obtained from equivalent goods subject to export duties are exported, the holder of the authorization shall provide the security to ensure payment of duties should the import goods not be imported within the period prescribed instead of goods not imported yet,

(d) to the provisions of Articles 111 (3), 113, 114 and 122, and second indent of 115 (1) and (3).

ARTICLE 120- Temporary exportation for further processing of compensating products or goods in the unaltered state in accordance with the conditions laid down in the outward processing provisions shall not be considered to be exportation within the meaning of Article 121 except where such products are not reimported into the Customs Territory of Turkey within the period prescribed.

ARTICLE 121- 1. The holder of the authorization may ask for the import duty to be repaid or remitted on condition that he complies with the other rules of this procedure and demonstrate that compensating products or goods in the unaltered state obtained from import goods released for free circulation under the drawback system have been either:

(a) exported,

(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),

(c) placed in a free zone,

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

2. For the purposes of being assigned a customs-approved treatment or use referred to in the second subparagraph of paragraph 1, compensating products or goods in the unaltered state shall be considered to be goods not in free circulation.

3. The period within which the application for repayment must be made shall be determined in the related Decree of the Council of Ministers.

4. Without prejudice to Article 115 (2), compensating products or goods in the unaltered state placed under a customs procedure or in a free zone in accordance with the provisions of paragraph 1 shall be released for free circulation in line with the regulation. The amount of the customs duties of the goods to be released for free circulation in this manner, shall be equal to the amount of the duty repaid or remitted under the provisions of paragraph 1.

5. For the purpose of determining the amount of import duties to be repaid or remitted, the first indent of Article 115 (1) shall apply mutatis mutandis.

## **VI. Other provisions**

ARTICLE 122- Within the inward processing procedure applying the suspension system, where the exported compensating products are obtained from equivalent goods subject to export duties, the equivalent good in question shall be exempt from the export duties.

### **E. Processing under customs control**

ARTICLE 123- 1. The procedure for processing under customs control shall allow goods not in free circulation to be used in the Customs Territory of Turkey in operations which alter their nature or state, 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 customs duty appropriate to them. Such products shall be termed processed products.

2. The list of cases in which the procedure for processing under customs control may be used, and exceptional circumstances and special conditions under which the goods covered by this procedure will be placed under a customs-approved treatment or use except for the procedure for release for free circulation, shall be determined by regulation.

ARTICLE 124- 1. Authorization for processing under customs control shall be granted by the customs administrations at the request of the person who carries out the processing or arranges for it to be carried out.

2. Authorization shall be granted only to persons established in the Customs Territory of Turkey;

(a) where the import goods can be identified in the processed products;

(b) where the goods cannot be economically restored after processing to their quality or state as it was when they were placed under the procedure;

(c) where use of the procedure cannot result in circumvention of the effect of the rules concerning origin and quantitative restrictions applicable to the imported goods;

(d) where the necessary conditions for the procedure to help create or maintain a processing activity without adversely affecting the essential interests of producers of similar goods in Turkey (economic conditions) are fulfilled.

Cases under which the economic conditions mentioned in subparagraph (d) are met or deemed to have been met, shall be laid down by regulation.

ARTICLE 125- The periods, the discharge of the procedure and rates of yield regarding the procedure for processing under customs control shall be determined by regulation in accordance with the provisions of Articles 111 and 112.

ARTICLE 126- Where a customs duty 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 amount of duty and other elements of taxation, in force appropriate to the import goods at the time of registration of the declaration relating to the placing of the goods under the procedure for processing under customs control.

ARTICLE 127- 1. Where the import goods qualified for preferential tariff treatment when they were placed under the procedure for processing under customs control, and such preferential tariff treatment is applicable to products identical to the processed products 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 registration 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 and ceilings in force at the time of registration 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 128 The temporary importation procedure shall allow the use in the Customs Territory of Turkey, with total or partial relief from import duties and without their being subject to commercial policy measures, of goods not in free circulation intended for re-export without having undergone any change except normal depreciation due to the use made of them.

ARTICLE 129- 1. Authorization for temporary importation shall be granted by the customs administrations at the request of the person who uses the goods or arranges for them to be used.

2. It shall be refused to authorize the use of the temporary importation procedure where it is impossible to ensure that the import goods can be identified. However, the customs administrations may authorize the use of the temporary importation procedure by securing a guarantee covering all duties, without ensuring that the goods can be identified where, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure.

ARTICLE 130- 1. The Undersecretariat 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 131, the maximum period during which goods may remain under the temporary

importation procedure shall be 24 months. The customs administrations may, however, determine shorter periods with the agreement of the person concerned.

3. However, where exceptional circumstances so warrant, the customs administrations may, at the request of the person concerned, extend the periods referred to in paragraphs 1 and 2 in accordance with the procedures and principles laid down by regulation.

ARTICLE 131 The case and the special conditions under which the temporary importation procedure may be used with total relief from import duties shall be determined by the Council of Ministers.

ARTICLE 132- 1. Use of the temporary importation procedure with partial relief from import duties shall be granted in respect of goods which, while remaining the property of a person established outside the Customs Territory of Turkey, are not covered by the provisions adopted in accordance with Article 131 or which are covered by such provisions but do not fulfil the conditions provided for therein for the grant of temporary importation with total relief.

2. The list of goods in respect of which the temporary importation procedure with partial relief from import duties may not be used shall be drawn up by the Council of Ministers.

ARTICLE 133- 1. The amount of import duties payable in respect of goods placed under the temporary importation procedure with partial relief from import duties shall be set at 3 %, for every month, 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 the declaration of temporary importation procedure was registered.

The said duties shall be charged for every month during which the goods have been placed under this procedure and fractions of a month shall be taken as one full month.

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

3. In the case of transfer of the rights and obligations deriving from the temporary importation procedure pursuant to Article 83, without prejudice to Article 130 (3), the new holder of rights may use the remaining periods of time under the procedure.

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 134- 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 registration of the declaration of their placing under the temporary importation procedure. However, where a customs debt is incurred in respect of temporary import goods with total relief, the amount

of the debt shall be determined on the basis of the duty rate and the taxation elements appropriate to the goods in question at the time referred to in Article 193.

2. Where, for a reason other than the placing of goods under the temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the said procedure, the amount of that debt shall be equal to the difference between the amount of duties calculated pursuant to paragraph 1 and that payable pursuant to Article 133.

## **G. Outward processing**

### **I. General Provisions**

ARTICLE 135- 1. The outward processing procedure shall, without prejudice to the provisions governing specific fields relating to the standard exchange system laid down in Articles 144 to 148 and to the provisions of Article 116, allow goods in free circulation to be exported temporarily from the Customs Territory of Turkey 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 goods in free circulation shall entail the application of export duties, commercial policy measures and other formalities for the exit of these goods from the Customs Territory of Turkey.

3. The following definitions shall apply:

(a) 'temporary export goods' means goods placed under the outward processing procedure;

(b) 'processing operations' means the operations referred to in Article 108 (3), subparagraphs (a), (b) and (c);

(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 136- The outward processing procedure shall not be open to goods in free circulation:

(a) whose export gives rise to repayment of the paid import duties or remission of the secured 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 in respect of which a financial advantage other than such refunds is granted under the agricultural policy by virtue of the export of the said goods.

Derogation from subparagraph (b) shall be determined by regulation.

## **II. Grant of the authorization**

ARTICLE 137- 1. Authorization to use the outward processing procedure may be issued at the request of the person who arranges for the processing operations to be carried out in accordance with Article 80.

2. However, authorization to use the outward processing procedure may be granted to another person in respect of goods of Turkish origin where the processing operation consists in incorporating those goods into goods obtained outside Turkey and imported as compensating products, provided that use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of the producers of products identical or similar to the imported compensating products in Turkey.

ARTICLE 138- Authorization shall be granted only:

(a) to persons established in the Customs Territory of Turkey;

(b) where it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods;

(c) where authorization to use the outward processing procedure is not liable seriously to harm the essential interests of the processors in Turkey (economic conditions).

The cases in which derogation from subparagraph (b) may apply and the conditions under which such derogation shall apply shall be determined in the relevant Decree of the Council of Ministers.

## **III. Operation of the procedure**

ARTICLE 139 1. The authorization shall specify the period within which the compensating products must be reimported into the Customs Territory of Turkey. They may extend that period on submission of a duly substantiated request by the holder of the authorization.

2. The procedure and principles regarding the rate of yield of the operation or, where necessary, the method of determining that rate shall be determined in the relevant Decree of the Council of Ministers.

ARTICLE 140- 1. The total or partial relief from import duties cited in Article 135 (1) shall be granted only where the declaration of release for free circulation of the processed goods is made in the name of or on account of the holder of authorization or another person resident within the Customs Territory of Turkey, provided that the consent of the holder of the authorization is received and the prerequisites of the authorization are fulfilled.

2. The total or partial relief from import duties provided for in Article 135 (1) shall not be granted where one of the conditions or obligations relating to the outward

processing procedure is not fulfilled unless it is established that the failures have no significant effect on the correct operation of the said procedure.

ARTICLE 141- 1. The import duties mentioned in Article 135 (1) shall be effected by deducting from the amount of the import duties applicable to the compensating products the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported from the country in which they underwent the 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 elements of charge applicable to them on the date of registration of the declaration relating to the release for free circulation of the compensating products.

The customs 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 27 (1) (b) (i). If the value cannot be determined in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means shall be the value of the temporary export goods.

However,

a) certain charges determined in the regulations adopted by the Council of Ministers shall not be taken into account in calculating the amount to be deducted;

b) where, prior to being placed under the outward processing procedure, the temporary export goods were released for free circulation at a reduced rate by virtue of their end use, and for as long as the conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the amount of import duties actually levied when the goods were released for free circulation.

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

4. Where compensating products qualify for a preferential tariff measure within the meaning of Article 15 (3) (d) or (e) and the measure exists for goods falling within 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. By way of derogation from the provisions of paragraph 1, cases where the goods will be placed under the release for free circulation procedure subsequent to the outward processing procedure and relevant conditions shall be determined by the Council of Ministers. Processing costs done within the context of outward processing procedure shall be taken as a basis for taxation.

6. This Article shall be without prejudice to the application of provisions, adopted or liable to be adopted within the framework of bilateral or multilateral trade agreements, which provide for relief from import duties in respect of certain compensating products.

ARTICLE 142- Where the purpose of the processing operation is the repair of the temporary export goods, they shall be released for free circulation with total relief from import duties where it is demonstrated 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. However, this provision 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 143- Where the purpose of the processing operation is the repair export goods and such repair is carried out in return for payment, the partial relief from import duties provided for in Article 135 (1) 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 registration 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 relationship between that holder and the operator.

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

ARTICLE 144- 1. Under the conditions laid down in this Article and Articles 145 to 148 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 administrations shall allow the standard exchange system to be used where the processing operation involves the repair of goods in free circulation other than those subject to the agricultural policy or to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

3. Without prejudice to Article 148, the provisions applicable to compensating products shall also apply to replacement products.

4. Under the conditions laid down by the Undersecretariat and if a security is provided to cover the amount of import duties, replacement products may be permitted to be imported before the temporary export goods are exported.

ARTICLE 145- 1. Replacement products shall have the same tariff classification, be of the same commercial quality and possess the same technical characteristics as the temporary export goods had the latter undergone the repair in question.

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

However derogation may be granted 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.

3. The implementation of the standard exchange system may only be permitted upon the submission of the information and documents showing that the above-mentioned conditions have been met.

ARTICLE 146- In the case of prior importation, the temporary export goods shall be exported within a period of two months from the date of registration of the declaration relating to the release of the replacement products for free circulation.

However, where exceptional circumstances so warrant, the customs administrations may, at the request of the person concerned, extend within reasonable limits the said period.

ARTICLE 147- In the case of prior importation and where Article 141 is applied, the amount to be deducted shall be determined on the basis of the elements of charge applicable to the temporary export goods on the date of registration of the declaration placing them under the procedure.

ARTICLE 148- Article 137 (2) and Article 138 (b) shall not apply in the context of standard exchange.

## **V. Other provisions**

ARTICLE 149- The procedures 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 Procedure**

ARTICLE 150-1. The export procedure shall allow the goods in free circulation to leave the Customs Territory of Turkey for export purposes.

Exportation shall entail the application of exit formalities including commercial policy measures and, where appropriate, export duties.

2. The goods to be exported from the Customs Territory of Turkey and the relevant export declaration shall be lodged at the authorized customs administration.

3. The case in which and the conditions under which the goods leaving the customs territory of Turkey are not subject to an export declaration shall be determined in accordance with the regulation.

