

Act No. 13/1993 Coll.

Act

of the Czech National Council

of December 15, 1992

THE CUSTOMS ACT

in the wording of Act No. 35/1993 Coll., Act No. 113/1997 Coll., Act No. 63/2000 Coll., Act No. 256/2000 Coll., Act No. 265/2001 Coll., Act No. 1/2002 Coll., Act No. 322/2003 Coll., Act No. 354/2003 Coll., and Act No. 187/2004 Coll.

The Czech National Council has hereby passed the following Act:

**CHAPTER ONE
PURPOSE AND INTENT OF THE ACT**

Article 1

This Act provides for some legal relations in the customs domain which are not governed by the directly applicable provisions of the European Communities.¹

Article 2

repealed

**CHAPTER TWO
PERSONAL DATA PROCESSING AND SERVICE STATUS OF A CUSTOMS
OFFICER**

Article 3 and Article 4

repealed

Article 4a

Processing of Personal Data by Customs Authorities

(1) The customs authorities^{1a} of the Czech Republic shall process^{1b} personal data^{1c} without the agreement of the subject^{1d}, including data giving evidence

¹ Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code, Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code
Council Regulation (EEC) No 918/83 of 28 March 1983 setting up a Community system of reliefs from customs duty
Council Regulation (EEC) No 3330/91 of 7 November 1991 on the statistics relating to the trading of goods between Member States
Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff

- about criminal activities, if that follows from its competence stipulated by law or an international treaty, which is binding the Czech Republic and has been published in the Collection of Laws or Collection of International treaties (hereinafter “international treaty”).
- (2) The customs authorities are authorized to act in accordance with paragraph (1) when processing personal data relating to natural persons
 - a) which are or have been undergoing supervision by customs authorities in accordance with the legislation of the European Communities^{1e}, an intervention or an action in the line of duty,
 - b) which have violated legislation the enforcement of which was entrusted to customs authorities or there is a warranted suspicion thereof, or
 - c) which are participants in a proceeding before customs authorities or have otherwise participated in such a proceeding.
 - (3) When customs authorities hand over personal data to other states they are entitled to do so without the permission of the Office for Personal Data Protection.^{1f}
 - (4) Customs authorities shall review at least once every three years whether the processed personal data are still needed to perform their duties. If the processed personal data are no longer needed to perform their duties, the customs authorities shall liquidate them without delay.
 - (5) Customs authorities shall hand over processed personal data to other State authorities or persons
 - a) if special regulations or an international treaty thereby stipulate, orif the person to whom the personal data relate agrees to that data being handed over..

Article 4b

False or Inaccurate Personal Data

- (1) Customs authorities are authorized to process even false, inaccurate or unverified personal data and to gather personal data if that personal data relate to entities
 - a) warrantably suspected of criminal activity or other violations of legislation the enforcement of which the customs authorities are entrusted with,
 - b) about whom it can be assumed on reasonable grounds that they are involved in prohibited trade of narcotic, psychotropic substances, preparations containing them, precursors and auxiliary substances or in other illegal forms of importation or exportation of goods the detection and prosecution of which is bound by an international treaty.

^{1a} Act No. 186/2004 on the Customs Administration of the Czech Republic

^{1b} Article 4 e) of the Act No. 101/2000 on the protection of personal data and amendment of certain laws as amended

^{1c} Article 4 a) of the Act No. 101/2000 as amended

^{1d} Article 4 d) of the Act No. 101/2000 as amended

^{1e} Article 4 of the Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code

^{1f} Article 2) of the Act No. 101/2000 as amended

- (2) Upon written request customs authorities shall disclose to the inquirer free of charge personal data relating to the inquirer, and shall do so within thirty days of receipt of request.
- (3) Upon written request customs authorities shall liquidate or correct, free of charge, false or inaccurate personal data relating to the inquirer, and shall do so within thirty days of receipt of request.
- (4) Requests pursuant to paragraphs 3 and 4 shall be decided on by the General Directorate of Customs. A new request may be submitted only after one year has elapsed since the last request was submitted.
- (5) A request pursuant to paragraphs 2 and 3 shall be denied by customs authorities should granting such a request jeopardize
 - a) the performance of tasks of the Customs Administration of the Czech Republic^{1a)} (hereinafter “customs administration”) in connection with performing tasks arising out of paragraph 1,
 - b) the legitimate interests of a third person.

If the request is denied, the decision on the request must be substantiated in writing.

- (6) If the customs authorities do not process any personal data relating to the inquirer or if disclosing a substantiated decision would jeopardize the performance of customs administration tasks in connection with performing tasks arising out of paragraph 1, the inquirer shall be notified in writing that the customs authorities are not processing any personal data relating to the inquirer.
- (7) The Rules of Administrative Procedure shall not apply to the procedure of handling requests.

Articles 5 to 11

repealed

Article 12

- (1) The service status of customs officers shall be governed by the Law on the service status of members of the Police of the Czech Republic³¹ with exceptions set forth in Article 1, Article 13, and Articles 15 to 19c with the condition that
 - a) wherever the Law on the Service Status of members of the Police of the Czech Republic^{3g)} mentions the Police of the Czech Republic, it shall be deemed to refer to customs authorities;

³¹ Act of the Czech National Council No. 186/1992 Coll., on the service status of members of the Police of the Czech Republic, as amended

- b) wherever the Law on the Service Status of members of the Police of the Czech Republic³⁹) mentions the Police officer of the Czech Republic, it shall be deemed to also refer to customs officers;
- c) the powers vested by the Law on the Service Status of members of the Police of the Czech Republic³⁹) upon the Minister of the Interior of the Czech Republic shall be deemed to be vested upon the Minister of Finance (hereinafter the “Minister”);
- d) the powers set forth in Article 2, paragraph 2, of the Law on the Service Status of members of the Police of the Czech Republic³⁹) shall be exercised by the Minister in respect to the Director General of the Customs Administration and by the Director General and within in the scope defined by him also by other superior officials in respect to customs officers ;
- e) the powers vested by the Law on the Service Status of members of the Police of the Czech Republic³⁹) upon the Ministry of the Interior of the Czech Republic shall be deemed to be vested upon the Ministry of Finance (hereinafter the “Ministry”).

Article 13

- (1) A customs officer may be any citizen of the Czech Republic not younger than eighteen years of age, who has applied in writing for acceptance under a service contract and who
 - a) has a clean criminal record,
 - b) has met the requirements and conditions of the admission procedure,
 - c) is physically and mentally capable of performing a customs service (hereinafter “service”),
 - d) has achieved the education level prescribed for the function to which he or she is to be appointed,
 - e) has completed basic or alternative military service, if he is subject to the draft,
- (2) A citizen who has applied for the job of a customs officer under a service contract shall be notified in writing of the result of the admission procedure.
- (3) The Ministry shall issue a Decree setting forth the regulations of the admission procedure.
- (4) The Ministry, acting in cooperation with the Ministry of Health, shall issue a Decree setting forth the health requirements applying to customs officers.

Article 14

Prerequisites for the Performance of Certain Functions

- (1) In order to be able to perform the functions set forth in paragraph 2, a customs officer shall meet, in addition to the requirements set forth in Article 13, paragraph 1, additional requirements as defined in a special regulation¹⁾.
- (2) The functions referred to in paragraph 1 shall be:
 - (a) Director General, Deputy Director General, Director of a Division, Deputy Director of a Division and Head of a Department at the General Directorate of Customs,
 - (b) Director, Deputy Director, Director of a Division, Deputy Director of a Division and Head of a Department at a Customs Directorate,
 - (c) Director, Deputy Director and Director of a Division at a Customs Office,

Article 15

(1) Every customs officer shall take an official oath of allegiance which shall have the following wording:

"I hereby solemnly declare that I shall be an honest, brave and disciplined customs officer. When performing all of my official duties, I shall abide by the Constitution, the laws and other generally binding legal regulations and also the instructions of my superiors in conformity therewith. I shall perform my duties properly, conscientiously and without prejudice, and when exercising my authority, I shall safeguard the interests of society and legitimate rights of citizens. In doing so, I am also prepared to risk my own life.

I am prepared to exert every effort and use my best abilities in so doing.
So I swear!"

(2) The customs officer shall confirm the taking of the official oath by his/her signature.

(3) If a customs officer refuses to take the official oath, his/her service contract shall be terminated as of the date of such refusal.

Article 16

Ranks

The following ranks of customs officers shall hereby be instituted:

- a) 1st Rank Group:
Customs Probationer, Customs Sergeant, Customs Senior Sergeant, Senior Customs Senior Sergeant,

¹⁾ Act No. 451/1991 Coll., setting forth some additional prerequisites for the performance of some functions in state bodies and organizations of the Czech and Slovak Federal Republic, the Czech Republic and the Slovak Republic.

- b) 2nd Rank Group:
Customs Assistant, Customs Superintendent, Senior Customs Superintendent, Customs Inspector,
- c) 3rd Rank Group:
Senior Customs Inspector, Customs Counsellor, Senior Customs Counsellor, Ministerial Customs Counsellor, Customs President.

Appointments and Promotions

Article 17

(1) When accepted under his/her service contract, the customs officer shall be appointed to the rank of

- a) Customs Probationer,
- b) Customs Sergeant, if he/she has a complete secondary school education or complete secondary professional or higher professional education (hereinafter "complete secondary education"), or
- c) Customs Assistant, if he/she has a complete university education⁵

(2) After the probationary period, the customs officer shall be promoted to the rank of

- a) Customs Sergeant,
- b) Customs Senior Sergeant, if he/she has a complete secondary education, or
- c) Customs Superintendent, if he/she has a university education.

Article 18

(1) Every customs officer shall be entitled to a promotion to the next higher rank if he/she meets the following conditions:

- a) he/she has been appointed to a position for which a rank higher than he/she currently holds is prescribed, and shows good results in the performance of his/her duties,
- b) the prescribed period of time of service in the given rank has elapsed since his/her last promotion,

⁵ Articles 45 and 47 of Act No. 111/1998 Coll., on universities and amendments of other laws (Act on universities), as amended by Act No. 210/2000 Coll.

c) he/she meets the qualification requirements for the position in question.

(2) A customs officer in the 1st Rank Group shall be entitled to a promotion to

- a) a higher rank within the 1st Rank Group, if he/she, after being accepted under a service contract, has achieved a complete secondary education,
- b) the rank of Customs Assistant, if he/she has a complete secondary education and has successfully held a position for which a 2nd Rank Group rank is prescribed, for a required period of time,
- c) the rank of Customs Superintendent, if he/she has achieved a university education after the probationary period.

Article 19

repealed

Article 19a

The Minister may promote in memoriam a customs officer who has perished in the line of duty to

- a) a 2nd Group rank, if he/she previously held a 1st Group rank,
- b) a 3rd Group rank, if he/she previously held a 2nd Group rank,
- c) a higher rank, if he/she previously held a 3rd Group rank.

Article 19b

The Ministry shall issue a Decree setting forth:

- a) the period of time for which each rank is to be held,
- b) conditions governing the assignment of a rank to a person accepted under a service contract, who has already been a customs officer, and the period of time deemed to be spent in the rank.

Article 19c

repealed

Article 20
Provision of **Health Care in Customs Administration**

- (1) In-house preventative health care facilities shall provide customs officers and civilian employees³⁾ of the customs administration in-house preventative care and shall evaluate the fitness of a person who applies for admission under a service contract as a customs officer for the duration of their service or employment contract and in connection with the termination of service contract, unless that power is vested upon the medical commission. In-house preventative care shall also be provided to customs officers and civilian employees of the customs administration by delegated physicians.
- (2) Acting in agreement with the Ministry of Health, the Ministry shall issue a Decree setting forth the fitness requirements for customs officers, the disabilities and states of health which preclude the admission of an applicant under a service contract as a customs officer, or which preclude or restrict the performance of service, and the kinds of services particularly difficult or harmful to health..
- (3) Evaluations of the state of health shall be performed by
 - a) physicians of the in-house preventative care if the evaluation concerns the health capability to work,
 - b) physicians of the in-house preventative care if the evaluation concerns customs officers' fitness for service and states of health for the purpose of providing compensation benefits.
- (4) An examining physician shall be obliged to report to the in-house preventative health care facilities an illness or suspicion of illness which limits the ability to perform service.
- (5) The General Directorate of Customs shall establish the conditions for providing in-house preventative care^{5b)} for customs officers and civilian employees of the customs administration and for that purpose shall close contracts on the provision of in-house preventative care with health care facilities professionally capable of providing in-house preventative care.
- (6) The cost of provision for the execution of in-house preventative health care shall be part of the financial management of the General Directorate of Customs.

Article 21

- (1) Only customs officers shall be entitled to wear the service uniform and badges of the customs administration.
- (2) The customs administration shall be entitled to use a special colour livery and special markings on its service vehicles.
- (3) The Ministry shall issue a Decree setting forth the appearance of the badges and markings of the customs administration personnel, designs of service

uniforms, and special colour liveries and markings of service vehicles of the customs administration.

Article 22

(1) Any person who intentionally and without being authorized to do so, in a public place,

- a) wears the service uniform of the customs administration or such components thereof which can be easily mistaken for a full uniform, or
- b) uses the special colour livery and/or special markings used by service vehicles of the customs administration or a special colour livery and/or special markings that can be easily mistaken for the special colour livery and/or special markings used by service vehicles of the customs administration on his/her vehicle

shall be deemed to have committed a misdemeanour.

(2) The misdemeanours stipulated in paragraph 1 shall be punishable by a fine up to CZK 5,000.-.

(3) The misdemeanours stipulated in paragraph 1 and the proceeding thereof shall be governed by generally applicable misdemeanour legislation^{5c}.

CHAPTER THREE

THE DUTIES AND AUTHORITY OF, AND MEANS OF ENFORCEMENT AVAILABLE TO CUSTOMS OFFICERS

Part One DUTIES OF CUSTOMS OFFICERS

Duties During Interventions and Actions in the Line of Duty

Article 23

- (1) The term "action in the line of duty" shall denote an action taken by a customs officer with the aim to carry out competencies of the customs administration.
- (2) The term "intervention in the line of duty" shall denote an action which directly enforces compliance with obligations or protects rights or other justified interests using the means of enforcement or a weapon.
- (3) The term "intervention in the line of duty under unified command" shall denote an action set forth in paragraph 2 wherein multiple customs officers participate where the customs officer vested with commanding an intervention in the line of duty decides on using means of enforcement or weapons. The decision on using

^{5c} Act of the Czech National Council No. 200/1990 Coll., in the wording of later legal regulations

means enforcement or weapons shall be documented by audio recording or written account.

Article 24

(1) When performing an intervention in the line of duty or an action in the line of duty, the customs officer shall do so in a manner not impairing the honour, respectability and dignity of the person(s) whom the intervention or action concerns, as well as his own, and shall not permit such intervention or action to cause any unnecessary hardship to the person(s) concerned, nor shall any infringement of such person's rights and liberties exceed the degree essential for achieving the purpose of the intervention or action in the line of duty in question.

(2) When an intervention in the line of duty or an action in the line of duty involves an infringement of rights and liberties of individuals, the customs officer shall advise the person(s), whom the intervention or action concerns, of their rights if the nature and circumstances of the intervention/action in question so permit; if not, such persons shall be subsequently advised of their rights.

(3) A person who is to be subjected to a personal search shall have the right to be searched by a customs officer of the same sex, unless the search is for a weapon and requires immediate action.

Article 25

Within the limits set forth in the present Act, a customs officer on duty is obliged to perform an intervention in the line of duty or an action in the line of duty, or take whatever other measures are needed to perform such intervention or action, in particular notify the nearest Customs Office or police station if a criminal act or an offence is being committed or if there exists a warranted suspicion that a criminal act or offence is being committed.

Article 26

The customs officer shall refrain from performing an intervention in the line of duty if

- a) the nature of the intervention in question demands professional training or instruction which he/she has not received,
- b) he/she is faced by another duty the failure to perform which would apparently have more serious consequences than the failure to perform the intervention in question, or
- c) he/she is under an influence of medicinal drugs or other substances which seriously impair his/her ability to act.

Article 27

(1) Provided that the nature and the circumstances of the intervention in the line of duty so permit, the customs officer is obliged to use an appropriate summons when performing the intervention in the line of duty.

(2) If the nature of the intervention in question so requires, the customs officer shall use the words "In the name of the law!" before the actual summons.

(3) Every person shall be obliged to heed the summons of a customs officer performing an intervention in the line of duty.

Article 28

(1) When exercising his/her authority a customs officer shall be obliged to prove his/her identity as a member of the customs administration.

(2) A customs officer wearing a service uniform when performing his/her service duties shall prove his/her appurtenance to the customs administration by the uniform which must be provided with an identification marking of the customs administration.

(3) In the event a customs officer is not wearing a service uniform when performing his/her service duties they shall prove their appurtenance to the customs administration by a service ID, the form and appearance of which shall be set by a Decree issued by the Ministry, and by an oral statement "customs administration"

(4) In exceptional cases when the circumstances of the intervention in the line of duty at hand do not permit him/her to use his/her service uniform or service ID card for this purpose a customs officer shall prove his/her identity and appurtenance to the customs administration by the oral statement mentioned above only. The customs officer shall prove his/her identity by the service uniform or service ID card as soon as the circumstances of the intervention in the line of duty so permit.

Article 29

A circumstance deemed to constitute a reason not permitting a person to be advised of his/her rights pursuant to Article 24, paragraph 2, or not permitting the use of a summons pursuant to Article 27, paragraph 1, or not permitting a customs officer to prove his/her appurtenance to the customs administration pursuant to Article 28, paragraph 1, shall be particularly a direct attack on a customs officer or a direct threat to the life or health of another person.

Article 29a
The Obligation of Secrecy

(1) In addition to the professional secrecy stipulated by a special law^{5b)}, a customs officer shall be obliged to keep in secrecy those facts which he/she has learned in the line of duty or in relation thereto, and which, in the interest of the fulfilment of customs administration tasks and duties or in the interest of other parties, must not be disclosed to unauthorized persons. The obligation to maintain professional secrecy shall remain in effect even after the expiry of the service contract of the customs officer in question.

(2) Every person whom the customs authorities or a customs officer has asked for assistance shall be obliged, providing that he/she has been properly instructed, to maintain secrecy with respect to everything he/she may have learned in connection with the assistance he/she was asked for or provided.

(3) The customs officer or the person(s) mentioned in paragraph 2 may be exempted from the duty to maintain professional secrecy by the Minister or a person so authorized by the Minister.

P a r t T w o
THE AUTHORITY OF CUSTOMS OFFICERS

Article 30
The Right to Demand Explanation

- (1) A customs officer shall be entitled to demand the necessary explanation from a person who may contribute to clarifying facts important for detecting a criminal act, misdemeanour, customs offence or another administrative offence relating to a violation of laws and regulations implemented by customs authorities, and identifying the perpetrators thereof. If necessary, the customs officer may summon such person to a specified place at a set time.
- (2) A customs officer shall be entitled to demand the necessary explanation also from a person who may contribute to clarifying facts important for detecting a criminal act, misdemeanour, customs offence or another administrative offence and relating to a violation of laws and regulations implemented by customs authorities, and identifying the perpetrators thereof also in cases when such a criminal act, misdemeanour or offence was committed outside of the territory of the Czech Republic in the territory of the European Union or a state which is a party to an agreement on mutual assistance in customs matters binding the Czech Republic .
- (3) The aforesaid person must obey the request or the summons issued pursuant to paragraph 1.

^{5b)} Article 24 of Act No. 337/1992 Coll., in the wording of later legal regulations

- (4) Such explanation may be refused only by a person who would thereby expose himself/herself, his/her relative in direct line of descent, sibling, adoptive parent, adoptive child, spouse or common-law spouse or other persons to whom he/she is in a family or similar relationship and whose detriment or hardship he/she would justly perceive as his/her own, to the risk of criminal prosecution or to the risk of a misdemeanour punishment.
- (5) No explanation shall be demanded from a person who would thereby violate a state-imposed or recognized duty to maintain professional secrecy, unless he/she is exempted from the duty by the relevant authority or by the person in the interest whereof he/she is obliged to maintain professional secrecy.
- (6) Before demanding an explanation, the customs officer shall advise the person from whom the explanation is demanded of the possibility of refusal of an explanation pursuant to paragraphs 3 and 4.
- (7) Whoever presents himself or herself in response to a summons shall be entitled to compensation of essential expenditures incurred in connection therewith and compensation of lost earnings (hereinafter "compensation"). Compensation shall be paid by the Ministry. Persons who presented themselves in their own interest or because of their illegal acts shall not be entitled to the compensation.
- (8) The title to a compensation under paragraph 6 shall be rendered null and void if the person in question fails to claim it within seven days after presenting himself/herself under a summons issued pursuant to paragraph 1. Such person must be advised of this fact.
- (9) If a person fails to heed a summons issued pursuant to paragraph 1 without a sufficient excuse or without serious reasons to do so, he/she may be brought by a customs officer to the nearest Customs Office for the purpose of drawing up a protocol on the provision of an explanation.
- (10) The protocol on the provision of an explanation by such person shall be drawn up as soon as possible after he/she is brought to the Customs Office; as soon as the protocol has been drawn up, the customs officer shall release such person.
- (11) The customs officer shall draw up an official report on bringing the person to the Customs Office.

Article 31

Right to Demand Proof of Identity

(1) The term "proof of identity" as used herein shall denote the demonstrating of a person's name and surname, date of birth and place of residence. The reason why a person's identity is ascertained shall determine the measure of reliability of the method employed for this purpose.

(2) A customs officer may demand a proof of identity from a person

- a) caught when committing a criminal act or a misdemeanour relating to a violation of customs regulations or regulations governing taxes and fees,

- b) from whom an explanation is demanded pursuant to Article 30,
- c) who is to be brought before appropriate authorities pursuant to this Act or upon request of the financial authorities,
- d) undergoing supervision or control of goods by customs authorities in accordance with legislation of the European Communities,^{1e}
- e) who has entered the premises, rooms and facilities used by customs authorities or territorial financial authorities where the customs authorities ensure public order,
- f) who is a notifier^{5e},
- g) in the course of securing payment of monetary fulfilment to customs authorities pursuant to special regulations.

Such persons must obey the demand.

- (3) If any of the persons set forth in paragraph 2 refuses to prove his/her identity or is unable to prove his/her identity even though having been given necessary assistance to do so, the customs officer shall be entitled to bring such a person to a Customs Office for the purpose of ascertaining his/her identity and/or clarifying the matter at hand. The customs officer shall release the person in question once his/her identity has been ascertained unless this is not possible for legal reasons,
- (4) If a customs officer fails to ascertain the identity of a person brought to the Customs Office pursuant to paragraph 3 within six hours thereof, even if having used communicated information or data from the Population Register, and if there exists a justified suspicion that the person in question is providing false information about himself or herself, such customs officer shall transfer the person in question to the nearest station of the Police of the Czech Republic.
- (5) The customs officer shall draw up an official report on bringing the person to the Customs Office and any actions in the line of duty performed in connection therewith.

Article 32 **Detention of a Person**

(1) A customs officer may detain a person who

- a) is acting in a manner jeopardizing his/her own life or threatening the life or health of other people,
- b) has attempted to escape when being brought pursuant to Article 30, paragraph 9,

^{5e} For example: Article 67 of the Act No. 200/1992 Coll., Article 158 of Criminal Code

- c) is behaving in a violent manner or verbally insulting a customs officer or another person in the rooms or on the premises used by customs authorities or territorial financial authorities where the customs authorities ensure public order or is intentionally damaging or soiling the property or equipment used by customs authorities or territorial financial authorities,
- d) has been caught while committing a criminal act or, based on proven facts, is suspected of having prepared, having attempted or having committed a criminal act.
- e) is younger than 15 years of age and has been caught in conduct displaying elements of a criminal act if there is warranted concern that he/she will continue the illegal conduct or obstruct clarification of the facts.

(2) As soon as the reasons for the detention cease, the customs officer shall immediately release the detained person.

(3) The period of detention shall not exceed 24 hours from the moment the person is detained.

(4) After detaining a person, the customs officer shall be obliged, upon request of the detained person, to notify of the detention any of the persons set forth in Article 30, paragraph 4, or any other person appointed by the detained person. If the detained person is younger than 18 years of age, the customs officer shall notify his/her statutory representatives and the competent juvenile care agency. If the detained person is a soldier, the customs officer shall notify the nearest garrison or military unit.

(5) The customs officer shall draw up an official report on detaining the person.

Article 33

Right to Restrain the Movement of Aggressive Persons

(1) Free movement of a person who physically assaults another person or a customs officer, or who damages another person's property, or attempts to escape, may be restrained by manacling the person in question to a suitable object.

(2) Free movement of a person may be restrained only until the person in question ceases behaving in an aggressive manner or until he or she is handed over to the Police of the Czech Republic, and for a maximum period not exceeding two hours.

(3) The customs officer shall draw up an official report on the reasons for exercising this right.

Article 33a

Right to Use Technical Means to Immobilize a Vehicle

(1) As means of enforcement pursuant to Article 38, paragraph 1, letter (f), a customs officer shall be entitled to use technical means to immobilize a vehicle detained pursuant to Article 309 or confiscated pursuant to a special law^{5f}.

(2) The use of technical means to immobilize a vehicle for any of the reasons set forth in paragraph 1 shall not be allowed if the vehicle in question constitutes a road traffic obstacle^{5g}.

(3) The use of technical means to immobilize a vehicle shall be permitted even before the decision whereby the vehicle in question is detained or confiscated is served to the person concerned if there is a danger of the purpose of the detention or confiscation being thwarted unless such technical means are employed immediately.

(4) If a decision has been made to return an immobilized vehicle (Article 312), the technical means immobilizing the vehicle shall be removed immediately.

(5) The use of technical means to immobilize a vehicle for any of the reasons set forth in paragraph 1 shall not be governed by the provisions of Article 38, paragraphs 2 to 4.

Article 33b

Right to Use Ancillary Operative Means of Surveillance

(1) A customs officer shall be entitled to use ancillary operative means of surveillance in the course of preventing criminal acts, in connection with proceedings on criminal acts and in the course of performing tasks arising out of international treaties^{5h}.

(2) For the purposes of this Act, the term “ancillary operative means of surveillance” shall denote

- a) covert documents and covert means,
- b) trap and alarm devices,
- c) special financial means,
- d) the use of an informant.

^{5f} Article 79 of the Criminal Code

^{5g} Article 37 of Decree of the Federal Ministry of the Interior No. 99/1989 Coll., setting forth regulations governing road traffic (Road Traffic Regulations)

Article 33c

Covert Documents and Covert Means

- (1) For the purposes of this Act,
 - a) the term “covert document” shall denote a certificate or other document serving to conceal a person’s true identity or for other similar purposes,
 - b) the term “covert means” shall denote a means of concealing the real activities of the customs authorities pursuant to Article 33b, paragraph 1.
- (2) Covert documents must not consist of the ID of a Deputy or Senator, a member of the Government, the Governor of the Czech National Bank, a member of the Supreme Audit Office and a justice of the Constitutional Court, the service ID of a judge or state prosecuting attorney, and the documents of a living or deceased person.
- (3) Covert documents shall be issued by the Ministry of the Interior on the basis of a decision by the Minister.

Article 33d

Trap and Alarm Devices

The term “trap and alarm devices” shall denote technical devices and equipment and their components used for the purpose of protecting property and preventing prohibited manipulation with goods. The use of trap and alarm devices must not violate the inviolability of habitation, mail secrecy, or by any other means encroach upon constitutionally guaranteed rights and liberties.