4. The Undersecretariat shall, where appropriate, be authorized to determine the methods and principles, which will facilitate exportation on the basis of the nature and description of the goods and the type of exportation.

ARTICLE 151- Export goods shall be deemed they were actually exported on condition that they were removed from the customs control and leave the Customs Territory of Turkey in the same state when the export declaration was registered. In this case the customs control on the export goods shall be ceased.

## **CHAPTER THREE Other Types of Customs-Approved Treatment or Use SECTION 1 Free Zones A. General Provisions**

ARTICLE 152- Free zones shall be parts of the Customs Territory of Turkey however in which:

(a) goods not in free circulation are considered, for the purpose of import duties and commercial policy and import duties, as not being on the Customs Territory of Turkey , provided they are not released for free circulation or placed under any customs procedure or used or consumed under conditions other than those provided for in customs legislation;

(b) goods in free circulation availed of the opportunities related to the export of the goods, by virtue of being placed in a free zone.

ARTICLE 153-1. The perimeter and the entry and exit points of free zones shall be subject to surveillance of the customs administrations.

2. Persons and means of transport entering or leaving a free zone shall be controlled by the customs administration.

3. The customs administrations shall check goods entering, leaving or remaining in a free zone. To enable such checks to be carried out, a copy of the transport document, which shall accompany goods entering or leaving, shall be handed to, or kept at the disposal of the customs authority for inspection. Where such checks are required, the goods shall be made available to the customs administrations.

4. Customs authorities may not allow the entering into the free zone, of the persons raising serious doubts as regards their compliance with the provisions of this Code.

### **B. Placing of goods in free zones**

ARTICLE 154- Goods, either in free circulation or not, may be placed in a free zone. However goods which are flammable and explosive or which present a danger for other goods or which, for other reasons, require special facilities, shall be placed in premises specially equipped to receive them.

ARTICLE 155- 1. Without prejudice to Article 153 (3), goods entering a free zone need not be presented to the customs administrations, nor need a customs declaration be lodged.

2. Goods shall be presented to the customs administrations and undergo the prescribed customs formalities where:

(a) they have been placed under a customs procedure which is discharged when they enter a free zone;

(b) they have been placed in a free zone on the authority of a decision to grant repayment or remission of import duties;

(c) they have been placed in a free zone on the condition of exportation.

(d) they have come into a free zone directly out of the Turkish Customs territory.

However, where provisions of customs procedure referred to in subparagraph (a) do not require such obligations, the goods need not be presented to the customs administration.

3. Goods subject to export duties or to other export provisions shall be notified to the customs administrations.

4. At the request of the party concerned, the customs administrations may issue a document certifying the customs status of goods placed in a free zone.

### **C. Operation of free zones**

ARTICLE 156- There shall be no limit to the length of time goods may remain in free zones.

ARTICLE 157- 1 Goods which are not in free circulation placed in a free zone may, while they remain in a free zone:

- (a) be released for free circulation under the conditions laid down by that procedure and by Article 161;
- (b) undergo the usual forms of handling without authorization;
- (c) be placed under the inward processing procedure;
- (d) be placed under the procedure for processing under customs control;
- (e) be placed under the temporary importation procedure;
- (f) be abandoned in accordance with Article 164;
- (g) be destroyed, provided that the person concerned supplies the customs administrations with all the information deemed necessary.

Where goods are placed under one of the procedures referred to in (c), (d) or (e), in so far as is necessary to take account of the operating and customs supervision conditions of the free zones, arrangements required by the relevant procedure shall be determined by relevant regulation.

2. Certain goods which are covered by the agricultural policy benefiting from the opportunities based on exportation, shall undergo only the usual forms of handling. Such handling may be undertaken without authorization.

ARTICLE 158- 1. Where Article 157 is not applied, goods not in free circulation and the goods released for free circulation which are referred to in Article 152 (b), shall not be consumed or used in free zones.

However, goods

- a) used for the construction of facilities in the free zones;
- b) used as machinery-equipment, fixtures or parts thereof within the facilities located in free zones;
- c) delivered to those engaged in shipbuilding activities in order to be used for ship building purposes

shall not be included herein on condition that the above-mentioned cases are authenticated.

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 provided that the release for free circulation or temporary importation of which would not entail application of import duties or measures under the agricultural policy or commercial policy. Such declaration shall,

however, be required if such goods are to be charged against a quota or a tariff ceiling.

ARTICLE 159-1. All persons carrying on an activity involving the storage, working or processing, or sale or purchase, of goods in a free zone shall keep stock records in a form approved by the customs administrations. Goods shall be entered in the stock records within 48 hours after they are brought into the premises of such person. The stock records must enable the customs administrations to identify the goods and to record their movements.

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

3. A summary declaration shall be lodged in accordance with Articles 35/A, 35/B and 35/C and 165/A, 165/B, 165/C and 165/D, for the goods coming directly out of the Turkish Customs Territory from a free zone or directly leaving a Customs Zone out of a free zone.

#### **D. Removal of goods from free zones**

ARTICLE 160- 1. Unless otherwise stipulated by the Legislation, goods leaving a free zone may be exported or re-exported from the customs territory of Turkey, or brought into another part of the customs territory of Turkey.

2. Goods brought from a free zone to another part of the Turkish Customs Territory shall be subject to the provisions of Title Three except for the provisions of Articles 46 to 50 in cases where they are in free circulation, and except for the provisions of Article 50 in case they are not in free circulation.

3. Where the goods leave the Turkish Customs Territory from a free zone; in addition to the provisions of Title 5, it is obligatory that the provisions regarding export, outward processing, re-export, suspensive arrangements or transit be complied with.

ARTICLE 161- 1. Where a customs debt is incurred in respect of goods not in free circulation 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, such costs shall not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.

2. Where the said goods have undergone, in a free zone, the usual forms of handling, 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 a granted authorization, be those which would be taken into account in respect of those goods, at the time referred to in Article 193, had they not undergone such handling. Derogation from this provision may, however, be granted by the Council of Ministers.

3. Where goods which are covered by the agricultural policy benefitting from the opportunities based on exportation and which are in free circulation, are placed in a free zone; they shall be assigned a treatment or use prescribed by the relevant legislation.

4. Where the goods mentioned in paragraph 3 are brought into another part of the Turkish Customs Territory or are not assigned a treatment or use referred to in paragraph 3, the Customs authorities shall take the necessary measures in accordance with the provisions of the relevant legislation.

ARTICLE 162-1 Where goods are brought into or returned to another part of the customs territory of Turkey or placed under a customs procedure, the certificate referred to in Article 155 (4) may be used as proof in determining the status of such goods.

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

(a) Goods in free circulation, for the purposes of applying export duties and export licenses or commercial policy measures;

(b) Goods not in free circulation in all other cases.

## **SECTION 2**

### **Re-exportation, destruction and abandonment**

ARTICLE 163-1 Goods not in free circulation may be re-exported from the Customs Territory of Turkey.

2. Transactions regarding the exportation of the goods, including the trade policy measures, shall, where necessary, also apply to the goods which will be re-exported.

Cases in which goods not in free circulation may be placed under a suspensive arrangement with a view to non-application of commercial policy measures on exportation may be determined in accordance with regulation.

ARTICLE 164-1 Destruction or abandonment of goods not in free circulation under supervision of the customs administrations shall not entail any expense for the Exchequer.

2. Any waste or scrap resulting from destruction shall be assigned a treatment or use prescribed for goods not in free circulation. Any waste or scrap shall remain under customs supervision until the formalities laid down in Article 36 (2) are completed.

ARTICLE 165- Without prejudice to the circumstances laid down by the Undersecretariat, the destruction of the goods shall be the subject of prior notification of the customs administrations. The Undersecretariat for Customs shall prohibit re-exportation should the formalities or measures regarding exportation or re-exportation of goods, including the commercial policy measures, so provide. Where goods placed under a customs procedure when with economic impact in the Customs Territory of Turkey are intended for re-exportation, a customs declaration

within the meaning of Articles 58 to 71 shall be lodged. Under such circumstances, Article 150 (2) and (4) shall apply.

**TITLE V**  
**Goods Leaving the Customs Territory**  
**of Turkey**

ARTICLE 165/A 1. Goods leaving the customs territory of Turkey, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory, shall be covered either by a customs declaration or, where a customs declaration is not required, a summary declaration.

2. The following shall be laid down by regulations in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and debtors and where international agreements provide for special security arrangements:

- the time limit by which the customs declaration or a summary declaration is to be lodged at the customs office of export before the goods are brought out of the customs territory of Turkey,
- the rules for exceptions from and variations to the time limit referred to above,
- the conditions under which the requirement for a summary declaration may be waived, and
- the cases in which and the conditions under which goods leaving the customs territory of Turkey are not subject to either a customs declaration or a summary declaration,

ARTICLE 165/B -1. Where goods leaving the customs territory of Turkey are assigned to a customs approved treatment or use for the purpose of which a customs declaration is required, this customs declaration shall be lodged at the customs office of export before the goods are to be brought out of the customs territory of Turkey.

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

3. The customs declaration shall contain at least the particulars necessary for the summary declaration referred to in Article 165/D.

4. Where the customs declaration is made other than by use of a data processing technique, the customs authorities shall apply the same level of risk management to the data as that applied to customs declarations made using a data processing technique.

ARTICLE 165/C-1. Where goods leaving the customs territory of Turkey are assigned to a customs approved treatment or use for which a customs declaration is not required, a summary declaration shall be lodged at the customs office of exit before the goods are to be brought out of the customs territory of Turkey.

2. The summary declaration may be allowed to be lodged at another customs office, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of exit.

3. The Undersecretariat may accept, instead of the lodging of a summary declaration, the lodging of a notification and access to the summary declaration data in the debtor's computer system.

ARTICLE 165/D-1. The format and content of the summary declaration shall be established by regulations, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. The summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.

3. The Undersecretariat may accept paper-based summary declarations in exceptional circumstances, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

4. The summary declaration shall be lodged by:

(a) the person who brings the goods, or who assumes responsibility for the carriage of the goods, out of the customs territory of Turkey; or

(b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or

(c) a representative of one of the persons referred to in the points above.

5. The person referred to in paragraph 4 shall, at his request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs authorities:

(a) have informed the person who lodged the summary declaration that they intend to examine the goods; or

(b) have established that the particulars in question are incorrect; or

(c) have delivered the goods to the person concerned in order for them to be taken out of the customs territory of Turkey."

ARTICLE 166- Goods leaving the Customs Territory of Turkey shall be subject to customs controls in accordance with the provisions in force. They shall leave the said territory using, where appropriate, the route determined by the customs administrations and under supervision by the customs administration.

## **TITLE VI Privileged Operations**

### **CHAPTER ONE Relief and Exception from Customs Duties**

ARTICLE 167- Goods to be released for free circulation shall benefit from customs duty relief under the following circumstances:

1. Goods brought for the President of the Republic of Turkey and for his residence;
2. Diplomatic goods imported on the basis of reciprocity;
3. Any instruments, equipment, armament, machinery, devices and systems to be imported by the General Staff, the Ministry of National Defense, service commands, General Command of Gendarmerie, Coastal Security Command and Directorate General of Security exclusively in relation to their fundamental duties or to the anti-smuggling duty of the Undersecretariat, and the spare-parts, fuel oil and mineral oil, raw material, materials and spoils which will be used in the research, development, training, production, modernization and software and the manufacture, maintenance and repair of these;
4. Goods, the total value of which does not exceed 150 Euros<sup>2</sup>;
5. Personal goods to be released for free circulation by natural persons, such as:
  - (a) Motor vehicles or vehicles used for special transportation, which were not older than three years at the date of their purchase, and owned by natural persons who have transferred their settlements to the Customs Territory of Turkey,
  - (b) Any used household belongings of the natural persons who have transferred their settlements to the Customs Territory of Turkey,
  - (c) Dowry of the persons who have moved their settlements to Turkey by marrying or to marry a Turkish resident,
  - (d) Personal goods acquired by inheritance,
  - (e) Scholastic materials of the foreign students who came to Turkey to study, and other household belongings related with this study,
  - (f) Used household belongings returned by the natural persons who have temporarily left the Customs Territory of Turkey
  - (g) Households temporarily or permanently brought by natural persons resident outside Turkey, in order to be used in the residences they have bought or rented in Turkey,
  - (h) Non-commercial goods belonging to passengers
6. Goods to be released for free circulation by natural persons such as:
  - (a)Souvenirs brought by passengers, not exceeding the total value of EURO 430,
  - (b)Medal of honor or other awards,
  - (c) Awards received within the framework of international relations.
7. On condition that they will be used solely for non-profit purposes, goods imported by the persons, institution and institutions organisations to be determined by the Council of Ministers, such as:
  - (a) educational, scientific and cultural goods, and scientific tools and devices,
  - (b) tools and devices for medical diagnosis, treatment and research,
  - (c) biological or chemical substances, and animals used for scientific research

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<sup>2</sup> Applied as 75 Euros pursuant to the Decree of 2011/2087 issued in Official Gazette dated 20.09.2011 and no. 28031.