Article 33e

Special Financial Means

- (1) The term “special financial means” shall denote allocated financial means which are used to cover some costs related to the use of operative means of surveillance⁵ⁱ⁾ and other ancillary operative means of surveillance. Legislation governing the management of State funds does not apply to disposing of special financial means.
- (2) A customs officer disposing of special financial means shall be obliged to dispose of the means in question cost effectively and duly in accordance with the purpose for which they were provided.
- (3) The rules for disposing of special financial means shall be set forth by the Minister on the basis of a proposal by the Director General.

Article 33f

Informant

- (1) The term "informant" shall denote a natural person providing the customs administration with information and services in a manner ensuring that his/her cooperation with the customs administration is not divulged.
- (2) Financial or material compensation may be provided to an informant for his/her activities.

Article 34

Right to Take Away a Weapon

- (1) Provided that there is a warranted suspicion thereof, a customs officer shall be entitled to reassure himself/herself that a person is not carrying a weapon wherewith the person in question could endanger his/her own or another person's life or health, and to take such weapon away if the person in question
 - (a) has been brought to the Customs Office or detained
 - (b) is undergoing supervision or control of goods in accordance with the EU legislation^{1e},
 - (c) has entered the premises, rooms or facilities used by customs authorities or territorial financial authorities where the customs authorities ensure public order, or
 - (d) has secured payment of monetary fulfilment to customs authorities pursuant to special regulations.

(2) The term "weapon" pursuant to paragraph 1 shall denote anything that can be used to make a bodily assault more forceful⁶.

(3) The customs officer shall return the weapon taken away pursuant to paragraph 1 upon the release of the person who was brought to the Customs Office or detained and shall do so against his/her signature. The above provision shall not apply in cases where legal reasons prevent the return of the weapon. The customs officer shall issue a receipt certifying the removal of the weapon to the person concerned.

Article 35

Right to Prohibit Entry to Designated Places

If necessary for efficient performance of customs supervision, a customs officer shall be entitled to forbid any person from entering or staying in designated places for an essential period of time.

⁶ Article 89 of the Criminal Code

Article 36
Right of Customs Officers to Check Goods After Their Release

A customs officer may, in the manner and within the period of time set forth in this present Act, carry out subsequent checks following the release of goods in question. In this respect, he or she shall be entitled to demand whatever explanation he or she considers necessary and to prepare documentation.

Article 36a

- (1) A customs officer shall be entitled to fulfil the tasks arising out of the competencies of customs authorities on the territory of another state in the manner, in the scope and under the terms and conditions set forth in an international treaty.
- (2) A customs officer shall be entitled to fulfil the tasks arising out of the competencies of customs authorities on the territory of the Czech Republic in the manner, in the scope and under the terms and conditions set forth in an international treaty.

Article 37
Right to Check Persons and Means of Transport

When detecting criminal acts and identifying the perpetrators thereof, when searching for goods which have been removed from customs supervision and identifying persons who removed such goods from customs supervision or were an accomplice to such an act, and when fulfilling the tasks set forth in international treaties, a customs officer shall be entitled to stop persons and vehicles, carry out customs control of baggage, vehicles, their cargoes and travel or cargo documents. When stopping vehicles for the purpose of carrying out customs control, the customs officer shall proceed *mutatis mutandis* in the same manner as a member of the Police of the Czech Republic^{6a)}.

P a r t T h r e e
RIGHT TO USE OPERATIVE MEANS OF SURVEILLANCE
Article 37a

(1) When fulfilling the tasks set forth in international treaties^{5h} customs authorities shall be entitled to employ operative means of surveillance specified in the criminal code⁵ⁱ for the purposes of maintaining customs supervision over persons known or for serious reasons suspected of violating or having violated customs regulations of the other contractual party.

^{6a)} Article 53 of Decree No. 99/1989 Coll.

^{5h} For example Agreement between the Czech Republic and the Republic of Israel on mutual assistance in customs matters published under No. 228/1998 Coll.

⁵ⁱ Article 158 of the Criminal Code

(2) Operative means of surveillance may be used only when legislation implemented by the customs authorities has been violated and the violation thereof would be deemed under the criminal code^{6c)} as a wilful criminal act had it occurred in the Czech Republic

Article 37b

repealed

Article 37c

- (1) The rights and duties of customs authorities arising out of legislation on criminal proceedings^{6d)} shall not be not affected by the implementation of customs supervision pursuant to Article 37a.
- (2) No other objective than that set forth in a relevant international treaty^{5h)} shall be pursued by using operative means of surveillance; individual rights and liberties may only be restricted to the extent that is absolutely necessary.
- (3) Customs authorities shall be obliged to safeguard operative means of surveillance and the information obtained in the course of implementing customs supervision pursuant to Article 37a against disclosure and abuse..

Article 37d

- (1) Control of the use of tapping and recording of telecommunications operations and of monitoring persons and things pursuant to a special law^{6e)} shall be carried out by the Chamber of Deputies, which shall set up a control body for that purpose. The control body shall be comprised of a committee of five Deputies designated by the Chamber of Deputies.
- (2) The Minister shall submit to the control body all requested information concerning the use of means pursuant to paragraph 1 at least twice per annum and furthermore upon request by the said body.
- (3) Members of the control body shall be obliged to maintain the secrecy of classified information they learned of in connection with performing their functions within said body.

Article 37e and 37f

repealed

Part Four
USE OF MEANS OF ENFORCEMENT AND WEAPONS BY A CUSTOMS OFFICER

Article 38
Means of Enforcement

(1) The term "means of enforcement" shall denote the following:

- a) self-defence grips, holds, blows and kicks,
- b) tear-gas devices,
- c) a truncheon,
- d) handcuffs,
- e) a police dog,
- f) technical devices for immobilizing a vehicle,
- g) spiked belts and other means of forcibly stopping a vehicle,
- h) a blow with a firearm,
- i) a threat with a pointed firearm,
- j) a warning shot fired into the air.

(2) A customs officer shall be entitled to use the means of enforcement listed above in order to protect public order on the premises and in facilities used by customs authorities or territorial financial authorities where the customs authorities ensure public order, as well as other person's or his/her own safety and the safety of property against any person threatening them.

(3) Before making use of the means of enforcement, the customs officer shall first order the person against whom his/her action is directed to refrain from the unlawful behaviour, and warn the person in question that he/she will employ means of enforcement if the person does not comply. The above provision shall not apply to cases pursuant to paragraph 1, letter (g). The customs officer need not use the above order and warning only in cases when his/her own or another person's life and health are endangered and the matter brooks no delay.

(4) The customs officer shall decide which of the means of enforcement he/she will use to achieve the purpose of his/her intervention or action according to the situation; the customs officer shall use such means of enforcement as may be absolutely essential to subdue the resistance of the person acting unlawfully.

(5) The customs officer shall make sure that the use of any of the means of enforcement will not cause the unlawfully acting person against whom his/her action

is aimed harm or injury which is obviously disproportionate to the nature of, and danger posed by, the unlawful behaviour in question.

Article 39
Carrying a Weapon

Customs officers shall be entitled to carry a service weapon.

Article 40
Use of Weapons

(1) A customs officer authorized to carry a weapon pursuant to Article 39 may use the weapon only in the following cases:

- a) in necessary defence or when providing assistance in necessary defence, when averting an imminent or ongoing attack against himself/herself or an attack on the life or health of another person,
- b) when a dangerous offender against whom his/her intervention or action is aimed refuses to surrender or is hesitant to leave a hiding place even after being ordered to do so,
- c) when it is impossible to subdue opposition aimed at thwarting the customs officer's important intervention or action in the line of duty by any other means,
- d) to prevent the escape of a perpetrator of a particularly serious premeditated criminal act whom he/she is unable to detain using other available means,
- e) to stop a vehicle the driver of which does not stop even after having been repeatedly ordered or signalled in accordance with special regulations to do so and which cannot be stopped otherwise,
- f) to prevent a dangerous attack threatening a protected building or premise of the customs administration or territorial financial authorities where the customs authorities ensure public order, following an ineffectual order to abandon the attack.
- g) to eliminate an animal posing an imminent threat to human life or health,
- h) when a person who has been threatened by the use of a firearm or against whom a warning shot has been fired still fails to obey orders of the customs officer the purpose of which is to protect the safety of the customs officer or of another person.

(2) The term "weapon" pursuant to paragraph 1 shall denote a firearm, a stabbing weapon or a cutting weapon.

(3) A customs officer may use a weapon in any of the cases listed in paragraph 1, letters a) to (f) only if using other means of enforcement would obviously be ineffective.

(4) Before using a weapon in any of the cases listed in paragraph 1, letters (a) to (f), the customs officer shall first order the person against whom his/her action is directed to refrain from the unlawful behaviour, and warn the person in question that he/she will use a weapon if the person does not comply. The customs officer need not use the above order and warning only in cases when his/her own or another person's life and health are endangered and the matter brooks no delay.

(5) When using a weapon, the customs officer is obliged to exert utmost care, especially make sure that the life and health of other persons is not put in danger and as far as possible spare the life of the person against whom his/her action is directed.

Duties of Customs Officers after the Use of Means of Enforcement and Weapons **Article 41**

(1) If a customs officer finds out that a personal injury has resulted from the use of a means of enforcement, he/she shall, as soon as circumstances permit, provide first aid to and arrange medical treatment for the injured person.

(2) Every time the use of a weapon by a customs officer results in a personal injury, the customs officer shall immediately, as soon as circumstances permit, provide first aid to and arrange medical treatment for the injured person. Furthermore, he/she shall be obliged to take whatever urgent steps are necessary to determine whether the use of the weapon was justified.

Article 42

(1) The customs officer shall immediately report to his/her superior any intervention in the line of duty in the course of which he/she used means of enforcement or a weapon.

(2) The customs officer shall submit to his/her superior a written report on the use of means of enforcement or a weapon, which shall describe the reasons why such means were used, the course of action and the outcome of such use.

(3) If there is any doubt as to the justified or appropriate use of means of enforcement or a weapon, or if their use caused death, bodily harm or damage to property, the superior of the customs officer concerned shall determine whether such means were used in accordance with the law. He/she shall summarize his/her findings in an official report.

Article 43
Special Restrictions

Every customs officer intervening or taking an action against a pregnant woman, a person of an advanced age, a person who is obviously physically handicapped or ailing, or a person who is obviously under the age of fifteen shall refrain from using self-defence blows or kicks, a tear-gas device, a truncheon, handcuffs, a police dog, a blow with a weapon, a threat to use a weapon, a warning shot or a weapon, except in cases when an attack by any of the persons listed above poses a direct threat to the life or health of the customs officer or other people, or if there is a danger of major damage to property which cannot be averted in any other way.

Part Five
OBLIGATION TO PROVIDE ASSISTANCE

Article 44

(1) In the event of a danger posing an imminent threat to life, health or property, any customs officer shall be entitled to ask any person for assistance.

(2) A person from whom assistance has been requested shall be obliged to

- a) provide the requested assistance. He/she shall not be obliged to provide such assistance if in so doing he/she would expose himself/herself or the persons pursuant to in Article 30, Paragraph 3, to a grave threat, or if there are other serious circumstances impeding him/her to do so.
- b) maintain secrecy with respect to anything he/she may have learned in connection with the help he/she was asked for or provided; he/she must be notified of this fact by the customs officer.

(3) Any person who has provided assistance on the basis of a request shall be entitled to compensation of expenses incurred in connection therewith and any lost profit. The compensation shall be provided by the General Directorate of Customs.

CHAPTER FOUR
COMPENSATION FOR DAMAGES

Article 45

(1) The State shall be deemed responsible for any damages caused to any person who has provided assistance to the customs authorities or to a customs officer upon their request or with their knowledge as a result thereof or in connection therewith (hereinafter "the injured party"). The State may be exempted from the above liability only in cases where the injured party intentionally inflicts the damage upon himself/herself.

(2) If the injured party suffered bodily harm or died, the scope and amount of the compensation shall be set in accordance with relevant regulations applying to the determination of the compensation for occupational accidents paid to workers. The Government shall issue a Decree stipulating in which cases and to what extent

- a) the injured party shall be entitled to a special lump sum compensation in addition to claims arising from labour laws,
- b) a lump sum compensation payable to the next of kin of the deceased pursuant to labour laws shall be increased, and when such a compensation may be granted to persons who depended on the injured party for their subsistence.

(3) The State shall also be responsible for any damage inflicted upon the personal belongings or property of the injured party in connection with the assistance that the latter has provided. In such cases, the compensation shall consist in restoring the belongings or property to its previous condition; if this is not possible or practicable, a financial compensation shall be paid. The injured party may also be granted compensation of the costs incurred in connection with the acquisition of a replacement for the damaged belongings or property.

(4) The State shall also be responsible for any damage which the injured party caused in connection with the assistance provided to customs authorities or customs officers.

(5) The State shall also be responsible for any damage caused by a customs officer in connection with the performance of customs supervision in the manner outlined in Articles 30 to 40; this provision shall not apply to damage inflicted upon persons whose unlawful behaviour or conduct caused a justified and appropriate intervention or action in the line of duty by the customs officer.

(6) The compensation shall be paid by the General Directorate of Customs acting as a representative of the State.

CHAPTER FIVE CUSTOMS SUPERVISION AND ITS PERFORMANCE

P a r t O n e

Article 46

repealed

Part Two
CUSTOMS SUPERVISION AND ITS PERFORMANCE

Article 47

repealed

Article 48

Performance of Customs Supervision by Customs Authorities

(1) Whoever has or probably has goods which are subject to customs supervision may be subjected to a customs control.

(2) The purpose of customs supervision is to determine the kind, quantity and other facts regarding the goods in question, which are necessary for the customs authorities to be able to determine whether the importation, exportation or transit of the goods is being or has been carried out in compliance with customs regulations. The results obtained by this activity shall be protected against disclosure and abuse.

(3) Customs supervision shall be performed in compliance with constitutional and other legal regulations pertaining to the protection of individual freedom and the inviolability of the mail.

(4) In cases of a warranted suspicion that a person crossing the state border hides upon himself or herself goods which are subject to customs duty, taxes or charges collected on importation, or the importation or exportation of which is forbidden or restricted, the customs supervision as defined herein may include a personal search conducted in the manner set forth in Article 24. A personal search may be conducted only if the suspected person has failed to surrender the hidden goods although called upon to do so by customs officers. Upon request of the person who is to undergo a personal search, the latter shall be carried out in the presence of an impartial person. The Ministry shall issue a Decree setting forth how the personal search should be conducted and the manner in which an impartial person will be present during the search.

(5) Mail consignments the contents of which are protected under the inviolability of the mail may be opened for the purpose of checking their contents only if there is a warranted suspicion that the mail in question contains not just written messages, but also goods which are subject to customs duty, taxes or charges collected on importation, or the importation or exportation of which is forbidden or restricted. The Customs Office which has performed the mail check shall so state on the cover of the mail consignment in question in an officially prescribed manner.

(6) The fact that a personal search or internal customs control of a mail consignment protected under the inviolability of the mail has been conducted shall be recorded in an official report.

(7) When performing customs supervision, customs authorities shall also be entitled to make copies of relevant documents, demand explanations and prepare their own documentation. In the event of a violation of customs regulations or a

warranted suspicion of such a violation, they shall be entitled to retain such documents for the absolutely essential period of time. The customs authorities shall issue a receipt confirming the retention of the documents.

Article 49

Exemption from Customs Control

- (1) The following goods shall be exempted from customs control:
 - a) goods imported, exported and carried in transit as baggage of representatives of other countries and other persons enjoying privileges and immunities under international law,
 - b) diplomatic mail, consular bags and other mail protected under international law,
 - c) diplomatic mail of the Ministry of Foreign Affairs and diplomatic and consular offices of the Czech Republic.
- (2) Official documents designated for the needs of the armed forces or civilian units of the contractual parties of the North Atlantic Treaty Customs shall be exempted from customs control provided they are secured with an official stamp and provided documentation certifying that the consignment contains only official documents is submitted therewith.

Article 50

Mandatory Cooperation of Persons Subjected to Customs Supervision

(1) Whoever is carrying goods subject to customs supervision shall be obliged to enable customs authorities to perform customs supervision in means of transport, warehouses and other places where such goods are located, and to submit to them all documents pertaining to such goods.

(2) Persons undergoing customs supervision shall put up with whatever acts are essential for the performance of such supervision, and shall provide the customs authorities conducting customs supervision with essential cooperation; upon request of the customs authorities and within a period of time set by them, such persons shall provide these authorities with all documents and data, regardless of the data storage medium employed, information and any assistance required for the performance of customs supervision. Without the consent of the person concerned, the customs authorities shall not hand over or make available such documents, data and information to third parties, except in cases where they may do so under special regulations or according to an international agreement.

(3) Any person undergoing customs supervision procedures shall be obliged, upon request of customs authorities, to produce a document proving that the goods in question have been properly imported, or a proof of purchase, the manufacturer's bill of delivery or any other proof clearly showing that the goods come from parties

authorized to conduct business in the Czech Republic. If the person concerned fails to furnish such documents, customs authorities shall move the goods in question, at the expense and risk of the person concerned, to a place under their direct supervision, and set a date by which the necessary documents are to be submitted.

(4) The submission of documents, data and information may be refused by a person who would thereby violate a legally imposed or recognized duty to maintain secrecy, unless he/she is exempted from the duty by the relevant authority or by the person in the interest whereof he/she is obliged to maintain secrecy.

Article 51

Cooperation of Third Parties

(1) In cases where the matter of proceedings held before courts, other state authorities or notaries public is concerned with an export, import or transit duty, tax or fee under the present Act or another special legal standard, such authorities shall provide the customs authorities with data required by the latter to assess and collect such duties, taxes or fees.

(2) State control authorities are obliged to notify the customs authorities of the outcome of the controls conducted by them, if such pertain to a customs debt or tax liabilities.

(3) Solely upon a written request of customs authorities, banks shall be obliged, without their client's permission, to provide numbers of bank accounts and the names of the owners thereof, the account balances, deposits and withdrawals, and credit and deposit information in matters of customs or tax proceedings to which their client is a party. The written request shall contain data on the basis of which the bank can identify the matter at hand.

(4) Upon receiving a request from customs authorities, public carriers shall be obliged to provide to the latter especially the names of consignors, consignees, and actual recipients of cargoes transported by them, as well as data on the time of transport, quantity of the goods in question, nature of the consignment, and any additional information known to them.

(5) Any person directly or indirectly participating in the importation, exportation or transit of goods shall be obliged to provide customs authorities, upon their request and within a period of time set by them, with all documents and data, regardless of the data storage medium employed, information and any assistance required for the performance of customs supervision. The submission of such documents, data and information may be refused by a person who would thereby violate a legally imposed or recognized duty to maintain professional secrecy, unless he/she is exempted from such duty by the relevant authority or by the person in the interest whereof he/she is obliged to maintain professional secrecy.

(6) Without the prior consent of the person concerned, the customs authorities shall not hand over or make available documents, data and information to third parties, except in cases where they are allowed to do so under special regulations or according to an international agreement.

Article 51a

Provision of Information from Records

- (1) Customs authorities shall, in the scope necessary for fulfilling the task at hand, be entitled to request from records being kept on the basis of special legislation the provision of information from the relevant administrator or processor of records, and the related costs shall be incurred by the administrator or processor of records. The administrator or processor of records shall be obliged to comply with the request without undue delay, unless stipulated otherwise in special laws.
- (2) Provided the information in question is from the database of users of public telephone services,^{7a)} the Population Register^{7b)} and the centralized registry of road vehicles,^{7c)} the customs authorities shall, in the course of fulfilling their tasks, be entitled to request the provision of the information in question from the relevant administrator or processor of records by means enabling long-distance and constant access, and if the said information from citizen identification card records^{7d)} and travel document records, by means enabling constant access.
- (3) Customs authorities shall be entitled to request the provision of information pursuant to paragraphs 1 and 2 only to the extent absolutely necessary and for the purpose of fulfilling the task at hand, and in a manner which must enable the saving of identification data on the customs authority or customs officer who requested the information and on the purpose for which the information was requested for a period of at least 5 years. The administrator or processor of records shall be obliged to maintain secrecy on facts pursuant to the first sentence.
- (4) Customs authorities shall be obliged to secure the protection of information against unlawful release or transference. The duties of customs authorities pursuant to special laws shall not be affected thereby.^{7f)} A customs officer shall be entitled to use information obtained pursuant to paragraphs 1 and 2 only for the purpose of fulfilling the tasks of the customs authorities.

Article 52

(1) Unless stipulated otherwise in a special regulation, any person possessing documents and data relating to importation, exportation or transit of goods shall be obliged to keep these documents and data for a period of not less than ten years, regardless of the data storage medium employed.

- (2) The deadline laid down in paragraph 1 shall begin to run
 - a) from the end of the calendar year in which the Customs Office accepted a declaration for release of such goods into a free circulation procedure other than that set forth in letter (b) or for exportation of such goods, or
 - b) from the end of the calendar year in which the goods released into a free circulation procedure involving a partial or total relief from import duty because of their final use ceased to be under customs supervision, or

- c) from the end of the calendar year in which a customs procedure other than those mentioned in letters (a) and (b) was terminated.

(3) If a post-clearance control the purpose of which is to verify whether a customs debt has been properly assessed reveals that the initial decision adopted will have to be changed or the duty and tax assessed subsequently, the term specified in paragraph 1 shall not be deemed to run from the day the finding was made till the day a new decision or the subsequent assessment of duty enters into force.

Article 53

repealed

CHAPTER SIX

repealed

CHAPTER SEVEN

repealed

CHAPTER EIGHT IMPORTATION AND EXPORTATION OF GOODS

Part One

repealed

Part Two

repealed

Part Three
RESPONSIBILITY FOR DAMAGE

Article 83

repealed

Article 84

The Customs Offices shall not be held responsible for any damage caused by a delay of a means of transport as a result of the performance of customs proceedings. The provisions of the special law dealing with the responsibility for

damages caused by an unlawful decision or incorrect official procedure^{8a)} shall be in no way affected thereby.

Articles 85 and 86

repealed

Part Four

repealed

Part Five

repealed

Part Six
TEMPORARY STORAGE

Articles 93 and 94

repealed

Article 95

For goods in temporary storage in the warehouses of the Customs Office, the person that presented such goods for the customs proceedings shall pay a storage fee according to the following rates

- (a) 5 % of the value of the stored goods, with a minimum fee of CZK 100.-, if the period of storage does not exceed five days including the day they were taken into storage,
- (b) 10 % of the value of the stored goods, with a minimum fee of CZK 200.-, provided the period of storage does not exceed thirty days including the day they were taken into storage; if the period of storage exceeds thirty days, the storage rate shall amount to 20 % of the value of the stored goods,
- (c) CZK 100.- for each stored item if the item in question comprises papers, documents, documentation, and other written materials, provided the period of storage does not exceed thirty days including the day they were taken into storage; if the period of storage exceeds thirty days, the storage fee shall amount to CZK 200.- for each stored item.

^{8a)} Act No. 58/1969 Coll., on the responsibility for damages caused by a ruling or decision of a state authority or by its incorrect official procedure

Part Seven

repealed

Part Eight

repealed

**CHAPTER NINE
CUSTOMS APPROVED TREATMENT**

Part One

repealed

Part Two

PROCEEDINGS ON ASSIGNMENT OF CUSTOMS APPROVED TREATMENT

Articles 99 to 101

repealed

Article 102

(1) Proceedings on assignment of a customs approved treatment shall be held at a Customs Office or in a customs area. A direct representative in proceedings on the assignment of customs approved treatment may only be a person who performs this service as a subject of his/her business.

(2) The term “customs area” as used herein shall denote designated places in railway stations, ports, airports, as well as other areas designated by customs authorities acting in agreement with the owners or authorized users of such areas.

(3) Upon a request from the declarant and at his (her) expense, customs proceedings may also be conducted outside a customs area.

(4) The Ministry shall issue a Decree stipulating the conditions under which customs proceedings may be conducted outside a customs area, and setting the costs of such proceedings.

(5) In sectors determined by the Ministry acting in agreement with competent central state administration authorities, customs proceedings may also be conducted during on moving trains or on board a ship.

(6) Where perishable goods, live animals, goods designed to remedy consequences of accidents, natural disasters or similar events are involved, or where there is a danger in the case of delay, the Customs Office shall conduct priority customs proceedings. Such proceedings shall be conducted even outside regular

working hours. The Customs Office shall conduct priority customs proceedings also in cases involving exported and imported goods, and goods in transit that are imported, exported or transported by regular units or formations of the armed forces of the contractual parties of the North Atlantic Treaty.

(7) In the course of customs proceedings, the Customs Office shall prepare a protocol of a verbal hearing only in cases when it ordered such a verbal hearing.

Article 103

repealed

Article 104

Decisions on Release of Goods for Free Circulation or on Terminating a Customs Procedure

(1) The essential particulars of decisions issued in customs proceedings shall be as follows:

- a) the designation of the Customs Office which issued the decision,
 - b) the serial number of the decision,
 - c) the date of receipt of the customs declaration,
 - d) the date of issue of the decision,
 - e) the exact designation of the declarant,
 - f) the description and name of the goods in question,
 - g) the subheading of the Customs Tariff and the rate of duty levied on the goods,
 - h) the signature of the authorized employee of the Customs Office which issued the decision, including his/her name, surname, position and an imprint of the official stamp; if the decision is issued electronically, the signature of the authorized officer and the stamp imprint shall be replaced by an identification code.
- (2) If duty or tax is assessed by means of a decision, the decision shall, besides the essential particulars prescribed in paragraph 1, contain
- (a) a subheading of the Customs Tariff and the rate of duty assessed on the goods,
 - (b) the rate of duty on the goods according to the Customs Tariff,
 - (c) the amount of duty or tax assessed,
 - (d) the bank account number to which the assessed amounts are to be paid, and its designation.
- (3) The term “official stamp” as used herein shall denote a stamp allocated to a customs officer or civilian employee for performing his/her duties and not affixed with the State symbol. The official stamp contains in particular the date, the

- designation of the Customs Office, the serial number and other differentiating marks necessary for identifying the person who decided in the proceedings.
- (4) Decisions which release goods into a proposed procedure shall not contain the substantiation thereof and instructions of remedial measure.
 - (5) If the customs declaration has been submitted orally or by another act whereby the holder of the goods expresses his/her will that the goods in question be released into an appropriate procedure, the decision in the customs proceedings need not be executed in writing. Such a decision shall be communicated to the declarant orally or by another act.
 - (6) Where a decision adopted in customs proceedings affirms a customs declaration submitted in writing, the contents of the latter and the facts on the basis whereof the goods in question are released shall become a part of the decision.
 - (7) The provisions of paragraph 1 and of special regulations^{1d} pertaining to appeals shall not apply to decisions in customs proceedings which are communicated orally.
 - (8) The declarant may submit an appeal against a decision within thirty days of the day following the day such decision was delivered; the provisions of paragraph 6 are not affected thereby.
 - (9) Decisions which do not release goods into the proposed procedure, as well as decisions pertaining to regular and special means of appeal, shall be executed and announced in writing, and shall always give complete substantiation thereof. The latter shall not be required if the decision fully seconds the proposed motion.
 - (10) If the customs declaration is submitted electronically, the Customs Office
 - (a) shall, upon request by the declarant, issue a written decision, or
 - (b) shall notify the declarant in writing or electronically of the release of goods by specifying the identification elements of the customs declaration and the date of release of goods if issuance of a written decision is not requested; the Customs Office shall attest to the electronic release of goods to transit procedure by a document whose content, essential particulars and handling shall be prescribed in a Decree issued by the Ministry.
 - (11) A request for issuance of a written decision pursuant to paragraph 9, letter a) can be substituted by an aggregate request relating to all the goods released into customs procedure in a stipulated period not exceeding 12 months.