- (d) therapeutic substances of human origin, blood grouping and tissue typing reagents,
- (e) substances for the quality control of the medicaments,
- (f) goods imported to be used for the research and development activities conducted or supported by national research and development institutions.

8. Importation concerning the performance of a commercial activity;

- (a) Capital goods and other materials imported due to the transfer of offices,
- (b) Products obtained by the farmers acting in the Customs Territory of Turkey, from their properties abroad,
- (c) Seeds, fertilizer and other products used in processing the soil and crops and brought by the farmers of the neighboring countries into their property situated in the Customs Territory of Turkey,
- (d) Samples of no commercial value,
- (i) Sample goods and models of no negligible value
- (ii) Printed advertisement documents and materials for advertisement purposes,
- (iii) Products used or consumed in a commercial fair or a similar activity,
- (e) Goods imported for inquiry, analysis or testing,

9. Goods used in transportation;

- (a) Auxiliary articles used for hoarding and protection of the goods,
- (b) Hays, animal fodder, animal foodstuffs and medicaments used in the transportation of live animals,
- (c) Fuel oil and mineral oil available in the means of transport and special containers,
- (d) Equipment and operation materials of the sea and air means of transport,
- e) Aircrafts, engines and accessories imported by the air carriers to be used for their passenger and freight shipment activities as from 1.7.2010.

10. Importation of information material;

- (a) Goods sent to the organizations protecting the copy rights or industrial and commercial patent rights,
- (b) Tourist promotion materials,
- (c) Various documents and goods of no commercial value,

11. Importation of the goods related with funeral;

- (a) Goods for the construction, upkeep or ornamentation of military monuments and cemeteries,
- (b) Coffins, funerary urns and ornamental funerary articles,

12. Other special;

- (a) Goods for the disabled,
- (b) Goods sent to those damaged because of such major chemical and technological incidents as natural disasters, hazardous and epidemic diseases, conflagration, radiation and air pollution, and such crisis conditions as big population movements.
- (c) Pharmaceutical products imported to be used in international sports contests organized in Turkey.

The Council of Ministers shall be authorized to identify the goods referred to in paragraphs 3 to 12 including the arrival time of the goods; to determine the nature,

description and amount of these goods; to nullify or double the amount subject to relief and exception; to implement successively or separately the relief and exception in respect of different goods; to implement a single and fixed tariff on condition that the rates indicated in relevant Acts will not be exceeded in a manner to reflect the customs duties imposed on dutiable non-commercial goods.

## **CHAPTER TWO**

### **Returned Goods**

ARTICLE 168- 1. Goods in free circulation which, having been exported from the Customs Territory of Turkey or from another point of the customs territories of the customs union to which Turkey is a party by agreements, 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 imported duties. However, the three-year period may be exceeded due to unforeseeable conditions and force majeure.

Where, prior to their exportation from the Customs Territory of Turkey, the returned goods had been released for free circulation at reduced or zero duty by virtue of their use for special purposes, the amount of reduced or zero import duty shall be granted only if they are to be reimported 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 Turkey under the outward processing procedure except those goods remain in the state in which they were exported;
- (b) goods which have been the subject of a foreign trade measure.

The circumstances in which and the conditions under the indent of (b) may be waived shall be determined by the Council of Ministers.

ARTICLE 169- The relief from import duties provided for in Article 168 shall be granted only if goods are reimported 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 by the Council of Ministers.

ARTICLE 170- Articles 168 and 169 shall apply mutatis mutandis to compensating products originally exported or re-exported subsequent to an inward processing procedure. These provisions shall also apply for the re-exported processed products.

Under such circumstances, the re-exportation date of goods shall be regarded as the date of release for free circulation and the amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward processing procedure.



**CHAPTER THREE**  
**Products of Sea-fishing and other Products**  
**Taken from the Sea**

ARTICLE 171- Without prejudice to Article 18 (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 other countries by vessels registered or recorded in Turkey and flying the Turkish flag;

(b) products obtained from products referred to in the indent of (a) on board factory-ships fulfilling the conditions laid down in that paragraph.

**TITLE VII**  
**Border Trade**

ARTICLE 172- The Council of Ministers shall be entitled to determine the scope of the border trade to be conducted between Turkey and neighboring countries, in consideration of the geographical circumstances and regional requirements; to set up the border trade centers where the border trade would be conducted and lay down the methods and principles of the exportation and importation to be performed through such centers or to implement a single and cut-off tax provided that maximum limits prescribed by certain Acts are not exceeded with a view to indicate the duties to be levied from the goods to be released for free circulation.

In conducting the customs procedures, the border trade centers shall be deemed outside the Customs Territory of the Turkish Republic.

The customs procedures relating to border trade shall be laid down by the Undersecretariat.

**TITLE VIII**

**Other Customs Formalities**

**CHAPTER ONE**

**Postal Customs Formalities**

ARTICLE 173-1. Goods, postal bags and parcels brought into, exported from and returned to the Customs Territory of Turkey, shall be subject to the examination and control of the customs administrations.

Letters not containing goods shall not be included herein.

2. The postal bags and parcels brought into the Customs Territory of Turkey shall be dispatched, at the customs office of entry, to the postal authorities wherein they shall be placed under the customs examination.

3. The postal bags and parcels to be exported from the Customs Territory of Turkey shall be subject to customs control. They may be exported from the customs administrations of exit following the determination by the customs authorities whether; they bear the seal or other marks of the customs administrations indicating that they had been controlled by the customs authorities beforehand, and the packages are intact.

4. The extent and the method of the customs control relating to the postal parcel shall be determined by a regulation to be prepared with common accord by the Ministry of Transportation and the Ministry to which the Undersecretariat is affiliated.

ARTICLE 174- Goods brought into or leaving the Customs Territory of Turkey by postal means, shall be placed into public warehouses subject to application of Articles 93 to 107, under the responsibility of the Administration of Postal Services and the supervision of the customs administration. The length of time goods may remain here shall be subject to provisions of international postal agreements to which Turkey is a party.

ARTICLE 175-1. Commercial goods brought, by postal means, to or leaving from the Customs Territory of Turkey shall be declared to the custom administrations in accordance with Articles 58 to 71.

2. The internationally-approved documents produced in the presentation of the non-commercial goods to the Customs, shall be deemed as declaration, and no further declaration shall be needed.

## **CHAPTER TWO**

### **Provisions on Fuel Oil and Food**

ARTICLE 176-1. The fuel and oil used by ships, boats, other sea vehicles and aircraft during their external trip, and the food brought from abroad by these vehicles provided it will not be disembarked, shall be relief from import duties.

2. The fuel, oil and food in warehouses and not released for free circulation, shall be, pursuant to the transit provisions, released to the vehicles referred to in the paragraph 1 and to the sea vehicles used by the anti-smuggling units for anti-smuggling purposes.

Delivering to the navigating ships, boats and other sea vehicles and aircraft, of the fuel and oil released for free circulation and the food, shall be deemed as exportation.

## **CHAPTER THREE**

### **Formalities Regarding the Goods to be Disposed**

ARTICLE 177- The following goods shall be disposed of in accordance with Article 178:

(a) Personal belongings of passengers placed, in accordance with Article 48 (2) in customs warehouses for passengers' baggage and whose time of stay has expired.

(b) Goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use, have not been initiated to be carried out, within the time-limit prescribed in accordance with Article 50,

(c) goods mentioned in Article 57 paragraph 4,

(d) Samples remaining from the analysis, in accordance with Article 66 (5), and not taken back by the related person within 1 month,

(e) Goods, the declaration of which has been registered in accordance with Article 70 (1), and the formalities of which have not been completed in due time,

(f) Goods, stored, in accordance with Article 70 (2), in customs warehouses, the customs procedure of which has not been fulfilled within 30 days following the registration of a declaration on the assignment of a customs-approved treatment or use,

(g) Goods, the period of which, prescribed in accordance with Article 101, has expired,

(h) Excessive goods as a result of the counting carried out in warehouses or in the areas designated by customs administration to place goods, mentioned in Article 105 (3) and Article 236 (2),

(i) Goods abandoned in accordance with Article 164 and goods deemed to have been left to customs in line with the procedures defined by regulation.

(j) Goods sent by post in accordance with Article 174, and goods to be disposed of,

(k) Perishable goods, goods which may be exposed to loss or goods requiring a high cost for storage, irrespective of whether they have a legal time for stay in accordance with relevant provisions,

(l) Goods mentioned in Article 235 paragraph 1 (a) and (c) and goods mentioned in Article 237 paragraph 3 and 6,

(m) Goods, the disposal of which within the framework this Code, has been prescribed under another legislation.

2. In accordance with the relevant provisions of the Anti-Smuggling Act;

a) goods to be disposed of; and

b) goods not received within thirty days as from the date of notification to the relevant person regarding the reception of the goods, in cases where the court decides on the return of the seized goods to the owner;

shall be disposed pursuant to Article 178.

3. In case of absence of the goods to be disposed of, CIF and FOB values and relevant customs duties shall be charged for the imported goods and exported goods, respectively.

4. The determination and assessment papers of the goods to be disposed of under the above-mentioned paragraphs, shall be forwarded to the Administration for Disposal within thirty days. The Administration for Disposal shall be obliged, within thirty days, to receive the goods subject to disposal.

ARTICLE 178- The goods referred to in Article 177 shall be subject to disposal by:

- (a) Sale by auction,
- (b) Sale for the purpose of re-exportation,
- (c) Sale by retail,
- (d) Sale to the public institutions and foundations and associations established by a special Act,
- (e) Destruction,
- (f) Special ways.

Methods and principles regarding disposal shall be laid down by the regulation to be jointly prepared by the Ministry of Finance and the Ministry of State to which the Undersecretariat of Customs is affiliated.

The Administration for Disposal shall be liable to take necessary measures in respect of human, animal health, phytosanitary and environmental health in consultation with relevant public institution and organizations.

Procedures and principles regarding the disposal shall be laid down by a regulation.

ARTICLE 179-1. The goods to be auctioned in accordance with Article 178 (a) and to be sold by retail under subparagraph (c) thereof, may be requested to be placed under a customs procedure or re-exported out of the Customs territory by lodging an application to the relevant Customs authorities until the date on which the announcement of the auction is published or the decision to sell by retail is taken.

Goods to be disposed of by being sold for the purpose of re-exportation under indent (b) of Article 178, as their importation is prohibited or subject to restriction, may be requested to be re-exported out of the customs territory by lodging an application at the relevant Customs authorities until the date on which the announcement of the auction is published or the decision to sell by retail is taken.

However, the acceptance of the above-mentioned requests shall be dependant on the payment of the fines related with the goods (if any), warehousing and handling costs and other expenses and the amount at the rate of 1 per cent of the CIF value of the goods on foreign currency.

2. The provisions of the first paragraph shall not apply for the goods referred to in Article 177 paragraph 2 (c), (d), (i) and (m).

ARTICLE 180-1. The following shall be set aside from the transaction value of the goods referred to in Article 177 paragraph 1 (b) (e), (f), (g) and (k), and shall be distributed to the relevant persons:

- (a) Receivables and expenses in return for services,
- (b) Import duties,
- (c) Sales expenses,
- (d) Fines.

Where any amount of money remains after such a distribution, it shall be placed in escrow account on behalf of the owners of the goods. The money not withdrawn from the accounts within one year as from their placement into the escrow account and the money remaining after the distribution hereunder, on the basis of the transaction value of the goods mentioned in the other indents of Article 177 paragraph 1 shall be recorded as revenue of the working capital of the Ministry of Customs and Trade.

2. The transaction values of the goods and vehicles mentioned in Article 177 (2) and disposed of by being sold, shall be placed in escrow account after the deduction of all expenses required for the protection and sale of the vehicles mentioned in Article 10 (2) of the Anti-Smuggling Act; and shall be held in escrow account entirely on behalf of the owners of the goods and vehicles mentioned in Article 16 thereof. Such amounts shall be reimbursed to the owner of the goods if it is so decided at the end of the lawsuit. Where it is decided to return the goods to the owner, the customs duties of the disposed goods shall not be returned; where a decision of confiscation is taken, the transaction value shall be recorded as revenue of the working capital of the Ministry of Customs and Trade.

3. The amount of the customs duties levied on the transaction value of the disposed goods and vehicles shall be determined on the basis of the registry date of the customs declaration (if a declaration was submitted) and on the basis of the date of issue of the investigation report for contraband goods. In the event that these dates are not known, the customs duties shall be determined on the basis of the tax rates applicable on the dates of the issue of the investigation report and accrual.

4. For the disposal of the vehicles bearing annotations as unsaleable, non-transferable, confiscated, held in pledge or security, etc., such annotations shall be removed as from the date of decision of disposal without the requirement of further procedures, and the existing registrations, if any, shall be accordingly corrected. The remaining Money shall be kept in escrow account as per paragraphs one and two hereof. Where the case is resolved for the return of the vehicle to the owner, the cost relating to the annotations shall be paid to the relevant person and the remaining amount shall accordingly be paid to the owner of the vehicle pursuant to paragraph two hereof.

5. The provisions of the State Tender Act dated 8.9.1983 and no. 2886 shall not apply to the disposal procedures conducted hereunder. The principles and procedures shall be laid down by a regulation.

**TITLE IX**  
**Customs Debt**

**CHAPTER ONE**  
**Incurrence of a Customs Debt**

ARTICLE 181- 1. A customs debt on importation shall be incurred at the time of registration of the customs declaration to be lodged for:

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

2. As regards the customs debt on importation, 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. In case of indirect representation, the obligation of the representative shall be restricted with the cases where the representative knows or has to customarily and occupationally know that the data used for the declaration are incorrect. The same provision shall apply for the customs debt incurred in accordance with Articles 188, 190 and 194.

3. Where the data used within the declaration lodged for one of the procedures mentioned in paragraph 1 lead to the entire or partial non-collection of the duties which are lawfully dutiable, the persons who provided such data required to draw up the declaration and who knew, or who ought to have known that such data were incorrect, shall also be liable to pay the customs debts.

ARTICLE 182-1. A customs debt on importation shall be incurred through the unlawful introduction into the customs territory of Turkey of goods liable to import duties, or the unlawful introduction into another part of that territory of such goods located in a free zone.

2. The customs debt shall be incurred at the time when the goods are unlawfully introduced into the Customs Territory of Turkey.

3. In accordance with the provisions of this Code, 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 or should reasonably have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

ARTICLE 183- 1. A customs debt on importation shall be initiated through the unlawful removal from customs supervision of goods liable to import duties.

2. The customs debt shall be initiated at the time when the goods are removed from customs supervision.

3. The debtors shall be in accordance with this Code:

- (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) the person required to fulfil the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods are placed.

ARTICLE 184- 1. Apart from those stated in Article 183, a customs debt on importation shall be incurred through:

- (a) non-fulfillment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed, or
- (b) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods, where it is established that those failures have led to the false operation of the temporary storage or customs procedure in question.

2. The customs debt shall be incurred either:

- (a) at the moment when non-fulfillment of the provision referred to in paragraph 1 (a) gives rise to the customs debt, or
- (b) at the moment when the goods are placed under the customs procedure concerned where it is established subsequently that a condition governing the placing of the goods under the said procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods was not in fact fulfilled.

3. The debtor shall be the person who is required, according to the circumstances, either to fulfil 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 185- 1. A customs debt shall be incurred through:

- the consumption or use, in a free zone of goods liable to import duties, under conditions other than those laid down by this Code.

Where goods disappear and where their disappearance cannot be explained to the satisfaction of the customs administrations, those goods may be regarded as having been consumed or used in the free zone.

2. The customs debt shall be incurred on the date when the goods in free zone are consumed or are first used under conditions other than those laid down by this Code.

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 this Code.

Where customs administrations regard goods which have disappeared as having been consumed or used in the free zone and it is not possible to apply the preceding paragraph, the person liable for payment of the customs debt shall be the last person known to these administrations to be the user of the goods.

ARTICLE-186-1. Without prejudice to Articles 182 and 184 (1) (a), 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 37 to 40,
- (b) bringing goods into Turkey from a free zone,
- (c) keeping the goods in question in temporary storage, or
- (d) the use of the customs procedure under which the goods have been placed, results from the total destruction or irretrievable loss of the said goods as a result of the actual nature of the goods or unforeseeable circumstances or force majeure, or as a consequence of authorization by the customs administrations.

Irretrievable loss of goods shall mean that they are unusable by any person.

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

ARTICLE 187- 1. Where, in accordance with Article 186 (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 end-use, any scrap or waste resulting from such perishing shall be deemed to be goods not in free circulation.

2. Where in accordance with Article 183 or 184 a customs debt is incurred in respect of goods released for free circulation at a reduced or zero rate of import duty by virtue of end-use, the amount paid when the goods were released for free circulation shall be deducted from the assessed amount of the customs debt. This provision shall apply mutatis mutandis where a customs debt is incurred in respect of scrap and waste resulting from the perishing of such goods.

ARTICLE 188-1. A customs debt on exportation shall be incurred through the exportation from the Customs Territory of Turkey, 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 registered.

ARTICLE 189- 1. A customs debt on exportation shall be incurred through the removal from the Customs Territory of Turkey 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 Turkey.

3. The debtor shall be the person who removed the goods from the customs territory of Turkey, and 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 190- 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 Turkey with total or partial relief from export duties.

2. (a) 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 Turkey with total or partial relief from export duties.

(b) Should the customs administrations be unable to determine the date referred to in subparagraph (a), a time limit shall be set for the holder of procedure for the production of document that the conditions entitling the goods to such relief have been fulfilled. In the case that the mentioned document has not been produced, the customs debt shall be initiated at the expiry date of the time limit set.

ARTICLE 191- The customs debt referred to in Articles 181 to 185 and 188 to 190 shall be incurred for goods subject to measures of prohibition or restriction on importation or exportation. However, no customs debt shall be incurred on the unlawful introduction into the Customs Territory of Turkey of counterfeit currency or of narcotic drugs and psychotropic substances which do not enter into the economic circuit supervised by the competent administrations with a view to their use for medical and scientific purposes since it shall be proceeded according to the smuggling and other Acts including penal provisions. For the purposes of criminal code as applicable to customs offences, however the customs debt shall nevertheless be deemed to have been incurred where, under the relevant criminal law, customs duties provide the basis for determining penalties, or the existence of a customs debt is grounds for taking criminal proceedings.

191/A - Where preferential tariff treatment or total or partial relief from import or export duties may be possible due to the nature or end-use of the goods in accordance with Articles 16, 77, 135 and 167 to 170; the preferential tariff or relief shall also be applicable in case the customs debt is incurred under Articles 182 to 185, 189 or 190 on condition that;

- (a) The relevant person has no fraudulent behavior or negligence,
- (b) The relevant person proves that other conditions required for the preferential tariff or relief have been fulfilled.

ARTICLE 192- Where several persons are liable for payment of one customs debt, they shall be jointly and severally liable for such debt.

ARTICLE 193- 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 assessed on the basis of the rules of assessment appropriate to those goods at the time when the customs debt in respect of them is initiated and on the basis of other taxation elements.

2. Where it is not possible to determine precisely when the customs debt is initiated, 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 administrations conclude that the goods are in a situation in which a customs debt is initiated.

However, where the information available to the customs administrations 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. Customs duties demonstrated not to have been recovered or have been recovered deficiently due to the erroneous declaration of the declarant, shall be applied the compensatory interest at the rate of the surcharge for late payments determined in accordance with Article 51 of the Procedure Act on the Collection of Public Claims No. 6183, for the duration between the date on which the customs debts was incurred and the date on which the duties have been finalized. In cases where declarants may wish to pay the customs debts before their finalization, the interest shall be calculated until the date of payment and shall be collected together with the Customs duties.

ARTICLE 194 -1. In so far as agreements to which Turkey is a party, provide for the granting on importation into those countries of preferential tariff treatment for goods originating in Turkey within the meaning of such agreements, on condition that, where they have been obtained under the inward processing procedure, goods not in free circulation 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 shall cause a customs debt on importation to be incurred.

However, no customs debt shall incur hereunder for the goods benefitting from the drawback system; and in this case the paid import duties shall not be returned.

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

3. The amount of the import duties regarding the goods not in free circulation which are subject to inward processing procedure, shall be determined under the tax rate applicable on the same date of the export declaration and under other taxation elements. However, in cases of importation before prior exportation within the scope of authorization, such duties shall be calculated on the basis of the tax rate effective at the date of registration of the customs declaration relating to the prior exportation and other taxation constituents, and shall be paid in the course of the importation corresponding to prior exportation.

4. The import duties that are required to be paid within the framework of the customs debt incurred pursuant to paragraph 1 must be paid until the date on which the goods covered by the export declaration are brought out of the Turkish Customs territory. A late fee determined under the provisions of Article 51 of the Procedure Act on the Collection of Public Claims No. 6183 shall be imposed for the import duties paid after this date.

5. The Council of Ministers shall be entitled to determine the methods and principles governing the offsetting from the import duties deficiently paid with reference to another export declaration under the scope of the inward processing procedure, for another export declaration covered within the same authorization. In case the import duties to be paid under the customs debts arising after the offsetting as per paragraph 1, have been entirely paid; the provisions of paragraph 4 and Article 234 (5) shall not apply.

## **CHAPTER TWO**

### **Assessment, Notification and Payment of Customs Duties**

ARTICLE 195-1. Each and every amount of customs duties assessed by a customs administration shall be entered by the customs administration in the Duties Assessment Records or into computer. Where this amount is entered into a computer, the print-outs shall be deemed as the Customs Duties Assessment Records.

However, the duties shall be entered in the Customs Duties Assessment Records and their particulars shall be mentioned in these records:

- (a) where a provisional anti-dumping or countervailing duty has been introduced;
- (b) where the amount of duty legally due exceeds that determined on the basis of binding tariff and origin information;
- (c) where the amount of duty is lower than the level determined by the Council of Ministers.

2. The Undersecretariat shall determine the practical procedures for the form of the Customs Duties Assessment Records and entry in the accounts of the amounts of duty into these records.

ARTICLE 196- 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 administrations, which may not exceed 30 days, may be covered by a single entry in the accounts and entered in the Customs Duties Assessment Records.

ARTICLE 197- 1. The Customs duties shall be communicated to the debtor immediately after their accrual.

2. Having been demonstrated that it has not been received or has been received deficient, or has not been communicated in the same manner as in paragraph 1, communication to the debtor shall take place within a period of three years from the date on which the customs debt was incurred. However, filing a suit regarding the act that incurred customs debt, shall suspend the prescription.

3. Where the amount of duty indicated by the debtor in the customs declaration and the amount calculated by the customs administrations are equal, the release of

goods by customs administrations shall mean the communication to the debtor of the amount of duty owed.

4. Provided that the amount of duty owed concerns a penal act and a criminal case has been filed due to this act whose prescription period is longer, these debts shall be investigated and collected within the prescription periods of prosecution and penalty referred to in the Turkish Penal Code.

5. In case no appeal is lodged within the durations referred to in Article 242 or no appeal is lodged against the administrative judiciary body within the period prescribed, customs duties communicated hereunder shall be finalized on the date such durations end; and may be collectible on the date the decision taken by the court against the debtor was communicated to the relevant customs office.

ARTICLE 198-1. Without prejudice to Article 69, the duties demonstrated by the controls and audits to be unreceived or deficiently received, and the duties regarding the released goods, the formalities of which will be made later, shall be paid within fifteen days following communication to the debtor of duty owed.

Upon the written request of the debtor before the expiry of the payment period and upon the provision of security, the payment period may be further extended by thirty days. The extension may also be granted separately for every item of the goods placed within the meaning of a declaration. Interest for default shall be applied in accordance with Article 48 of the Procedure Act on the Collection of Public Claims No. 6183.

2. Appeal lodged before the customs authorities against the notified customs duties under Article 242, shall suspend the payment period. The payment period shall resume as from the notification date of the customs authorities or the administrative judiciary body.

3. The debtor may in any case pay all or part of the amount of duty without awaiting the expiry of the period he has been granted for payment.

4. With the exception of the cases referred to in Article 195 paragraph 1 (a), (b) and (c); where the movement certificate has been erroneously approved by the administration of the respective country in the cases the preferential treatment of the goods has been developed within the framework of the administrative cooperation with the administrations of respective countries, the duties not assessed due to the preferential tariff measures, may not be subsequently claimed so long as the declarant may prove that he had shown ultimate attention to the fulfillment of the obligations required by the customs legislation. However, with the exception of the cases where the administration approving the certificate was aware or should reasonably have been aware that the goods fulfill the conditions set for preferential treatment; the duties shall be collected from the debtor where the certificate which is proved to be incorrect has been approved on the basis of the false data submitted by the exporter or a notice has been published at the Official Gazette regarding a suspicion on the accurate implementation of the preferential treatment by the beneficiary country.