P a r t T h r e e
CUSTOMS DECLARATION

Section One

Additional Particulars of a Customs Declaration

Article 105

- (1) The Ministry shall issue a decree setting forth the additional particulars of the customs declaration for customs and tax purposes.

Articles 106 to 108

repealed

Section Two

repealed

Part Four

repealed

Part Five

repealed

Part Six

repealed

Part Seven

POST-CLEARANCE CONTROLS

Article 127

Post-clearance Controls

- (1) Customs authorities shall be entitled to carry out post-clearance controls after the goods were released into the proposed customs procedure with the aim to make sure that the data mentioned in the customs declaration were correct and complete, documents presented with it or attached to it were authentic and the customs duties, taxes and fees were correctly assessed. The aim of the post-clearance control is also to verify the existence and authenticity of documents pertaining to import or export operations or possibly also to the subsequent trade operations with goods mentioned in the customs declaration in question.
- (2) A post-clearance control may be carried out in respect to
 - (a) a Czech exporter or importer,
 - (b) a Czech person receiving or dispatching goods,
 - (c) a declarant.
 - (d) a direct representative.
 - (e) a carrier.
 - (f) a person who has directly or indirectly participated in operations with goods mentioned under (1).
 - (g) a person who possesses documents and information relating to goods mentioned under (1)

- (3) A post-clearance control shall be carried out by controlling business documents and accounting records and other written materials relating to data put forth in the relevant customs declaration or to data which pertains to relevant business operations with the goods therein. If necessary for objectively evaluating the completeness, accuracy and credibility of the submitted documents or for ascertaining the existence of additional written materials relating to the data put forth in the relevant customs declaration, customs authorities may carry out a control of all business documents and accounting records and other written materials recorded by the controlled person within a certain period of time.
- (4) A post-clearance control may be carried out within a period of three years from the end of the year in which the obligation to pay duty or tax was established. A post-clearance control within this period can also be carried out by controlling goods that have been released if the goods in question are available. Customs authorities shall be entitled to take samples of the goods in question if it is necessary for carrying out further control actions. Customs authorities shall not be obliged to compensate a person who is subject to post-clearance control for expenses incurred in connection with the control of goods and the taking of samples. The customs authority shall be obliged to issue to the controlled person written confirmation of the samples that were taken.
- (5) Customs authorities shall initiate a post-clearance control by informing the controlled person of the subject of control. They shall concurrently call on, either in writing or orally, the controlled person to submit documents and written materials set forth in paragraph 3.
- (6) If the controlled person does not enable the customs authorities to initiate and carry out the post-clearance control, he/she may be called on, by written notice, to do so by the customs authorities. No appeal shall be permissible against the written notice itself. The notice must contain the place of initiation of the post-clearance control, the subject of control, and the deadline by which the controlled person is obliged to notify the customs authorities of the date and hour he/she is prepared to have the post-clearance control initiated. The date proposed by the person who is to be controlled must not exceed a period of thirty days from the date of notification by written notice.
- (7) If, during the course of a post-clearance control, the customs authorities ascertain the importation or exportation of goods about which they have a warranted suspicion have evaded supervision carried out by customs authorities, the person with regard to whom post-clearance control has been carried out shall be obliged, upon being requested, to submit a document proving that the goods were duly imported or a bill of sale, a delivery note from the producer or any other means of proof that the goods came from persons legally authorised to do business in the Czech Republic. If the person in question does not submit the relevant documents, the customs authorities, at the person in question's own expense and risk, shall move them to a place under its direct supervision and shall set a deadline for the subsequent submission of the documents in question.
- (8) The controlled person shall be obliged to
 - (a) create the conditions necessary for carrying out a post-clearance control and to refrain from behaviour and activities which could endanger its due course,

- (b) submit to the customs authority all the requested documents and written materials, and provide it with information on the subject of the control,
 - (c) submit to the customs authority the goods to which a certified customs declaration pertain, or to enable the customs authority access to them if the goods in question are available to him/her,
 - (d) submit, during the course of the control, means of evidence proving his/her statements,
 - (e) enable customs authorities access to every business building, room, premises and means of transport which he/she uses to conduct business or which relates to the subject of control, as well as access to his/her dwelling if it is also used for conducting business, and to enable interviews with any of his/her employees,
 - (f) lend customs authorities the necessary business documents and accounting records and other documents and written materials including records of data stored on information technology media, their extracts and source codes of programs, even outside the premises of the controlled person.
- (9) During the course of a post-clearance control customs authorities shall be entitled to make copies of the documents and written materials set forth in paragraph 3, to demand necessary explanation from controlled persons and to make documentation. In the event of suspicion of violation of customs regulations they shall be entitled to retain the originals of the controlled documents and written materials. This procedure shall always be used when there is a risk that such means of evidence will be destroyed, altered, displaced or rendered otherwise useless.
- (10) The controlled person shall be entitled to
- (a) ask to see the service identification card of the employee of the customs authority carrying out the post-clearance control,
 - (b) be present during conversations with his/her employees,
 - (c) submit means of evidence during the course of a post-clearance control, or possibly to propose the submission of means of evidence which is not available to himself/herself,
 - (d) raise objections to the procedure of the customs authority employee,
 - (e) express, before the end of the post-clearance control, his/her opinion on the conclusion stated in the protocol, on the manner of its ascertainment, or, possibly to propose its supplementation,
 - (f) view, at the customs authority any time during its regular office hours, documents which have been taken or detained.
- (11) Objections pursuant to 10, letter d) shall be handled by the director of the customs authority which is carrying out the post-clearance control. The director shall accommodate an objection and ensure rectification or shall notify, in writing, the controlled person of the reasons why the objection cannot be accommodated. No appeal shall be permissible against decisions on objections themselves.

- (12) The customs authority shall confirm the taking over of documents and written materials pursuant to paragraph 8, letter f) or the detainment thereof pursuant to paragraph 9 in the protocol on the control or separately during the taking over or retaining. The customs authority shall return such documents and written materials to the controlled person within thirty days. In particularly complicated cases, especially where it is necessary for borrowed or retained documents and written materials to undergo analysis, the customs authority immediately superior to the controlling customs authority may extend this deadline. No appeal shall be permissible against such decisions.
- (13) The customs authority shall draw up a protocol on the control which contains
- (a) the designation of the customs authority which carried out the post-clearance control,
 - (b) the name and surname of the employees of the customs authority who carried out the post-clearance control,
 - (c) the date and place where the control was carried out,
 - (d) the reference numbers of the customs declarations which were controlled,
 - (e) the control findings and the measures carried out during the course of the control,
 - (f) the measures which will be carried out based on the conclusions of the control,
 - (g) a list of original documents which were retained during the control,
 - (h) the date the protocol was drawn up,
 - (i) the official stamp of the customs authority which carried out the control,
 - (j) the signature of the head of the control team or the signatures of all the persons who carried out the control.
- (14) After consideration of the control protocol, the controlled person and the head of the control team shall both sign the protocol. If the controlled person refuses to confirm by attaching his/her signature that the content of the control protocol has been disclosed to him/her, that fact is noted in the protocol including the date of refusal. The controlled person shall receive one copy of the control protocol. The date of signing the control protocol shall be the same as the day of delivery. If the result of the control findings is a matter warranting supplementary assessment of customs debt, the supplemental payment assessment can comprise a component of the control protocol. If the controlled person refuses to take the control protocol, it shall be delivered into his/her hands.
- (15) Regulations on State Control shall not apply to carrying out post-clearance controls.^{8c)}

CHAPTER TEN
CUSTOMS PROCEDURES

Part One

repealed

Part Two

SUSPENSIVE ARRANGEMENTS AND CUSTOMS PROCEDURES WITH
ECONOMIC IMPACT

Section One

Provisions Common to Several Procedures

Articles 133 and 134

repealed

Article 135

- (1) A person who has been granted permission to implement a procedure with economic impact^{8d)} or to operate a customs warehouse^{8e)} may ask the Customs Office which granted permission to extend the validity of the permission or to make changes in the issued permission. The request shall be submitted in writing and must contain the following:
- a) the exact designation of the permission to which the application relates,
 - b) a proposal of the requested change in the permission or of the new validity period of the permission,
 - c) the grounds for the proposed change.
- (2) The Customs Office shall accommodate applications pursuant to paragraph 1 only in cases that are substantiated for due implementation of the authorised procedure. If the Customs Office accommodates an application, it shall issue a decision
- a) which extends the validity period of the permission if that period was time-constrained, or
 - b) wherein it states the manner in which the original permission shall be changed.

Article 135a

The customs authorities shall withdraw the authorization stipulating the terms and conditions under which a procedure with economic impact is implemented or under which a customs warehouse is operated, if the holder of the authorization

- a) fails to comply with the terms and conditions laid down in the authorization,
- b) has requested that the authorization be withdrawn.

Article 135b

The authorization stipulating the terms and conditions under which a procedure with economic impact is implemented or under which a customs warehouse is operated shall be rendered null and void upon delivery of a decision of customs authorities for the withdrawal thereof.

Articles 136 to 138a

repealed

Sections Two to Seven

repealed

P a r t T h r e e

repealed

C H A P T E R E L E V E N

repealed

C H A P T E R T W E L V E
SPECIAL PROCEEDINGS

P a r t O n e
ABANDONMENT TO THE STATE

Article 233

Based upon the request of the owner of the goods a Customs Office may permit that the goods in question be abandoned to the State only in cases when

- a) any special laws on environmental protection are complied with,
- b) the State will not incur any costs in connection therewith except for those associated with the sale of the goods in question,
- c) according to special laws the goods in question may be freely traded and manipulated.

Part Two

repealed

Part Three RELIEF FROM CUSTOMS DUTY

Article 237

- (1) Goods of travellers under fifteen years of age^{8f)} whose total value does not exceed EUR 90 shall be exempted from import duty.
- (2) Goods of crew members of a means of transport which provides transportation between a third country and the European Union whose total value does not exceed EUR 22 during each trip shall be exempted from import duty.

Goods Enjoying Protection under International Law and Goods Imported by Persons with a Registered Office or Residence or Permanent Residency Outside the Territory of the Czech Republic Who Enjoy Privileges and Immunities Under International Treaties

Article 237a

- (1) Diplomatic mail, consular baggage and other mail enjoying protection under international law shall be exempted from import duty.
- (2) Diplomatic mail and consular baggage of the Ministry of Foreign Affairs and representative offices of the Czech Republic shall be exempted from import duty.

Article 237b

- (1) Goods imported for persons enjoying privileges and immunities^{8g)} under an international treaty shall be exempted from import duty under the terms and conditions set forth in Articles 237c to 237f.
- (2) The term “person enjoying privileges and immunities” used herein shall denote
 - a) a diplomatic mission and consular office accredited for the Czech Republic as authorities of foreign states,
 - b) a special mission,
 - c) an international organization which enjoys privileges and immunities under an international treaty,
 - d) an official of a foreign state who is a member of a diplomatic mission, a special mission or a consular office accredited for the Czech Republic and who does not have permanent residency in the Czech Republic and is registered with the Ministry of Foreign Affairs as the chief of a diplomatic mission, a member of the diplomatic or administrative/technical staff of a diplomatic mission or the head of a consular office, a consular clerk or a consular employee,

- e) a clerk of an international organization who does not have permanent residency in the Czech Republic and is not a citizen of the Czech Republic if he/she is permanently assigned to perform his/her official position in the Czech Republic,
- f) a family member of a person set forth in letter d) or e) if he/she is not a citizen of the Czech Republic, does not have a permanent residency permit and is registered with the Ministry of Foreign Affairs.

Article 237c

- (1) Goods of persons set forth in Article 237, paragraph 2, letters a) to c) shall be exempted from import duty under the condition that the goods in question will be used exclusively for the official needs of those persons.
- (2) Goods of persons set forth in Article 237b, paragraph 2, letters d) to f) shall be exempted from import duty under the condition that the goods in question will be used exclusively for the personal use and consumption of those persons. Goods imported directly from abroad as well as those released for free circulation from a free customs zone or a free customs warehouse, or those released from the procedure of storage in a customs warehouse, or those released from the procedure of active enhancement of the value of goods in a conditional system, shall be exempted from import duty.

Article 237d

Goods imported for persons enjoying privileges and immunities shall be exempted from import duty only in cases where the principle of reciprocity is maintained. A Customs Office shall accord exemption from import duty only in the scope in which exemption from import duty for the same reasons is accorded persons who have a registered office or residence or permanent residency in the Czech Republic in connection with their capacity in the relevant foreign state.

Article 237e

- (1) Goods shall be exempted from import duty under the condition they are designated for persons enjoying privileges and immunities and whereas they are proposed by the said persons for release into free circulation in a customs declaration whose template shall be set forth in a Decree issued by the Ministry. The customs declaration shall be certified by a diplomatic mission, consular office, special mission or international organization listed in Article 237b, paragraph 2, letters a) to c) by affixing it with an imprint of its stamp and the signature of the director or his/her representative.
- (2) Goods shall be exempted from import duty under the condition that they will not be lent or borrowed, pledged, rented or transferred for a fee or free of charge for a period of twelve months, or for a period of twenty-four months if the goods in question are motor vehicles, ships or aircraft, from the day of receipt of the customs declaration concerning their release into free circulation.

Article 237f

- (1) Also exempted from import duty shall be goods imported by
- a) members of foreign delegations and members of their families coming for diplomatic conferences held in the Czech Republic,
 - b) members of special diplomatic missions and members of their families coming to the Czech Republic on a diplomatic mission, under the condition that the goods in question will be used for the personal needs and consumption of the said persons.
- (2) The goods shall be exempted from import duty under the condition an oral customs declaration is substantiated by a document proving the person in question enjoys privileges and immunities pursuant to paragraph 1.

Goods Imported by Armed Forces, Civilian Units Accompanying Armed Forces and Persons Dependent on Members of Armed Forces or Civilian Units

Article 237g

For the purposes of this Act,

- a) the term “armed forces” shall denote members of ground, naval or air armed forces of a foreign state deployed to the territory of the Czech Republic as an accepting country pursuant to an international treaty,⁹⁾
- b) the term “civilian unit” shall denote civilians accompanying armed forces who are employed by the armed forces and who are not citizens without nationality or citizens of a state that is not party to an international treaty,⁹⁾ or are not citizens of the Czech Republic,
- c) the term “dependent person” shall denote the husband or wife of a member of the armed forces or civilian units or a child of such a member who is dependent on his/her support.

Article 237h

- (1) Exempted from import duty are
- a) technical equipment and adequate amounts of foods, supplies and other goods imported by the armed forces for the exclusive use of
 1. armed forces,
 2. civilian units,
 3. dependent persons,
 - b) fuel, oil and lubricant for service vehicles, aircraft and naval vessels of the armed forces or civilian units.
- (2) Exempted from import duty are goods imported directly from abroad and released into free circulation as well as goods released into free circulation after having been stored in a free customs zone or free customs warehouse or released from

the procedure of storage in a customs warehouse or from the procedure of active enhancement of the value of goods in a conditional system.

CHAPTER THIRTEEN CUSTOMS DEBT

Part One

repealed

Part Two

SECURITY COVERING CUSTOMS DEBTS EXCEPT TRANSIT OPERATIONS

Article 254

For the purposes of this Act, the term “security of customs debt” shall denote the securing of duty and taxes on the importation of goods.

Article 255

repealed

Article 256

Security of customs debt can be made by

- a) remittance of the applicable amount to the account of the customs authority (hereinafter “customs security”) if the customs debt being secured has been established or could be established from a single or multiple operations carried out by a sole debtor at one Customs Office,
- b) pledge
 1. globally for a customs debt which has been established or could be established from a single or multiple operations carried out by a sole debtor (hereinafter "global guarantee"),
 2. individually for a customs debt which has been established or could be established from a single operation carried out by a sole debtor (hereinafter "individual guarantee"), whereas either an individual guarantee form or a guarantee voucher is used, or
- c) right of lien,^{9b)} if the customs debt being secured has been established or could be established from a single or multiple operations, other than transit operations, carried out by a sole debtor; the attachment creditor is the State on behalf of whom the Customs Office where the security of customs debt by right of lien is used shall act.

(2) The following shall be deemed security of customs debt equivalent to the customs security:

- a) submission of a cheque the reimbursement of which is guaranteed by a bank, or
 - b) submission of another document recognised by the Customs Office as a means of payment.
- (3) In securing a customs debt by means of customs security the Customs Office shall release the customs security immediately after the customs debt has ceased to exist or can no longer be established. The Customs Office shall return the released customs security without undue delay to the depositor or, based on the disposition of the depositor, shall use it to secure another customs debt.
- (4) If the customs debt is not voluntarily fulfilled within the period prescribed herein, the customs security shall be used for payment of duty, taxes and fees collected during importation, transport fees, storage fees, fines levied in accordance with this Act and the cost of proceedings.
- (5) The Ministry shall issue a Decree prescribing the form, content, essential particulars, scope and manner of using individual guarantee forms, guarantee vouchers and certificates of security of customs debt by global guarantee, as well as the manner and conditions for setting the amount listed in the individual guarantee form (the guaranteed amount).

Article 257

repealed

Article 258

- (1) A customs authority may permit the use of a global guarantee upon request of the person who intends to use the guarantee in the future.
- (2) The request for permission shall be submitted in writing and must contain all the data which enable customs authorities to evaluate whether the conditions under which such permission may be granted have been fulfilled.
- (3) The applicant shall be responsible for the accuracy of the data provided and the authenticity of the documents by which the filing is substantiated.
- (4) The holder of such permission shall be obliged to inform the customs authority which granted the permission of all the circumstances which have come to light since the permission was granted that could influence the validity or content of the granted permission.
- (5) The customs authority which has granted the permission shall render the permission null and void or change its validity if the holder of the permission fails to meet the conditions prescribed by customs regulations.

Article 259

A global guarantee can be used for securing customs debt or debts which have been established or could be established from secured operations up to the volume of the guaranteed amount. The user of a global guarantee is responsible for ensuring that the customs debt or the sum total of customs debts which have been

established or could be established does not exceed the guaranteed sum. If the guaranteed sum is exceeded, the user of a global guarantee is obliged to inform the customs authority which permitted the global guarantee of this fact.

Article 259a

repealed

Article 260

- (1) A guarantor may only be a third person with a registered office or residence or permanent residency in the European Communities who is different from the debtor and who was granted permission to be the guarantor by the relevant Customs Office, upon request of
 - a) the future user of a global guarantee, provided a global guarantee is to be provided,
 - b) the future guarantor, provided an individual guarantee using a guarantee voucher is to be provided, or
 - c) the debtor or a person who could become a debtor, provided an individual guarantee using an individual guarantee form is to be provided.
- (2) Permission pursuant to paragraph 1 may only be granted to a person
 - a) who, duly and in time, fulfils obligations arising out of customs regulations,
 - b) whose financial situation is such that he/she can fulfil every customs debt which he/she has guaranteed,
 - c) who has not committed serious or repeated violations of customs regulations.
- (3) Customs authorities shall withdraw permission if they ascertain that the guarantor
 - a) does not meet the conditions prescribed in the permission,
 - b) is not capable of fulfilling a customs debt for which he/she has stood as guarantor,
 - c) no longer meets the conditions set forth in paragraph 2.
- (4) A guarantor can, at any time and without stating the reason, terminate the relation as a guarantor. The termination shall take effect on the sixteenth day from the date of written notification thereof by the guarantor to the customs authority which granted permission, and the permission shall expire on that same day.
- (5) Customs authorities shall withdraw permission if the user of a global guarantee so requests. Customs authorities shall also withdraw permission in cases where the user of a global guarantee does not duly and in time meet obligations arising out of regulations implemented by customs authorities.
- (6) Granted permission shall expire
 - a) when the date of expiry has elapsed,
 - b) by a decision on withdrawal of permission by customs authorities.

- (7) From the date of expiry forward, a customs debt cannot be guaranteed by the individual guarantee form, the guarantee voucher or the certificate of guarantee which were used during the validity period of the permission.
- (8) The following persons shall not be deemed a person different from the debtor for the purposes pursuant to paragraph 1:
 - a) a statutory body or its member or a member of the supervisory body of the debtor,
 - b) an employer or employee of the debtor,
 - c) a family member of the debtor.

Article 260a

- (1) The Customs Directorate in whose territorial competence the operations for which the security of customs debt is required shall decide on approval of the guarantor and the use of a global guarantee. The decision on approval of the guarantor and the use of a global guarantee may, on the basis of a warranted request, be changed or, if it was time-constrained, its validity period extended by the Customs Directorate regardless of the legal force of the decision.
- (2) The General Directorate of Customs shall decide on approval of the guarantor for individual security of a customs debt using a guarantee voucher. The decision on approval of the guarantor may, on the basis of a warranted request, be changed or, if the decision was time-constrained, its validity period extended by the General Directorate of Customs regardless of the legal force of the decision.
- (3) The application for approval of a guarantor for an individual guarantee using an individual guarantee form shall be submitted to the Customs Office at which the guarantee will be used.
- (4) Customs authorities shall be entitled to request in connection with applications pursuant to paragraphs 1 to 3 documents proving the guarantor's ability to fulfil the customs debt in the proposed guaranteed amount. With applications pursuant to paragraphs 1 to 3 it is necessary to submit
 - a) verification not older than sixty days that the guarantor, and in the case of a global guarantee the user, does not have in the Czech Republic tax arrears and payable arrears to the social security system and contribution to the national employment policy including fines; the term "payable arrears" used herein shall also denote an owed payment to the social security system and contribution to the state employment policy including fines where permission has been granted pursuant to special regulations to effect payment in instalments,
 - b) documents attesting to the guarantor's ability to fulfil the customs debt in the proposed guaranteed amount, namely accounting records (an annual financial statement) or a statement on assets and liabilities and on revenue and expenditures.
- (5) If a customs authority calls on the applicant to submit documents pursuant to paragraph 4, it shall set a deadline for the submission of such documents which must not be less than thirty days from the date of delivery of notification to the

applicant. If the requested documents are not submitted by the deadline, the application shall become ineffective and shall be regarded as if it had not been submitted.

Article 260b

A customs authority shall be obliged to decide on applications pursuant to Article 260a, paragraph 1 or 2, within sixty days from the date the proceeding was initiated; in especially complicated cases, it shall decide within ninety days at the latest; if, owing to the nature of the matter, no decision can be taken even by that deadline, the appellate body (the body competent to decide on remonstrance) may suitably extend the deadline. If the customs authority cannot decide within sixty days or within ninety days as the case may be, it shall be obliged to notify the applicant of the grounds for delay in disposing of the application and of the final deadline for issuing a decision.

Article 260c

Decisions which accommodate applications pursuant to Article 260a paragraphs 1 to 3 need not contain grounds for the decision and instructions on remedial measure.

Article 260d

Should an application pursuant to Article 260a, paragraphs 1 or 2 be dismissed, a new application may be submitted at the earliest in twelve months from the date of notification of the decision to dismiss the application.

Article 260e

The customs authority which granted permission pursuant to Article 260a, paragraph 1 shall issue to the applicant a certificate of security of customs debt by global guarantee. No certificate shall be issued if the data set forth in the decision are contained in the customs administration information system.

Article 260f

- (1) In the course of drafting the certificate, or at any time during its period of validity, the declarant shall designate the person who is authorised to act in his/her name. In presenting the certificate authorised persons thereby prove they are authorised to act on behalf of the declarant in the scope of the legal actions set forth therein and to secure the customs debt by global guarantee. The Ministry shall issue a Decree setting forth the operations in which a global guarantee may be used to secure a customs debt.
- (2) The validity period of the certificate must not be longer than two years. The validity of the certificate may be extended once, and only by a maximum of two years.

- (3) When a granted permission to secure a customs debt by global guarantee expires, the user shall be obliged to return, without undue delay, all the certificates whose validity periods have yet to elapse to the Customs Office which granted the permission.

Article 260g

repealed

Individual Guarantee Using a Guarantee Voucher

Article 260h

- (1) For operations other than transit procedure the user shall submit one or multiple guarantee vouchers wherein the guarantor sets forth the amount in Czech crowns so that the sum total of the amounts set forth is not less than the requested volume of the secured customs debt.
- (2) The guarantor shall list in the guarantee voucher the validity period thereof, namely by designating the last day of that period. The duration of the validity period must not be longer than one year from the date of issue.
- (3) For converting foreign currencies to Czech crowns, the exchange rate declared by the Czech National Bank effective on the first work day in October of the year preceding the year in which the customs declaration with which the guarantee voucher submitted was received, shall be used.

Article 260i

repealed

Article 260j

- (1) Permission pursuant to Article 260, paragraph 2, letter b) authorises guarantors to issue guarantee vouchers of their choice to persons who are demanding the security of customs debt from them.
- (2) For each issued guarantee voucher, the guarantor shall be liable for the amount set forth therein.

Article 260k

Individual Guarantee Using an Individual Guarantee Form

- (1) An individual guarantee form for individual security of customs debt shall be submitted to the Customs Office which demands the security of customs debt.

- (2) The Customs Office shall retain the submitted individual guarantee form following verification of its validity and accuracy.

Article 260I

Fulfilment of Customs Debt by the Guarantor

- (1) The Customs Office shall deliver a payment assessment (decision) on assessment of customs duties and taxes to the guarantor if exacting of the customs debt from jointly and severally liable debtors was unsuccessful.
- (2) The Customs Office shall require fulfilment of the customs debt immediately from the guarantor if
- a) an international treaty thereby stipulates,
 - b) exacting the owed duties and taxes from jointly and severally liable debtors would be unsuccessful owing to their financial and property situation or would be uneconomical with regard to the costs of exacting, or
 - c) it determines that a petition has been filed for declaration of bankruptcy on the assets of one of the jointly and severally liable debtors or that bankruptcy has been declared and it does not have the right to separate satisfaction in the bankruptcy proceedings.

Articles 261 to 263a

repealed

P a r t T h r e e

PAYMENT OF IMPORT DUTIES, TAXES AND FEES AND EASING OF PAYMENTS

Article 264 to 269

repealed

Article 270

Means of Payment

- (1) Duty and tax can be paid
- a) by means of electronic transfer from a bank account to the relevant Customs Office account,
 - b) in cash
 1. via a bank or postal license holder to the relevant Customs Office account,
 2. to customs administration employees entitled by the Customs Office to exclusively receive from debtors payments of duty and tax in cash; the Customs Office shall be obliged to issue receipt of payment,

3. to the acting clerk performing the execution, provided the payments are to be recovered via execution and unless stipulated otherwise in the execution order,
 - c) by setting it off against an overpayment for another duty or tax wherein paying off the duty arrears by setting off has priority,
 - d) by means of a duty stamp, provided a special regulation so prescribes
 - e) by remittance from a deposited customs security at the request of the person who deposited the customs security and is obliged to pay the duty and tax; in this case, the date of payment shall be deemed the day the Customs Office received the written request of the depositor of the customs security on the remittance with the designation of the duties or taxes which are to be paid from the deposited customs security.
- (2) Payment in cash shall also be deemed the submission of a cheque the reimbursement of which is guaranteed by a bank.
- (3) The order of payment of duties and taxes shall be as follows, unless stipulated otherwise hereinafter:
 - a) duty,
 - b) excise tax,
 - c) value-added tax,
 - d) appurtenances, provided they have not been assessed by a separate assessment.
- (4) If a deferment in payment of duty and tax has been permitted, the order of payment shall be as follows:
 - a) duty arrears according to the due date,
 - b) tax arrears according to the due date,
 - c) appurtenances according to the due date.
- (5) The order of payment of duty and tax in cases of execution shall be the following:
 - a) duty and cost of execution,
 - b) excise tax,
 - c) value-added tax,
 - d) appurtenances, provided they have not been assessed by a separate assessment.
- (6) With the exception of a cheque the reimbursement of which is guaranteed by a bank, duty and tax can be paid pursuant to paragraph 1, letter b), points 2 and 3, in cash only up to the total amount which is permitted for payments in cash by a special law.