ARTICLE 199-Where the deficient information or documents in a declaration registered in accordance with the simplified procedure, have not been completed, the payable duties of the goods placed within the meaning of declaration, shall not be deferred.

ARTICLE 200-1 Customs duties shall be paid as Turkish Lira. This payment shall be made in accordance with the provisions of the Procedure Act on the Collection of Public Claims No. 6183.

2. Customs duties may also be collected via the authorized banks.

ARTICLE 201- The provisions of the Procedure Act on the Collection of Public Claims No. 6183. shall apply for the customs duties not paid in due time.

## **CHAPTER THREE**

### **Security**

ARTICLE 202-1. Where, in accordance with customs legislation, the customs administrations require security to be provided in order to ensure payment of the customs duties and other public claims, such security shall be provided by the person who is liable or who may become liable, at a rate of 20 per cent plus the amount of customs duties.

2. The customs administrations may authorize the security to be provided by a person other than the person from whom it is required.

3. The Undersecretariat shall be authorized to accept as security the letters of guarantee to be submitted by the public institutions included within the general and additional budget, municipalities, state economic enterprises the capital of which is totally owned by the state and the foreign mission chiefs located in Turkey.

4. The Council of Ministers shall be authorized to determine the conditions whereby no security will be demanded and partial security will be applied.

ARTICLE 203- At the request of the person referred to in Article 202 (1) or (3), the customs administrations 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 204- 1. The amount of security mentioned in Article 202 (1), shall be determined on the basis of the highest amount of the customs debts in question where that amount can be established with certainty at the time when the security is required, and in other cases the maximum amount, as estimated by the customs administration, of the customs debt or debts which have been or may be incurred.

Where comprehensive security is provided for customs debts which vary in amount 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. The circumstances in which and the conditions under which a flat-rate security may be provided shall be determined in accordance with regulation.

ARTICLE 205- Securities to be accepted for customs duties and their assessment shall be subject to the Procedure Act on the Collection of Public Claims No. 6183. The Undersecretariat shall be authorized to accept the foreign currencies as guarantee, on the value computed over the buying exchange rates on banknote of the Central Bank of the Republic of Turkey.

ARTICLE 206-1. Where the customs administration establishes 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, it shall require an additional security or replacement of the original security with a new security.

2. The security shall be released when the customs debt, requiring the furnishing of a guarantee, has been extinguished.

3. Once the customs debt has been extinguished in part, the security granted accordingly at the request of the person concerned, shall be partially released. However, the security shall be conformant, in part, with release.

ARTICLE 207- 1. Except for cash deposit, a late fee determined in accordance with Article 51 of the Procedure Act on the Collection of Public Claims No. 6183 shall be collected as from the date of;

(a) the acceptance of the security provided for the assessed and collectable duties;

(b) the acceptance of the relevant security where a customs debt has incurred relating to the goods subject to suspensive arrangement.

2. Where goods benefit from a reduced security under a suspensive arrangement, the late fee mentioned in paragraph (1) shall be imposed for the portion of the security other than the one paid in cash, and for the whole portion for which no security has been furnished.

## **CHAPTER FOUR**

### **Extinction of Customs Debt**

ARTICLE 208- Without prejudice to the provisions of the Procedure Act on the Collection of Public Claims No. 6183; a customs debt shall be extinguished:

(a) by payment of the amount of duty;

(b) by the decision of remission of the amount of duty;

(c) where the customs declaration is invalidated,

(d) where the goods, before their release under a customs procedure, are either seized and confiscated, destroyed or abandoned in accordance with Article 164, or destroyed or irretrievably lost as a result of their actual nature or of unforeseeable circumstances or force majeure,

(e) where goods in respect of which a customs debt is incurred in accordance with Article 182 are confiscated upon their unlawful introduction.

ARTICLE 209- A customs debt, incurred in accordance with Article 194 (1), shall also be extinguished where these formalities are cancelled.

## **CHAPTER FIVE**

### **Repayment and Remission of Duties**

ARTICLE 210- The following definitions shall apply:

- (a) 'repayment' means the total or partial refund of customs debt which have been paid;
- (b) 'remission' means a decision to waive all or part of the amount of a customs debt which has not been paid.

Provisions regarding the repayment or remission of the customs duties shall also apply for the fines imposed hereunder.

ARTICLE 211- 1. Customs 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. Customs duties shall be remitted in so far as it is established that when they were illegally assessed.

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. Customs 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.

Where the customs administrations themselves discover within this period that either repayment or remission as a result of their control and inspection; repayment or remission shall be directly carried out. That period shall be extended under unforeseeable circumstances or force majeure.

ARTICLE 212- Customs duties paid on the basis of a declaration shall be repaid upon request of the person concerned by invalidating the customs declaration. Repayment shall be granted within the periods laid down for submission of the application for invalidation of the customs declaration.

ARTICLE 213-1. As of the registration date of the declaration, 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 rejected by the importer because they are defective or do not comply with the terms of the contract on the basis of which they were imported.

Defective goods, shall be deemed to include goods damaged before their release.

2. Repayment or remission of import duties shall be granted on condition that the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract; the goods are exported from the Customs Territory of Turkey.

At the request of the person concerned, the customs administrations 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, 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 the goods not in free circulation.

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. An application shall be submitted to the appropriate customs administration for import duties to be repaid or remitted for the reasons set out in this article within one year from the date on which the amount of those duties was notified to the debtor.

This period may be extended by the Undersecretariat when a force majeure is detected.

ARTICLE 214- Customs duties may be repaid or remitted in situations other than those referred to in Articles 211, 212 and 213, under conditions to be laid down by the Council of Ministers within the framework of the provisions of international agreements to which Turkey is a party.

Duties shall be repaid or remitted for the reasons set out herein upon submission of an application to the appropriate customs administration within one year from the date on which the amount of the duties was notified to the debtor.

However, this period may be extended by the Undersecretariat when a force majeure is detected.

ARTICLE 215- The amount of the customs duties which will not be subject to repayment or remission shall be fixed in accordance with the Decree of the Council of Ministers.

ARTICLE 216- However, interest shall be paid upon the request of the concerned person where a decision to grant a request for repayment is not implemented by the administration within three months of the date of adoption of that decision.

The amount of such interest shall be calculated in accordance with the provisions of the Procedure Act on the Collection of Public Claims No. 6183, regarding the deferral interest.

ARTICLE 217- Where a customs debt has been remitted or repaid in error, the original debt and any interest paid under Article 216 shall must be reimbursed. The uncollected amount shall be paid within 15 days following the notification. The provisions of the Procedure Act on the Collection of Public Claims No. 6183, shall apply for the amount not-paid within the said limit.

## **TITLE X**

### **Other Provisions**

#### **CHAPTER ONE**

##### **Obligations of Businesses and Administrations**

ARTICLE 218-1. Provided that the necessary customs control and control formalities are carried out in accordance with the provisions hereof, the businesses and Administration for Postal Services, that are in charge of the stations, seaports and airports used in transportation of goods and passengers between Turkey and other countries via railway, highway, seaway and airway, shall be obliged to construct passenger halls, temporary storage, warehouses, convenient and suitable offices for the customs and customs enforcement administrations, and watching towers; to meet such requirements of the above-mentioned places, as lightening, heating and cleaning; to provide telephones and office equipment free of charge; and to meet the demands of the Undersecretariat for Customs regarding the establishment of any physical infrastructures relating to prevent any interchange of goods and persons subject to customs supervision at ports and customs offices with the others.

2. Apart from those referred to in Paragraph 1, Administration for Postal Services shall be liable to provide the measurement devices and other equipment required for the examination and analysis of postal parcels.

ARTICLE 218/A – 1. Provided that the duration of 30 years will not be exceeded following the completion of the period of operation, the Ministry may transfer the customs gates and/or logistics centers constructed and entrusted with the operating rights pursuant to the Act on the Realization of Certain Investments and Services by the Build-Operate-Transfer Model dated 8.6.1994 and no. 3996, against the contract price determined hereof through the comparative implementation of the methods granting the rental and/or operating rights cited in Article 18 of the Act on Privatization Practices dated 24.11.1994 and no. 4046, the Act no. 3996 and the assignment procedures of the secondary legislation relating to the implementation of this Act.

2. The valuation procedures based on the method of transfer determined by the Ministry shall be conducted by the implementation of at least one method cited in Article 18 paragraph 1 B (c) of the Act no. 4046 by the Valuation Commission composed of five permanent and five reserve members (Head of Department assigned by the Ministry, Customs and Trade Specialist, Financial Services Specialist and Engineer and Customs Director). If requested by the Commission, the valuation process may also conducted by the outsourcing companies subjected to the provisions of the Capital Markets Act. dated 6.12.2012 and no. 6362. In this case, the value shall be reviewed and decided by the Valuation Commission.

3. The assignment procedures shall be carried out by the Assignment Commission headed by the Undersecretary and composed of the relevant Deputy Undersecretary, Director General of Customs, Director general of Customs Enforcement, Head of the Department of Strategic Development, Head of the Department of Supporting Services and 1st Legal Advisor.

4. The commissions set up hereunder shall convene with the full participation of the entire members. Where any of the members fails, with a valid excuse, to participate the meeting, his representative or reserve member shall substitute him. The decisions shall be taken by a majority vote and no member may abstain from voting. The decisions shall be inserted into a signed report. The member opposing the decision shall write and sign the justification for a counter vote. The decisions taken by the commissions shall be submitted for approval to the Minister. The secretariat procedures of the commissions shall be conducted by the Department of Supporting Services.

5. The transferred customs gates and/or logistics centers may be retransferred by the end of the duration of transfer under the same procedures.

6. The assigned company and the Ministry shall conclude a contract. However, in the event that professional organizations or supreme boards with the status of public institutions may participate the partnership capital with a minimum share of fifty one per cent, the contract shall be concluded between the Ministry and the professional organizations with the status of public institution and the assigned company. A performance bond at a rate of six per cent of the contract amount shall be received. A share of one per cent shall be received from the total annual revenue acquired out of the contractual activities, to be further recorded as revenue in the national budget.

ARTICLE 219-1. With the aim to insure the safety of the goods and the rapid render of services, the warehousekeeper shall be obliged, as required by the Undersecretariat, to provide the additional equipment and modifications and the high-tech means.

2. (a) The warehousekeepers of the private warehouses shall be liable to deposit cash at the cashier of Customs the overtime pays and allowances which will be paid to the customs and customs enforcement officials and the amount of which will be determined by the Undersecretariat.

(b) The salary, overtime pays and other allocations for the officials working in customs and customs enforcement administrations that have been established to carry out the customs formalities relating to a certain private or public warehouse, shall be pre-deposited monthly by the warehousekeepers, as cash, at the cashier of Customs.

(c) Administration for Postal Services shall deposit at the cashier of customs the overtime pays determined by the Undersecretariat which is to be paid to the customs officials due to customs controls and formalities.

## CHAPTER TWO

Working Hours, Uniform of the Customs Personnel and the Customs Flag

### SECTION 1

Working hour and Overtime Pays

ARTICLE 220- Taking climatic, seasonal conditions and economic needs of the region into account, the Undersecretariat shall determine the regular working hours in customs administrations.

Without prejudice to the provisions of Article 35, frontier customs offices, railway stations and customs offices situated in sea and airports, shall be continuously open, since such operations as departure and destination of passengers and vehicles and loading and unloading of goods are not in conformance with normal working hours. In such places, working hours of the officials shall be organized in a rotational manner.

ARTICLE 221- Apart from the arrival and departure transactions of the passengers and vehicles; loading, unloading and any such customs operations should be carried out within regular working hours. However, in case a written service request, made out of the working hours or during non-business days, is deemed appropriate by the Customs Offices where the work is to be conducted; that request shall be approved on condition that necessary precautions are taken and overtime pays of the staff and the amounts corresponding to the legal travel allowances, if any, payable to the holder of right, are deposited by the demandants to the account of the relevant accounting unit. The staff benefiting from overtime pays, shall perform the duties to be accordingly assigned to them. Heads of the Customs Offices shall arrange and supervise the services to be rendered out of the regular working hours.

In case that the overtime pays are deposited, irrespective of working hours or overtime, the authorized customs offices may provide the special courier services and private passenger transportation services.