Articles 271 to 274

repealed

Article 275

Respite and Instalments

- (1) Under the conditions prescribed by a special law^{9c)} a Customs Office can, besides deferring payment, also permit respite or payment by instalment upon written request.
- (2) The Customs Office shall permit respite or instalments only in cases where the applicant secures the customs debt. The Customs Office however need not demand security of customs debt if it would pose a serious threat to the subsistence of the debtor or persons dependent on his/her subsistence, or provided the securing of customs debt would lead to the financial dissolution of the debtor.
- (3) During the period of respite or payment by instalment, the interest rate on the deferred amount shall equal 140 % of the discount interest rate of the Czech National Bank in effect on the first day of the first calendar quarter. The Customs Office shall lay down in advance the interest for the entire period of respite and inform the debtor of the volume of interest. The interest in question shall be payable within eight days from the date of delivery of the payment assessment. The interest shall not be fixed in advance if it amounts to less than CZK 100.- or exacting it would seriously pose a serious threat to the subsistence of the debtor or persons dependent on his/her subsistence, or if exacting the arrears would lead to the financial dissolution of the debtor.

Article 276

- (1) If the debtor fails to pay the assessed amount of duty by the due date, the Customs Office shall
 - a) implement without undue delay all measures it deems necessary, including exacting the arrears, in order to secure payment of the amount of duty, and
 - b) shall impose the interest on late payment by means of procedures pursuant to a special law.^{9d)}
- (2) The Customs Office shall not impose interest on late payment pursuant to paragraph 1, letter b)
 - a) if exacting thereof would pose a serious threat to the subsistence of the debtor or a persons dependent on his/her subsistence, or provided exacting it would lead to the financial dissolution of the debtor, or
 - b) if it amounts to less than CZK 100.- in one case.
- (3) The Customs Office shall not impose interest on late payment pursuant to paragraph 1, letter b) if the outstanding amount has been paid within five days after the deadline.

Articles 277 to 281

repealed

Part Four

TIME LIMITATION OF THE RIGHT TO ENFORCE AN OUTSTANDING DUTY AND
EXTINCTION OF CUSTOMS DEBT

Article 282

Time Limitation of the Right to Claim an Outstanding Duty

(1) The right to recover and enforce the payment of an outstanding amount of duty shall be time limited to six years after the year in which the duty becomes due and payable.

(2) If, before the extinction of the time limit under paragraph 1, an action has been taken to collect or enforce the payment of an outstanding amount of duty, the a new time limit set in paragraph 1 shall begin to run following the end of the calendar year in which a proceeding was started or an action made; this provision notwithstanding, any outstanding amount of duty may be enforced not later than twenty years following the end of the year in which the time limit under paragraph 1 started to run.

(3) Time limitation shall be taken into account only if it is appealed by the debtor in his/her objection and only within the scope thereof.

(4) If an outstanding amount of duty has been secured by a lien on real estate property entered in the appropriate register, no objection against the exercise of the right secured in the manner referred to may be raised for thirty years following the day of the entry thereof.

(5) A written notice to pay the outstanding duty, which was delivered to the debtor, shall also be deemed to be an action enforcing the payment thereof.

Articles 283 and 284

Part Five

REPAYMENT AND REMISSION OF DUTY

Article 285

(1) If the Customs Office has repaid import or export duties or the interest on arrears it charged by the time the payment of the duty is due, it shall not be obliged to pay any interest. However, the Customs Office shall pay the interest if

a) it has failed to repay the duty within three months of the day the decision to that effect came into force,

- b) the decision denying a request for the repayment of the duty has been invalidated as a result of an appeal. The interest shall be paid from the day the appeal was filed.

(2) The interest rate shall be equal to 140% of the discount interest rate of the Czech National Bank in effect on the first day of the calendar quarter. For the purposes of calculating the interest using the discount interest rate of the Czech National Bank, a year shall be deemed to comprise 365 days.

Articles 286 to 292

repealed

CHAPTER FOURTEEN CUSTOMS MISDEMEANOURS AND CUSTOMS OFFENCES

Part One VIOLATION OF CUSTOMS REGULATIONS

Article 293

Customs regulations shall be deemed to be violated by any person who

- a) unlawfully imports or exports goods,
- b) provides incorrect information on goods subject to customs supervision^{1e},
- c) causes the competent customs authority to grant him or her an authorization based on false, altered or forged documents or incorrect or untrue information,
- d) causes goods to be released to him or her on the basis of false, altered or forged documents or of incorrect or untrue information,
- e) fails to comply with the conditions laid down for goods
 - 1. released into a suspensive procedure,
 - 2. released into an exportation procedure,
 - 3. released for free circulation and exempted from the import duty by virtue of their end- use, or with a reduced rate of duty,
 - 4. withheld for the purpose of customs misdemeanour or customs misdemeanour proceedings,
 - 5. temporarily stored, or
 - 6. placed in a free customs zone or a free customs warehouse,

7. in respect to which a customs lien was established
- f) unlawfully removes goods from customs supervision or participates therein,
 - g) has forged documents related to imported and exported goods or goods in transit,
 - h) holds goods which have been removed from customs supervision,
 - i) has broken customs seals,
 - j) provides incorrect information in a request submitted to customs authorities or presents incorrect, altered or forged documents or other papers,
 - k) provides incorrect information in an application for a certificate of origin or certifies the origin of goods in contradiction to an international agreement,
 - l) fails to heed an order issued by a customs authority or a customs officer, or otherwise prevents the performance of their duties.
- (2) The term "customs seal" for the purposes of paragraph 1 shall denote the securing of the identity of goods or the securing of goods inside a means of transport, containers, packages and in rooms by means of a plug, seal, stamp or other means in such a way that the goods cannot be removed or anything inserted in them without leaving visible traces of breakage of the secured object or damage to the customs seal.
- (3) The term "unlawful importation or exportation of goods" for the purposes of paragraph 1 shall denote the importation or exportation of goods realized in violation of the provisions of a special law.⁹¹⁾

Part Two CUSTOMS MISDEMEANOURS

Article 294 **Customs Misdemeanour**

(1) The term "customs misdemeanour" shall denote a culpable action which violates or endangers public interest in the manner set forth in Article 293, unless such action constitutes a criminal offence.

(2) Culpable negligence shall suffice to establish liability for a customs misdemeanour.

(3) The term "action" shall also denote omission to act in a manner in which the perpetrator was obliged to act under the circumstances and in view of his/her personal situation.

Article 295
Sanctions

(1) The following sanctions may be imposed for a customs misdemeanour

- a) a reprimand,
- b) a fine as set forth in paragraph 2,
- c) forfeiture of the goods.

(2) The customs misdemeanours set forth in Article 293, paragraphs a) to f), may be subject to the payment of a fine of up to CZK 100,000.-, and the customs misdemeanours set forth in Article 293, paragraphs g) to l), may be subject to the payment of a fine of up to CZK 50,000.-.

(3) The maximum fine which may be levied under a ticket procedure shall be CZK 5,000.-.

Article 296
Payability of Fines

A fine levied for a customs misdemeanour shall be paid within thirty days of the date on which the decision whereby the fine was levied comes into legal force.

Article 296a
Confiscation of Goods

(1) In cases where a customs misdemeanour has not been penalized by forfeiture of the goods in question, it may be decided that such goods will be confiscated if

- a) they belong to a perpetrator who cannot be prosecuted for the customs misdemeanour,
- b) they do not belong to the perpetrator of the customs misdemeanour, or they belong to him or her only partly,

and if safety of persons or property or other public interest so requires.

(2) A decision to confiscate goods may be taken also in cases when the person who violated the law in the manner set forth in Article 293 is unknown.

(2) The confiscation of goods shall not be employed if six years have elapsed since the time the customs misdemeanour in question was committed.

(3) The ownership of the confiscated goods shall pass onto the State

Article 297
Jurisdiction

- (1) Any customs misdemeanour shall be dealt with by the Customs Office within whose district the customs misdemeanour was identified, even though it may have been committed within the territorial jurisdiction of another Customs Office.
- (2) The Customs Office competent to deal with a customs misdemeanour pursuant to paragraph 1 may refer the case to the Customs Office within the territorial jurisdiction of which the person who committed the customs misdemeanour resides or works.

P a r t T h r e e
CUSTOMS OFFENCES

Article 298
Customs Offence

- (1) A customs misdemeanour shall denote an act committed by a legal person that has violated or endangered public interest in the manner set forth in Article 293.
- (2) For the purposes set forth in the provisions of the present Chapter, a natural person who is an entrepreneur shall also be deemed to be a legal person.
- (3) If a legal person has committed multiple customs offences which the same Customs Office has competence to hear, the offences shall be heard in a collective proceeding.

Article 299
Sanctions

- (1) The following sanctions may be imposed for a customs misdemeanour
 - a) a fine in amounts set forth in paragraph 2,
 - b) forfeiture of the goods.
- (2) The violations of customs regulations set forth in Article 293, paragraphs a) to f), may be subject to the payment of a fine of up to CZK 4,000,000.-, and the violations of customs regulations set forth in Article 293, paragraphs g) to l), may be subject to the payment of a fine of up to CZK 250,000.-.
- (3) Forfeiture of goods may be ordered as a sanction either separately or together with a fine.
- (4) A sanction pursuant to the provisions applying to customs misdemeanours punishable by the most severe punishment shall be imposed for multiple customs misdemeanours committed by one legal person heard in a collective proceeding
- (5) A sanction shall not be imposed

- a) on a person who committed a mistake in a submitted customs declaration and has demonstrated that he/she has taken all the steps necessary to secure correct and accurate data, or
- b) if a violation of customs regulations occurred as a consequence of a force majeure, accident or other circumstances which the person affected could not influence and whereas these facts have been demonstrated to the customs authorities.

Article 300

Forfeiture of Goods

(1) Forfeiture of goods may be ordered if the goods in question belong to the legal person that has committed the customs misdemeanour and they

- a) have been used or intended for the committing of the customs misdemeanour, or
- b) have been obtained through the customs misdemeanour or in exchange for goods acquired through the customs misdemeanour.

(2) Forfeiture of goods may not be ordered if the value of the goods is significantly disproportionate to the nature of the customs misdemeanour in question.

(3) The ownership of the forfeited goods shall pass onto the State.

Article 301

A fine pursuant to Article 299 or the forfeiture of goods pursuant to Article 300 may be imposed on a legal person not later than one year following the date when the Customs Office learned that the person had violated or failed to meet an obligation imposed by customs regulations, but not later than six years following the date the violation or failure took place.

Article 302

Payability of Fines

A fine levied for a customs offence shall be paid within thirty days of the date on which the decision whereby it has been levied comes into legal force.

Article 303

Confiscation of Goods

(1) Where the forfeiture of the goods set forth in Article 300, paragraph 1, letters a) or b), has not been ordered as a sanction for a customs offence, such goods may be confiscated if they do not belong to the perpetrator or the person who violated the law in the manner set forth in Article 293 is unknown and if such a move is necessitated for the safety of persons or property or by another public interest.

(2) No confiscation of goods shall be ordered if more than six years have elapsed following the date when the customs misdemeanour in question was committed. The provisions of Article 300, paragraph 2, shall apply *mutatis mutandis*.

(3) The ownership of the forfeited goods shall pass onto the State.

Article 304 **Jurisdiction**

(1) A customs offence shall be dealt with by the Customs Office within whose territorial jurisdiction the person in question has its registered office or residence.

(2) If the person in question does not have any registered office or residence in the country, the customs offence shall be dealt with by the Customs Office within the territorial jurisdiction of which it was committed or by the Customs Office within the territorial jurisdiction of which it was discovered.

CHAPTER FIFTEEN **CUSTOMS LIEN**

Article 305

(1) A customs lien shall be employed to secure liabilities in cases where the corresponding customs debt is not fulfilled duly and in time, where satisfaction can be achieved from the pledge.

(2) A pledge consists in imported goods not originating in the European Communities. A customs lien shall be established the moment the pledge enters the territory of the European Communities.

(3) Customs authorities may secure the pledge until the customs debt is fulfilled or secured in the full amount, regardless of the rights of third parties. Securing of the pledge shall also consist in a decision by the customs authorities whereby it is imposed on the person holding the pledge that he/she may not use, sell or otherwise dispose of the pledge.

(4) A customs lien shall expire on expiry of the secured claim however, a customs lien shall not expire on extinguishment of the pledge or securing of the customs debt in the full amount.

(5) The provisions of Article 313, paragraph 1 shall apply *mutatis mutandis* to the materialization of a customs lien.

Articles 306 to 308

repealed

**CHAPTER SIXTEEN
WITHHOLDING AND SALE OF GOODS**

**Part One
WITHHOLDING GOODS**

Article 309

(1) In order to deal with a customs misdemeanour or a customs offence the Customs Office may withhold goods with respect to which there is a grounded suspicion that they may have been

- a) used or intended for committing a customs misdemeanour, or obtained through a customs misdemeanour, or acquired in exchange for goods obtained through a customs misdemeanour, or
- b) used or intended for committing a customs offence, or obtained through a customs offence, or acquired in exchange for goods obtained through a customs offence.

(2) The Customs Office may withhold goods as provided for in paragraph 1 irrespective of any rights of third parties.

Article 310

(1) The Customs Office shall issue a decision to withhold goods, and shall deliver such decision on the person whose goods have been withheld. The person concerned may appeal the decision within fifteen days of the date such decision is delivered. An appeal shall have no dilatory effect.

(2) The decision whereby the goods are withheld shall state the reasons for which the goods are withheld, and instructions regarding the rights and obligations of the person whom the decision concerns. The decision shall also contain a warning to the effect that, unless the fine is paid, the goods will be sold.

(3) The Customs Office may leave the goods which may otherwise be withheld under the provisions of Article 309 with the person concerned, and instruct that the person shall not use, sell or otherwise dispose of such goods.

Article 311

(1) The person on whom a decision to withhold goods has been served shall be obliged to surrender the goods to the Customs Office.

(2) If the goods which are to be withheld are not surrendered to the Customs Office, they may be taken from the person concerned who has failed to heed the custom office's order.

(3) An official protocol shall be prepared on the surrender or removal of the withheld goods, and shall also include a description of the goods. The Customs Office shall issue to the person who has surrendered the goods, or from whom the goods have been removed, with a certificate confirming the surrender or removal of the goods in question.

Article 312

(1) If withheld goods are no longer required for further proceedings and their forfeiture or confiscation under custom misdemeanour or customs offence proceedings or their sale under the provisions of Article 313 are out of question, they shall be returned to the person from whom they were taken.

(2) If the title to withheld goods is presented by a person other than that from whom the goods in question were taken, or if the Customs Office has doubts as to whether the goods belong to the person from whom they were taken, the Customs Office shall not surrender the goods and shall instruct the persons in question to refer their claims to the courts.

Part Two SALE OF GOODS

Article 313

(1) The Customs Office may sell goods withheld pursuant to Article 309, paragraph 1, which have not been ordered forfeited or which have not been confiscated, to cover the payment of a fine levied for a customs misdemeanour or a customs offence, if the fine has not been paid within thirty days of the date on which the decision levying the fine came into legal force.

(2) The Customs Office may sell perishable goods and livestock, withheld pursuant to Article 309, paragraph 1, immediately.

Article 314

(1) As a rule, the Customs Office shall sell goods at an auction. In doing so, it shall proceed in accordance with special regulations¹⁰.

(2) Where special regulations^{10a} provide for the Customs Office to sell goods the sale shall be conducted in accordance with paragraph 1.

(3) The Customs Office shall sell whatever goods that could not be sold at an auction to persons entitled to buy them under legal regulations governing the handling of the goods being sold.

¹⁰ Act No. 26/2000 Coll., on public auctions, as amended by Act No. 120/2001 Coll. and Act No. 517/2002

^{10a} For example Article 75 of the Council Regulation No. 2913/1992 of 12 October 1992 establishing the Community Customs Code, as amended

- (4) The Customs Office shall handle goods which cannot be sold or used for public health, veterinary, phytopathological, safety or other reasons in the manner stipulated by special regulations.

Article 315

(1) The proceeds of the sale of goods referred to shall be first used to pay the duty and its appurtenances, taxes and fees collected on importation and their appurtenances, costs of the proceedings, storage fees and fines levied in accordance with customs regulations. The Customs Office shall pay the balance of the proceeds to the person concerned. If such a person does not present himself or herself within three years after the sale of the goods, the balance of the proceeds shall pass to the State.

(2) If a third party presents a claim in relation to the balance of the sale to the Customs Office within three years following the date the sale took place, the Customs Office shall refer such party to a civil law action.

(3) The person whose goods were withheld shall be notified of the sale of the goods.

Article 316

(1) The Customs Office may sell or otherwise dispose of goods

- a) the forfeiture or confiscation of which has been ordered in proceedings dealing with customs misdemeanours or customs offences,
- b) the forfeiture or confiscation of which has been ordered in criminal proceedings dealing with criminal offences perpetrated in connection with importation, exportation or transits of goods,
- c) which the declarant has abandoned to the State.

(2) The sale of the goods set forth in paragraph 1 shall be governed *mutatis mutandis* by the provisions of Article 313 to 315.

CHAPTER SEVENTEEN COMMON, TRANSITIONAL AND CONCLUDING PROVISIONS

Article 317

If the duty and its appurtenances, taxes and fees collected on importation and their appurtenances, costs of proceedings, storage charges and fines levied under customs regulations cannot be paid in Czech currency, the customs authorities may also accept payments in foreign currencies. The foreign currency shall be converted

into Czech Crowns using the purchasing rate of the foreign exchange market of the Czech National Bank in effect at the time when the payment is made.

Article 318

If an international agreement contains provisions different from those in the present Act or in regulations issued hereunder, the provisions of the international agreement shall prevail.

Article 319 **Statistics**

- (1) The customs authorities shall arrange for the collection of information and the processing of information on goods that have been assigned a customs-approved treatment or on goods of selected producers who have an excise tax liability.
- (2) The form, content and essential particulars of a document for statistical purposes as well as the scope of data for keeping statistics shall be stipulated by a Decree of the Czech Statistical Office and the Ministry.
- (3) The customs authorities shall secure the collection of, processing and subsequent control of data on goods in the framework of trade within the Communities between the Czech Republic and other member states of the European Union in the manner and form prescribed by a special regulation^{10b)} and the regulations applicable to it.
- (4) For the purposes of this Act, the term “trade within the Communities” used herein shall denote the movement of goods between the Czech Republic and another member state of the European Union under the conditions stipulated by a special regulation.^{10b)}
- (5) The customs authorities shall be entitled to use data obtained pursuant to paragraph 3 for controlling the fulfilment of tax liabilities in cooperation with the relevant territorial financial authorities, and shall convey them for statistical purposes.
- (6) A person who has a registered office or residence or residency permit on the territory of the Czech Republic shall be obliged to convey to the Customs Office accurate data on trade within the Communities pursuant to paragraphs 3 and 4 in the manner and by using a document which the Czech Statistical Office and the Ministry shall set forth by Decree, and to provide the Customs Office with the necessary cooperation.
- (7) If a person does not meet the obligations pursuant to paragraph 6, the Customs Office shall be entitled to impose a fine of up to CZK 1,000,000.- in proceedings pursuant to Article 320, paragraph 1, letter b) of this Act.

Article 320

Unless stated otherwise in this Act or a special law, proceedings before customs authorities shall be governed by

- a) for customs misdemeanours, the general regulations applying to misdemeanours^{5d},
 - b) general provision on administrative proceedings in matters relating to
 1. customs and other administrative delicts
 2. withholding of goods or objects for purposes of proceedings relating to misdemeanours or offences
 3. permission or withdrawal of permission to be a guarantor and to issue customs and guarantee documents according to an international treaty,
 4. the exclusion of persons from operating transit on the basis of TIR Carnet documentation,
 5. permission or withdrawal of permission for security of customs debt,
 6. permission or withdrawal of permission not to secure a customs debt,
 7. the issuance of certificates of origin of goods and approved exporter permits while certifying the origin of goods and rendering the said permits and certificates null and void,
 8. the issuance of binding information and annulment of their validity,
 9. permits or withdrawal of permits for using a procedure with economic impact and for operating a customs warehouse, permission for changes in these permits and extensions of their validity,
 10. the approval of a temporary warehouse and setting the conditions for the temporary storage of goods,
 11. permission for a simplified procedure including local proceedings and the withdrawal of such permission,
 - c) in other matters, the general regulations on tax and fee administration.¹¹⁾
- (2) If an obligation to pay duty or tax was established other than by the release of goods to an applicable customs procedure, the Customs Office which was the first to ascertain the decisive facts shall be locally competent to assess duties and taxes.
- (3) A customs declaration on releasing goods into free circulation or into export procedure may be submitted at any Customs Office unless stipulated otherwise by a special regulation or international treaty.
- (4) In cases of requests for the destruction of goods under the supervision of customs authorities or requests on abandoning goods to the State, the Customs Office where the request was submitted and the goods presented shall be locally competent to dispose of such requests. In cases of requests on moving goods to a free customs zone or a free customs warehouse, the Customs Office in whose

territorial district the free customs zone or free customs warehouse is located shall be locally competent to dispose of such requests.

- (5) Unless a special regulation stipulates otherwise, in cases of requests for exemption from or return of duty, the Customs Office which assessed or collected the duty shall be locally competent to dispose of such requests,
- (6) In cases of requests for permission to defer payment of duty, respite or instalments, the Customs Office which assessed or collected duty shall be locally competent to dispose of such requests.
- (7) In cases of releasing goods to a procedure with economic impact, the Customs Office which is set forth in the permission to use this procedure or is designated in the said permission as the releasing Customs Office shall be locally competent to release the goods.
- (8) Any Customs Directorate shall be competent to dispose of requests for granting permission for global guarantee of a customs debt for the transit procedure and requests for permission not to secure a customs debt in the transit procedure.
- (9) If the local competence of a customs office cannot be determined according to other provisions of this Act or according to a special regulation,¹¹⁾ the Customs Office of Prague 1 shall be deemed locally competent.
- (10) In decisions dismissing appeals against a decision the appellate body shall also set forth the deadline before which a petition for reviewing the decision in question may be filed in court.

Article 321

repealed

Article 322

Unless stipulated otherwise, appeals against decisions of customs authorities shall have no dilatory effect. An appeal filed against a decision relating to a customs offence shall have a dilatory effect which cannot be ruled out. The customs authorities may grant a dilatory effect of their decisions in a manner and under conditions set forth in a special law.

Article 322a

- (1) A person may ask the Customs Office which issued a permission to extend the validity of the relevant permission or to make changes therein regardless of the legal force of the decision issuing such a permit if he/she is

- a) the guarantor in a global guarantee or an individual guarantee using a guarantee voucher,
- b) the user of a global guarantee,
- c) an approved sender or approved receiver,^{10c)}
- d) a person who has been granted permission not to secure a customs debt.^{10d)}

(2) The request shall be submitted in writing and shall contain

- a) the exact designation of the permission the request relates to,
- b) a proposal of the requested changes in the permission or the new date of expiry of the permission,
- c) the facts substantiating the proposed changes and identification of attached documents which verify such facts,

(3) The Customs Office shall accommodate requests pursuant to paragraphs 1 and 2 if

- a) the requested change is not at variance with the purpose of securing the customs debt and does not comprise a change in guarantor relations,
- b) it does not thereby hinder due implementation of the applicable procedures.

(4) If the Customs Office accommodates a request pursuant to paragraphs 1 and 2, it shall issue a decision

- a) extending the validity period of the permission, if that period was time-constrained, or
- b) setting forth the manner in which the original permission will be changed.

Article 323

For establishing tax liability in cases of exportation of goods that are not subject to duty, a customs debt shall be considered to have been established under the conditions set forth by a special regulation.

Article 323a

Unless the amended decision relates to arrears, the apparent incorrectness of such a decision may be remedied within three years from the end of the calendar year in which the decision was issued.

Article 324

Decisions on assigning customs approved treatment shall be governed by the regulations that were in effect when the customs declaration or request was received.

Article 325

If the customs authorities exercise their powers pursuant to special regulations and unless these regulations stipulate otherwise, they shall have the same rights and obligations as in the case of customs supervision. The same shall apply to the rights and obligations of entities that are subject to such supervision.

Article 326

(1) The rights and obligations of the Central Customs Administration and the Customs Directorate for the Czech Republic shall pass to the General Directorate of Customs. The rights and obligations of customs houses shall pass to regional Customs Offices within the territorial jurisdiction of which the customs houses have their seat on the day the present law comes into effect.

(2) The rights and obligations of the Central Customs Administration ensuing from labour law relations shall pass to the General Directorate of Customs.

(3) Wherever legal regulations use the term "customs house", it shall be understood as denoting a Customs Office. Wherever legal regulations use the term "Customs Directorate", it shall be understood as denoting a Regional Customs Office. Wherever legal regulations use the term "Central Customs Administration", it shall be understood as denoting the General Directorate of Customs.

Article 327

The ranks of members of the customs administration attained under the existing regulations shall be considered as ranks of customs officers under the present Act.

Article 328

The following laws and other legal regulations are hereby cancelled in the Czech Republic:

1. Customs Act No. 44/1974 Coll., as amended by the Act No. 117/1983 Coll., Act No. 5/1991, and Act No. 217/1992 Coll.,
2. Act No. 117/1983 Coll., amending the Customs Act No. 44/1974 Coll.,
3. Act No. 5/1991 Coll., amending the Customs Act No. 44/1974 Coll., as amended by Act No. 117/1983 Coll.,

4. Act No. 217/1992 Coll., amending the Customs Act No. 44/1974 Coll., as amended by Act No. 117/1983 and Act No. 5/1991 Coll.,
5. Articles 2, 3 and 4 the Government Regulation of the Czech and Slovak Federal Republic No. 525/1991 Coll., introducing the Customs Tariff,
6. Decree of the Federal Ministry of Foreign Trade No. 38/1991 Coll., publishing a list of customs houses, customs branches and jurisdictional territories of customs houses, and defining the customs border zone,
7. Decree of the Federal Ministry of Foreign Trade No. 43/1991 Coll., implementing the Customs Act, as amended by Decree No. 397/1991 and Decree No. 287/1992 Coll.,
8. Decree of the Federal Ministry of Foreign Trade No. 397/1991 Coll., amending Decree No. 43/1991 Coll., implementing the Customs Act,
9. Decree of the Federal Ministry of Foreign Trade No. 505/1991 Coll., on the form, contents and particulars of applications for customs proceedings and on customs statistics, as amended by Decree No. 289/1992 Coll.,
10. Decree of the Federal Ministry of Foreign Trade No. 287/1991 Coll., amending Decree No. 43/1991 Coll., implementing the Customs Act, as amended by Decree No. 397/1991 Coll.,
11. Decree of the Federal Ministry of Foreign Trade No. 288/1991 Coll., on the total relief from the import duty of goods temporarily brought to the country for the purpose of their temporary admission,
12. Decree of the Federal Ministry of Foreign Trade No. 289/1991 Coll., amending Decree No. 505/1991 Coll., on the form, contents and particulars of applications for customs proceedings and on customs statistics,

Article 329

The present Act shall come into effect on January 1, 1993 with the exception of points 6 to 12, which shall come into force on March 1, 1993.