The procedures and principles regarding the amounts and the collection of the overtime pays collectible from relevant persons, shall be laid down the Council of Ministers. The amounts deposited as overtime pays shall be transferred to the account of the Accounting Unit of the Customs Office of Ankara in order to be subsequently paid to the permanent officials incumbent at Headquarters and Regional levels at the Ministry of Customs and Trade conducting customs procedures at the customs offices as regards the importation, exportation, entry and exit transactions (except for the public servants covered by the Table (II) enclosed with the Decree no. 375) as well as to the contractual staff working pursuant to Article 4 subparagraph (B) of the Civil Servants Act no. 657; within the framework of the procedures and principles to be laid down in consideration of such issues as the overtime hours and places of duty of the staff; the importance and severity of their duty; and their classes and titles. The amounts of payment in question shall be determined by the Minister of Customs and Trade, provided that the monthly amount will not exceed the sum calculated by the multiplication of the 36.500 indicator number with the monthly wage coefficient of the officials, in consultation with the Ministry of Finance. The net amount of the overtime pay to the staff on a monthly basis may not be lower than the net amount of the supplementary payment determined on the basis of the title or position as per annex 9 of the Decree no. 375. The payments to the staff of the Ministry of Customs and Trade shall be met by the amount deposited in the account of the Accounting Unit of the Customs Office of Ankara as per annex 9 of the Decree no. 375. The year-end balance remaining in accounts as a result of the payments shall be recorded to the national budget as revenue until the end of the following January. Where the amount payable to the staff exceeds the amount transferred into the

account of the Accounting Unit of the Customs Office of Ankara, the discrepancy shall be met by the allowance transferred into the budget of the Ministry from the allowance of the Ministry of Finance for covering staff expenses.

The payments made under this Article shall be taken into account for the calculation of the compensatory indemnity, paid pursuant to Article 22 of the Act dated 24.11.1994 and no. 4046 Concerning Arrangements for the Implementation of Privatization.

ARTICLE 222-

## **SECTION 2**

### **Uniform of the Customs Personnel and the Customs Flag**

ARTICLE 223- Except for the staff working at the headquarters of the Undersecretariat, the Regional Director and the Deputy Regional Directors and those required to wear civilian clothes due to the nature of their profession; the staff working at all other positions and bearing all other titles shall be obligated to wear official uniforms. The style of the official uniforms and cockades, name plates and other marks to be attached thereon, and the staff required to wear civilian clothes due to the nature of their profession shall be laid down by the Regulation.

ARTICLE 224- The customs flag shall be in hoisted position at customs administrations that render a non-stop service. Whereas in other customs premises, the customs flag shall be in hoisted position only within legal working hours.

## **CHAPTER THREE**

### **Proceeding of Transactions at Customs and Customs Brokers**

ARTICLE 225-1. Under Article 5, activities regarding the goods being assigned one of the customs-approved treatments or uses, shall be proceeded and concluded through direct representation by the owners of goods and by those who act on their behalf; or through indirect representation by the customs brokers. Proceeding of transactions by natural persons through direct representation may be possible with regard to the customs procedures of the goods having no commercial amount and nature and of the means of transport for personal use; with reference to the valid proxy. The Postal Services or the express cargo carrier companies may be authorized as indirect representative for the proceeding and finalization of the assigning of a Customs-approved treatment or use to the goods which were brought in or consigned by mail and express cargo carriage, and whose amount and value will be determined by the Council of Ministers.

2. Chiefs and officials of State, municipal and provincial administrations and other public legal persons, and the authorized representatives of the private legal persons may proceed the whole customs formalities by way of direct representation. The conditions enumerated in Article 227 (1) other than (g) and (h) shall apply for the staff of the private legal persons who will be proceeding transactions at Customs through direct representation.

Road, marine and airport companies and the representatives of the transporter company may only proceed the transit operations of the transported goods by the way of direct representation.

The direct or indirect representatives should not be suffering from a disease precluding them from conducting the activities prescribed herein. In case of doubt, the Undersecretariat may require the submission of a medical report received from general official medical institutions.

ARTICLE 226-1. The customs agents may proceed and conclude any customs formalities.

2. The assistant customs agents work with a customs agent and may proceed the task on his behalf. The Undersecretariat for Customs shall be authorized to restrict the customs activities of the assistant customs agents.

3. Intern customs agents may not proceed customs transactions at the customs offices.

4. Financial liabilities that may arise from the acts of the assistant Customs agents shall be incumbent on the customs brokers employing such assistants.

ARTICLE 227-1. The assistant customs broker shall:

- (a) be a citizen of the Republic of Turkey,
- (b) be able to avail of civil rights,
- (c) not be deprived of public rights,
- (d) except for the fraudulent offences and even if pardoned, not be convicted of such crimes as penal servitude or imprisonment for more than 5 years, or of such disgraceful offences as smuggling, embezzlement, abuse, corruption, bribery, larceny, swindle, falsification, abuse of beliefs, fraudulent bankruptcy, false evidence, maliciously false imputation, calumny, and corruption in official tenders and deals or revealing the secrets of the State, tax fraud or attempt to tax fraud,
- (e) not be dismissed from public service as a result of penal and discipline investigation,
- (f) i) be a graduate of any faculty, academy or foreign schools the equivalence of which has been accepted by the Higher Education Institution in such fields as law, economics, finance, management, accounting, banking, public administration, political sciences and industrial engineering,  
ii) Post-graduate of any of the above-mentioned disciplines subsequent to being graduated from the other disciplines; or graduate of vocational academies on customs, foreign trade and European Union.
- (g) have worked with a customs agent for a duration of one year as an intern,
- (h) have passed the examination covering the customs legislation and economic, trade and financial fields regarding customs.

2. (a) Provided that they meet the conditions referred to in paragraph 1, having resigned or retired from their post in customs administration after working at least 15 years, officials may participate in the assistant customs broker qualification examination without the condition of vocational training.

(b) Provided that they meet the conditions referred to in paragraph 1, having resigned or retired from their post in customs administration after working at least 15 years, 3 years of which has been concluded as a customs examination official, senior customs official and customs deputy director, shall reserve the right to be delegated as deputy customs broker without the condition of any examination or practical training.

3. Within 60 days following the submission of the necessary application documents, the Undersecretariat for Customs shall issue the Authorization License of Assistant Customs Broker for those who have fulfilled the above-mentioned conditions. Only after receiving this license, may the Assistant Customs Brokers initiate to execute their professional activities.

ARTICLE 228-1. Except as stated in Article 227 paragraph 1 (f) (ii), a person may qualify as a customs agent provided that he meets the conditions laid down in the same paragraph, that he renders a public service as assistant customs agent for 2 years, and that he passes the examination covering the customs legislation and economic, trade and financial matters regarding customs.

2. (a) Having resigned or retired from their post after working in the Customs Administration for 10 years, including a public service of at least 3 years in the Administration as head of section, director for customs, director for customs enforcement, deputy regional director for customs and deputy regional director for customs enforcement; provided that they satisfy the conditions laid down in Article 227 paragraph 1, officials shall participate in the examination of customs brokerage without the condition of practical training. Upon any request, these persons shall be granted the Authorization Licensee as Assistant Broker, without the condition of examination and practical training.

(b) Having resigned or retired from their post after working in the Customs Administration at least for 10 years regional director for customs, regional director for customs enforcement, customs expert, controller, customs investigator, head of department and at a higher post, officials shall reserve the right to become a customs broker without any condition of practical training or examination, provided that they satisfy the conditions laid down in Article 227 paragraph 1.

3. Those who have satisfied the conditions laid down in Articles 1 and 2 shall be granted by the Undersecretariat for Customs, the Authorization License of Assistant Customs Broker within 60 days following the submission of the necessary application documents. Only after receiving such an authorization, may the customs brokers execute their professional activities.

ARTICLE 229-1 The customs brokers communicate in writing their office used in notification addresses, to the Regional Directorate for Customs and Customs Enforcement where this office is affiliated to.

2. In the case that customs brokerage is executed under a private legal entity, assistant customs brokers may also be partners to the legal entities that may be formed by the customs brokers. However, the customs brokers and assistant

customs brokers may not be partners to more than one legal person. Where persons signing the customs declaration or other declaration papers know or should know the reason for revenue loss in case the customs brokerage is a legal person, they and the legal person shall be jointly and severally responsible towards the customs administration. Without prejudice to the personal penal responsibility of the customs broker, the relevant customs broker and the legal entity shall be jointly and severally responsible in respect of the duties and penalties charged by the customs administration.

ARTICLE 230- Without prejudice to the provisions set forth in special Acts, the customs brokers shall be obliged to; keep for 5 years, the commercial or legal books, proxies and contracts, letters, fax, telegram and other papers written relating to their profession, and the originals and copies of the invoices, receipts and papers regarding their expenses; submit these documents to the customs investigators, their assistants, customs controllers, intern controllers and authorized chiefs and officials of customs; grant authorization for the inspection and control of these; and present these papers to the above-mentioned authorities.

## **TITLE XI**

### **Penalties**

#### **CHAPTER ONE**

##### **General Provisions**

ARTICLE 231- 1. On condition that the act subject to an administrative sanction is related with an act requiring penalty and that criminal suits have been filed because of this act having a longer period of prescription, the decisions on administrative sanctions shall be applicable within the duration of lawsuits and period of prescription laid down by the Turkish Penal Code.

2. The period of prescription of the administrative fines arising from customs duty receivables shall be subjected to the period of prescription of the customs duties related with these administrative fines.

ARTICLE 232-1. The fines that should be charged together with the customs duties in accordance with the provisions of Chapter 2 of this Title, shall be decided, communicated and paid concurrently with such duties.

2. On condition that the relevant issue and declarant are the same and have a pecuniary or legal interdependence, a single accrual and penalty decision may be applied for the customs duties and fines relating to multiple procedures or declarations.

3. Administrative sanction decisions shall be taken by the heads or deputy heads of customs administrations hereunder.

ARTICLE 233- An amount at the rate of 15 percent of the fines collected hereunder, shall be allocated from the budget of the Undersecretariat to the denouncers who

will contribute to the detection of the case requiring fine before any examination and analysis; if any.

## **CHAPTER TWO**

### **Penalties to be charged on operations that result in tax loss**

ARTICLE 234-1. As a result of any declaration, examination and control or post-release control relating to goods subject to free circulation procedure or temporary importation with partial relief;

- (a) Apart from the existing duties, a fine at a rate of threefold of the arising difference, shall be charged in the case that any discrepancy occurs in the elements forming the Customs Tariff referred to in Article 15 or in such measurements of goods as number and weight which are subject to taxation; and provided that the difference between the import duties calculated pursuant to declaration, and import the duties to be charged in accordance with the examination results, exceeds 5%.
- (b) Apart from the import duties regarding the deficit, a fine at a rate of threefold of the tax difference shall be charged in the case the declared value of the goods subject to import duties is deficient when compared with the value determined under of Articles 23 to 31.
- (c) In case of a difference in quantity less than 5% and in case of deficient value declarations incurred from a formal account error, the import duties regarding these differences as well as a fine at an amount of half of the tax difference, shall be charged.

2. In cases where the differences referred to in paragraph (1) are found as a result of any declaration, examination and post-control relating to goods subject to inward processing procedure, procedure for processing under customs control and procedure on temporary importation with total relief; a fine at a rate of half the fines prescribed in the same paragraph, shall be imposed.

3. Where the above-mentioned discrepancies have been communicated by the declarant before the customs authorities notice them, the fines in question shall be applied at a rate of 15 per cent.

4. The provisions relating to the above-mentioned fines shall not apply for the public administrations within the scope of general administration. In such cases, the provisions of Article 241 (1) shall apply.

5. Where the customs authorities establish, as a result of control, that the import duties payable under the cover of a customs debt incurred as per Article 194 (1), have either not been paid or been incompletely paid until the deadline stipulated in paragraph 4 of the same Article; the payable import duties shall be collected together with the interest mentioned in the said paragraph, and a fine at an amount of one fourth of these duties shall be imposed on the debtor. Such fines shall not apply in case the unpaid or incompletely paid import duties referred herein, are communicated by the debtor to the customs authorities before they notice such duties. In such a case, only Article 194 (4) shall apply.

6. Fines imposed in accordance with paragraphs 1 to 3 may not be less than the amount mentioned in Article 241 (1).

ARTICLE 235- 1. As a result of any declaration, examination and control or post-release control relating to goods subject to free circulation procedure;

a) Where the importation of the goods is prohibited by the generally regulating administrative transactions, the customs duties of the goods shall be collected and four-fold of the customs clearance value of the goods shall be charged as administrative fine.

b) Where the goods cited in (a) above is a worthless, redundant or waste item, thirty thousand Turkish Liras per tones and six hundred Turkish Liras per package shall be calculated for the goods brought in bulk and in packages, respectively. The goods shall further be exported.

c) Where the goods were declared in the manner as though they were not subject to the certificates of compliance and competency even their importation was subject to license, condition, authorization, constraint or the certificates of compliance and competency to be issued by certain institutions or they were declared in the manner as though these certificates were already received, the customs duties of the goods shall be collected and two-fold of the customs clearance value of the goods shall be charged as administrative fine.

d) Where the goods cited in (c) above is a worthless, redundant or waste item, eight thousand Turkish Liras per tones and two hundred Turkish Liras per package shall be calculated for the goods brought in bulk and in packages, respectively. The goods shall further be exported.

2. As a result of any declaration, examination and control or post-release control relating to goods placed under exportation procedure

a) Where the exportation of the goods is prohibited by the generally regulating administrative transactions, two-fold of the customs clearance value of the goods shall be charged as administrative fine.

b) Where the goods were declared in the manner as though they were not subject to the certificates of compliance and competency even their exportation was subject to license, condition, authorization, constraint or the certificates of compliance and competency to be issued by certain institutions or they were declared in the manner as though these certificates were already received, an administrative fine at the rate of the customs clearance value of the goods shall be charged.

3. A two-fold duty shall be charged for the goods other than personal effects and travel souvenirs (in accordance with the Customs Regulation) carried, contrary to their declarations, by the passengers amongst their belongings or kept in their means of transport or shown by them as their personal belongings even owned by others; and such goods shall be returned to their owners. In failure to pay the customs duties, the goods shall be regarded as abandoned to customs.

4. The goods cited in paragraph 1 (a) and (c) shall be hereby seized and confiscated and the goods shall be disposed in accordance with Article 177 and 180n hereof.

5. Where the description of the goods not in free circulation brought into the Customs Territory of Turkey and for which a transit procedure was declared evidently differs from the declared description, two-fold of the customs clearance value of the discrepant goods shall be charged as administrative fine

ARTICLE 236-1. In cases where goods are partially or wholly removed from the customs warehouses or locations authorized by the customs offices to place goods or where the goods are changed or are found to be incomplete as a result of the inventory count, prior to the initiation of customs transactions or without receiving the authorization of the relevant customs office while customs transactions have been completed (even if the security was received); relevant customs duties of the goods and a two-fold of the customs clearance value shall be charged as fine.

2. Apart from placing the goods under disposal as per articles 177 to 180, a fine at the amount of the export and import duties of the excessive goods, shall be charged; where excessive amount of goods have been detected as a result of the counting carried out in customs warehouses and in the areas designated by customs administration to place goods.

4. The goods sold from the duty-free shops to persons who are not right holders and the goods exceeding the limit and sold (even) to a right holder, shall be imposed import duties and a three-fold of these duties shall be charged as fine.

5. In the event that the description of the goods placed in customs warehouses evidently differs from the goods declared in the warehouse declaration, a two-fold of the customs clearance value of the goods shall be charged as fine; the goods shall be seized and confiscated and the goods shall be subjected to disposal in accordance with Articles 177 to 180 hereof.

ARTICLE 237-1. In the default of demonstrating within the period prescribed by the customs administration, that the packages, proved to be deficient as a result of the amount registered in the summary declarations or the commercial or official papers used as summary declarations submitted in accordance with Articles 35/A to 35/C, have not been loaded from their provenance or have been unloaded in another port or lost or stolen due to any accident or average; and provided that the tariff classification of the goods kept within these deficient packages can not be determined, a fine shall be charged on these goods, at an amount under their tariff classification or if tariff classification can not be determined, under the highest dutiable classification of the chapter in accordance with the nature and the description of the goods.

2. In the case that no fine may be determined in accordance with paragraph 1, for each deficient package, fines shall be charged at the amount referred to in Article 241 (1).

3. In default of demonstrating, within the period prescribed by the customs administration, that packages have been loaded at an amount exceeding the amount in its provenance in accordance with the amount registered in the summary declarations submitted in accordance with Articles 35/A to 35/C and registered in the commercial or official documents used as summary declaration; the mentioned goods shall be seized and confiscated, the goods shall be disposed pursuant to Articles 177 to 180 hereof, and a fine at an amount of CIF value of goods, shall be charged.

4. No proceeding shall be applied where deficiency and excessiveness in goods in bulk at the rates defined by the Council of Ministers, will not exceed 3%. This rate shall not exceed 4% for the natural gas products, except for those imported via pipeline transportation.

5. Where the amount of goods may not be established by the customs authorities and the procedure declaration has been made on the basis of the amounts registered in the relevant documentation, amount differences shall be considered as the deficiency and excessiveness of summary declaration. In cases where a fine is required due to the amount difference resulting from the proceeding of the deficiency and excessiveness of summary declaration, not the provisions of Article 234, but the provisions of this Article shall apply.

6. In cases where it is established by the relevant customs office that the goods were brought into the Customs Territory of Turkey inside an incoming vehicle without the submission of a summary declaration or the customs office was notified only after the goods are allowed to be discharged and that these goods are not related with any of the submitted summary declarations, these goods shall be seized and confiscated if the person (if this person may be identified) liable to submit a summary declaration for the goods or (in case the person who is liable to submit a summary declaration may not be identified) the person bringing the goods into the Customs Territory of Turkey fails to prove that the goods were erroneously overloaded at the point of departure within a duration granted by the relevant customs office. These goods shall be further disposed pursuant to Articles 177 to 180 hereof. A fine at the amount of CIF value of goods shall be charged.

7. The fines cited in paragraphs 1,2 and 3 shall be charged from the person submitting the summary declaration; while the fine cited in paragraph 6 shall be charged from the person who is liable to submit the summary declaration. In failure to identify this person, the fines shall be charged from the person bringing the goods into the Turkish Customs Territory.

#### ARTICLE 238-

1. Except for the cases referred to in Article 241 (3) (h), (l) and (m); (4) (g) and (h); and (5) (b); in case of a violation from the provisions regarding inward processing procedure, the procedure for processing under customs control and temporary importation procedure, twofold of the customs clearance of the goods shall be imposed as a fine; while a fine at the rate of one fourth of the customs duties shall be charged for the vehicles for personal use temporarily imported under total relief. However where the imported goods subject to inward processing are found in places authorized by the procedure, including the goods under processing or processed state, twofold of the customs duties of the imported goods shall be charged as a fine. In cases where the goods are not subjected to another customs-approved treatment or use within the duration of payment of this fine, a fine at the rate of the customs duties of the goods shall be charged.
2. Fines imposed under the first paragraph may not be less than the amount mentioned in Article 241 (6).
3. The provisions hereof relating to fines and provisions of Article 241 (3) (h), (l) and (m); (4) (g) and (h) and (5) (b) shall not apply for the public administrations within the scope of general administration. In this case, the provisions of Article 241 (1) shall apply.

## **CHAPTER THREE**

### **Fines Relating to Irregularities**

ARTICLE 239- 1. A fine at the rate of one tenth of CIF in the case that the goods are subject to importation, and a fine at the rate of one tenth of FOB in the case that goods are subject to exportation, shall be charged from; those who have without authorization imported or exported or attempted to import or export the goods subject to relief from export and import duties through other places other than the customs administrations specified in accordance with the provisions of Article 33; and those who have brought into or out such goods or who have attempted to bring into or out such goods, without going customs formalities, from the customs territory of the country.

2. Those exporting from the Customs Territory of Turkey the goods exportable by the payment of customs duties, without placing under customs procedures or without the partial or whole payment of customs duties, shall be charged with the customs duties of these goods as well as a fine of two-fold of these duties.

ARTICLE 241- 1. Without prejudice to the circumstances for which a separate penalty has been assigned, an irregularity fine of TL 60 shall be charged on those who have violated the provisions laid down by secondary regulations issued on the basis of this Code and the authorities granted therein.

2. The amount referred to in paragraph 1, shall be increased annually on the revaluation rate determined by the Tax Procedure Act, No. 213. In such a calculation, the amount up to TL 1 shall not be taken into consideration.

3. When compared with the amount referred to in paragraph 1, the irregularity fine shall be doubled where:

(a) Pursuant to Articles 6 and 7, the false presentation by the concerned persons, of the documents and information which form a basis for the decisions taken by the customs administrations;

(b) Even though it leads to no tax loss, existence of a sales transaction between the persons interrelated in accordance with Article 24; and no declaration of such relationship;

(c) Failure of the equipper or operator or his agent to inform the relevant customs administration within the duration to be laid down by the regulation for the arrival and departure of the vessels that arrive at Turkey from foreign ports or that depart from Turkey for foreign ports

(d) Failing to present, within the prescribed time, the summary declaration or the commercial or official document used as summary declaration in accordance with Article 35/A;

(e) Where the vehicles carrying transit goods by road within the Customs Territory of Turkey exceed, up to 24 hours, the duration prescribed pursuant to Article 91.

(f) Where a deficiency exists in the technical equipment of the customs warehouses mentioned in Article 93 (3);

(g) Failing of the warehousekeepers to record the goods subject to customs warehouse procedure on the date when these goods have been placed into the warehouses;

(h) Conclusion, within one month following the expiry of the authorization duration, of the formalities; re-exportation or placing under a customs-approved treatment or use, of the goods brought into the Customs Territory of Turkey under the inward processing procedure and the procedure for processing under customs control;

(i) Having exceeded the prescribed period, returning of the goods temporarily brought out of the Customs Territory of Turkey;

(j) Without prejudice to the provisions of the Anti-Smuggling Act, a difference over 10% is detected in the amount or kind of the exported goods in accordance with the declaration and the documents enclosed therewith;

(k) Non-compliance of those working in or entering and leaving the freezones, with the rules laid down by this Code.

(l) re-exportation or placing under a customs-approved treatment or use, within one month following the expiry of the granted time limit, of the goods brought into the Customs Territory of Turkey under the temporary importation procedure.

(m) Demonstration with reasonable documents, that the goods imported under the temporary importation procedure have been released out of the Customs Territory of Turkey without informing the relevant customs authorities, but within the period prescribed.

4. When compared with the amount referred to in paragraph 1, the irregularity fine shall be quadrupled where:

(a) even though he is not authorized to represent in accordance with Article 5; where a person proceeds a transaction in the name or on behalf another in the customs administrations;

(b) Contrary to Article 34 (2), road vehicles, without being granted the authorization of the customs administration, carry on their journey by embarking and disembarking passengers or load;

(c) Unloading goods from vehicles contrary to Article 45 (1); false declaration of the description of the goods registered in the summary declaration or in the commercial and official documents used as summary declaration or non-conformance of the kind of package and the numbers and marks indicated thereon, with the registrations of the summary declarations;

(d) Vehicles carrying transit goods by road into the Customs Territory of Turkey exceed, up to 48 hours, the period prescribed in accordance with Article 91;

(e) Contrary to Articles 94 and 154, goods, brought into general warehouses and free zones and which are flammable and explosive or which present a danger or are

likely to spoil other goods or which require special facilities and equipment for their preservation, are stored in general premises;

(f) Placing of the goods in warehouses under handling referred to in Article 102, without authorization of the customs administrations.

(g) re-exportation or placing under a customs-approved treatment or use, within a duration not exceeding 2 months following the expiry of the granted time limit, of the goods brought into the Customs Territory of Turkey under the temporary importation procedure;

(h) Conclusion, within a duration of no more than 2 months following the expiry of the authorization duration, of the formalities; re-exportation or placing under a customs-approved treatment or use, of the goods brought into the Customs Territory of Turkey under of the inward processing procedure and the procedure for processing under customs control;

(i) failure of the relevant persons to submit documents and information though they have been requested to submit such documents and information in written form in accordance with Article 11.

5. The irregularity fine shall be charged as six fold of the amount mentioned in paragraph one, where

- a) vehicles carrying transit goods by road into the Customs Territory of Turkey exceed, up to 72 hours, the period prescribed in accordance with Article 91;
- b) re-exportation or placing under a customs-approved treatment or use, within a duration not exceeding three months following the expiry of the granted time limit, of the vehicles brought into the Customs Territory of Turkey under the temporary importation procedure

6. When compared with the amount referred to in paragraph 1, the irregularity fines shall be charged as eightfold, where;

(a) Contrary to Article 34 (3), vessels arriving from the ports out of the Customs Territory of Turkey change their route, wait in the course of the journey, contact with other vessels, do not make their way enough for customs supervision or draw near places where no customs office exists and it is not possible to prove that the vessel was actually not loaded or its cargo was discharged at another port or was damaged or lost (general average);

(b) Vehicles travel on the roads other than those predestined in Articles 33 and 91;

(c) Vehicles carrying transit goods by road into the Customs Territory of Turkey exceed, up to 72 hours, the period prescribed in accordance with Article 91.

(d) Failing to keep the documents referred to in Article 13, for a duration of 5 years.

## **TITLE XII**

### **Appeals**

ARTICLE 242-1. Within 15 days from the notification, the debtors may appeal against the customs duties, fines and administrative decisions under a petition

addressed to a superior authority or to the same authority if such a superior authority does not exist.

2. Appeals submitted to the administration shall be decided within 30 days and notified to the relevant person.

3. Where the appeal petitions are submitted to the wrong authorities within the period prescribed, the appeal shall be deemed to be submitted within the prescribed period and shall be conveyed by the administration to the relevant authorities.

4. Any person shall have the right to appeal before the administrative judiciary bodies located where the formalities relating to the decisions on the rejection of the appeal are carried out.

ARTICLE 243-1. Within 15 days as from the notification, any person shall have the right to appeal in writing before the Regional Directorate for Customs and Customs Enforcement against the chemical analysis results taken as a basis in the calculation of the customs duties notified to the relevant persons in accordance with Article 197.

2. Upon an appeal, second analysis shall be made by two chemists other than the chemist who works in the laboratory where he made the first analysis. Upon request, the customs administrations shall authorize an observer chemist who is not a customs chemist, to be involved in the second analysis.

Where an appeal has been lodged against the analysis made in the customs laboratories in which not more than three chemists work, the second analysis shall be made in the laboratory in which at least two chemists work and which is affiliated to the nearest customs administration.

3. The result of the second analysis shall be precise in respect of the determination of technical features and nature of the goods.

ARTICLE 244- 1. Where the declarant or the person to pay the fines may contend against the deficiencies or irregularities detected by the customs administration in the submitted declarations, by arguing that they have emanated from failing to adequately understand the legal provisions or from misinterpretation of the provisions or a difference of opinion exists as to the judicial decisions, the customs administration may reconcile with the declarants or the person to pay the fines within the framework of the provisions hereof. The request for reconciliation shall be submitted within fifteen days as from the date of notification, for the customs duties and fines for which no objection was yet filed. In the event of a request for reconciliation, the term of objection or litigation shall be suspended and the term shall be resumed in failure of reconciliation or ensuring reconciliation. However, the term shall be extended for three days where the deadline is less than three days. In failure of reconciliation or ensuring reconciliation, no new request shall be submitted for reconciliation.

2. Where the act regarding the customs duties and fines is related to the smuggling offences cited in Article 3 of the Act no. 5607, the provisions of this present Article shall not apply.

3. Demands for reconciliation shall be assessed by the customs conciliation commissions. The procedures and principles governing the establishment and functioning of the customs conciliation commissions and submission of applications hereunder shall be laid down by a regulation.

4. The reconciliation reports issued by the customs conciliation commissions shall be of definitive nature and relevant procedures shall be conducted forthwith. The declarant or the person to pay the fine may not file lawsuits or complaints at any official authority against the reconciled issues incorporated into the report.

5. In the event of reconciliation, the reconciled customs duties and fines shall be paid within one month as from the notification of the reconciliation report. The late payment fee determined under the Act no. 6183 shall apply to the time interval between the due date of the reconciled duties and the date of signature of the reconciliation report. In failure of reconciliation or assurance of reconciliation, the general provisions shall apply.

6. No additional cash discount shall apply to the fines reconciled hereunder pursuant to Article 17 of the Misdemeanor Code dated 30.03.2005 and no. 5326.

7. The remuneration paid to the chairman and members of the conciliation commission for their services shall be determined by the decision of the Council of Ministers upon the proposal of the Ministry of Customs and Trade.

## **TITLE XIII**

### **The Repealed Provisions, Provisional Articles and Entry into Force**

#### **CHAPTER ONE**

##### **Repealed Provisions**

ARTICLE 246- As of the entry into force of the Code, the below have been repealed;

(a) Articles 113,117 and 118 of the Customs Code dated April 1334 and the Articles 112 and 116 of the same Code amended by the Act dated 07.06.1926 and No. 906;

(b) The Act dated 30.11.1960 and No. 146;

(c) The Customs Code dated 19.07.1972 and No. 1615, and the amending Acts dated 25.02.1981 and No. 2419, 18.04.1983 and No. 2817, 22.05.1987 and No. 3375, 10.02.1994 and No. 3968, 03.04.1997 and No. 4236; and Article 55 of the Act dated 07.02.1990 and No. 3612;

(d) Decree dated 30.06.1995 and No. 564;

(e) Articles 15 and 16 of the Act on Prevention and Investigation of Smuggling, dated 7.1.1932 and No. 1918.

## **CHAPTER TWO**

### **Provisional Articles**

PROVISIONAL ARTICLE 1-1. The repealed Customs Code shall apply with regard to the maximum duration of storage and the relevant extension applications of the goods kept, in the temporary stores of the Customs Territory of Turkey or the places designated for placing goods, on the date this Code took effect.

2. The maximum duration of storage of the goods kept, on the date this Code took effect, in the general, special-purpose or specific warehouses, shall be subject to the provisions of this Code.

PROVISIONAL ARTICLE 2- Provided that, on the date the Code has taken effect, a procedure declaration has been made with regard to goods, the provisions in favor of the debtor entitled as the declarant shall be applied in carrying out the customs formalities which have not yet been concluded.

Requests of the declarants for changing procedure relating to the goods the declaration of which has been registered, shall be accepted provided that they are made within 45 days as from the date the Code has taken effect. However, acceptance of such requests shall not preclude the implementation of the penalty decisions whether or not made or to be made.

PROVISIONAL ARTICLE 3-1. In other Acts where reference is made to the Ministry of Customs and Monopoly and in issues relating to the duties and authorities of the Undersecretariat for Customs where reference is made to the Ministry of Finance and Customs, those references shall be deemed to refer to the Undersecretariat for Customs.

2. In other Acts still in force, where references are made to the Customs Code No. 1615 and the Acts that have amended this Code, those references shall be deemed to refer to this Code.

PROVISIONAL ARTICLE 4- The Article 179 shall apply in the case that the invitation to auction relating to goods subject to disposal, has not yet been carried out or retail sale of which has not yet been decided; and the declarant applies to the customs administration within 30 days as from the date this Code took effect.

This Article shall not apply for goods subject to restriction of foreign trade.

PROVISIONAL ARTICLE 5-1. The Authorization License of Assistant Customs Broker shall be granted to the those who have borne the Assistant Customs Broker Carnets before the taking effect of this Code; in the case that they apply to the Undersecretariat for Customs within 2 years as from the taking effect of this Code; and they carry on meeting the conditions referred to in Article 227.

Provided that those who have qualified as assistant customs brokers, are at least high school graduates, they shall reserve the right to take the first three assistant customs broker examinations.

2. The holder of the customs broker carnets shall be granted the Authorization of Customs Brokerage upon their application to the Undersecretariat for Customs within 2 years as from taking effect of this Code, provided that they carry on meeting the conditions referred to in Article 227 without the educational criteria.

3. Subsequent to their resignation or retirement from their duties, those who have been entitled to be customs broker or assistant customs broker in accordance with Article 167 (2) and (3) and Article 168 (3) of the repealed Customs Code No. 1615, shall be granted, under this Code, the authorization license of customs broker or assistant customs broker on the date the Code took effect.

4. In the case that lawsuits regarding the offences referred to in Article 227 (1) (d), still exist; irrespective of the application period of two years mentioned in paragraphs 1 and 2, an application shall be made to the Undersecretariat within a year in any case as from the judgement in favor of the applicant.

PROVISIONAL ARTICLE 6- The below-mentioned provisions shall be applied until the regional directorate for customs and customs enforcement to which customs brokers and assistant customs brokers are affiliated, will be organized as a public vocational institution under an Act to be adopted;

1. While the Customs Brokers' Associations, established under the Customs Code No. 1615, shall carry on its activities, the Undersecretariat for Customs shall make examinations and grant authorization.

(a) The examinations of customs broker and assistant customs broker shall be, within the conditions and rules laid down by the Undersecretariat, made once every year.

(b) Those who have met the conditions referred to in articles 227 and 228, at the very beginning of the year in which examination is made, shall have the right to apply for taking the examinations of customs broker or assistant customs broker.

(c) One shall have the right to take the examinations of customs agent and assistant customs agent, three times at maximum.

2. With an aim to render the customs agency services in an appropriate way, those who have defamed the dignity and honor of the profession of customs brokerage or assistant customs brokerage, who have not fulfilled or deficiently fulfilled their duties or who have abused their duties shall be subject to the discipline penalties mentioned below in accordance with the characteristics and importance of the circumstances.

(a) Warning: The written notification to the member of profession mentioning that he should pay more heed in fulfilling his duties.

(b) Condemnation: The written notification to the member of profession mentioning that he acted erroneously in fulfilling his duties and attitudes.

(c) Temporary deprivation from rendering professional activities: Without prejudice to his professional title, deprivation of the member of profession to render professional activities for a period not less than six months and not more than one year.

(d) Dismissal from profession: Invalidation of his license and no longer allowing the broker to execute the same profession.

3. Those who have defamed the dignity and honor of their profession and who have acted detrimentally to the professional confidence shall be firstly subject to warning and then if recurred then to condemnation.

Those who have not performed their duties in an independent objective and honorable manner or performed by default or violated general professional principles laid down in this Code shall be subject to temporary deprivation from rendering professional activities.

Where the investigative officials of the Undersecretariat for Customs report that a false declaration has been made on the basis of false documents without the knowledge of the customs broker and that the real case will be learned by an investigation; the relevant customs broker shall be firstly subject to the penalty of condemnation. In the recurrence of such a case, the broker shall be subject to the penalty of temporary deprivation from rendering professional activities.

The penalty of dismissal from profession shall be applied to the members of profession convicted on smuggling in accordance with the Act on Prevention and Investigation of Smuggling dated 7.1.1932 and No. 1918.

4. Having involved, within the last three years, in an offence which requires two or more discipline penalties; the members of profession may be subject to a more repressive penalty for any new offence that they may commit. Where, subsequent to their double punishment, within a period of five years, by the penalty of deprivation from rendering profession, members of profession committing the same offence again, shall be subject to the penalty of dismissal from profession.

Discipline boards shall have the authority to decide on the implementation of more repressive or attenuated penalties. The proceeding and the establishment of conviction shall not preclude the discipline investigation and discipline penalty.

5. Members of profession shall not be subject to any discipline penalty without his defense. Those who have not plead not less than ten days within the period prescribed by the authorized discipline board, shall be deemed to have waived from their right to plead. Discipline penalties shall be applied as from the date of their finalization.

6. In return for the offences they have committed in fulfilling their duties or due to their duties, the customs brokers and assistant customs brokers shall be punished in accordance with the provisions of the Turkish Penal Code concerning the public servants.

7. In the case that they have not been implemented for 3 years as from the demonstration of the customs administrations that they are contrary to the provisions of the legislation without any dependence on the result of a tribunal case; the discipline penalties shall be subject to prescription. Where the formalities and actions contrary to the legislation are subject to judicial investigation, the discipline penalty may be applied in accordance with the prescription provisions in the Turkish Penal Code.

8. The penalties mentioned in paragraph 2 shall be imposed as following; the warning and condemnation penalties shall be imposed by the authorized regional customs director; the penalty of temporary deprivation from rendering profession duties shall be imposed by the Central Discipline Board of the Undersecretariat; and the penalty of dismissal from office shall be imposed by the Supreme Discipline Board of the Undersecretariat.

9. The customs investigators, their assistants, customs controllers, intern controllers and regional directors for customs shall, as a precaution, reserve the right to seize temporarily the license of the customs brokers and assistant customs brokers who have violated the provisions of the legislation and they shall be deprived to fulfill their duties. The Undersecretariat shall be informed about this case on the day following the seizure of the license. In the case that the penalty of depraving temporarily from rendering professional activities is applied for those whose licenses have been seized in this way; the period of the seizure of the license shall be deducted from the period of the penalty.

10. The Minimum Wage Tariff which shows the minimum wages paid to the customs agents for the acts and formalities they will be conducting; and which is determined on the basis of the calendar year, shall be put into effect by the customs agency associations provided that it is deemed appropriate by the Undersecretariat.

PROVISIONAL ARTICLE 7- With the exception of Article 152 1 (a) hereunder, the provisions of Articles 157, 158 and 185 restricted with the requirements of the warehouses operating within the free zone, countering the Free Zones Act no. 3218 shall not be applied until the date the full membership to the EU is realized. However, the provisions of Articles 158 and 185 shall continue to apply in respect of the Private Consumption Tax Act no. 4760.

In accordance with the Act no. 4760, no assessment shall be applied for the terms preceding the effectiveness of this Article; the previous assessments shall be abandoned and the assessed amounts shall be cancelled. The amounts collected may not be rejected and returned.

## **CHAPTER THREE**

### **Entry into Force and Execution**

ARTICLE 247- This Code shall enter into force after three months following its publication in the Official Gazette.

ARTICLE 248- The Council of Ministers shall execute the provisions of this Code.