

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## Committee on Customs Valuation

### INFORMATION ON IMPLEMENTATION AND ADMINISTRATION OF THE AGREEMENT

#### Addendum

#### Legislation of Czechoslovakia

- (i) Czechoslovak Customs Act No. 44/1974 of 24 April 1974.
- (ii) Czechoslovak Law No. 117/83 Coll. of 27 October 1983 amending and supplementing the Customs Act No. 44/1974 Coll.
- (iii) Instruction on Customs Valuation No. 7/1983 group 2 of 11 November 1983 of the Czechoslovak Central Customs Administration.

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\*English only/anglais seulement/Inglés solamente.

THE CUSTOMS ACT

The Act No. 44

of April 24, 1974.

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<sup>6</sup> Published in the Collection of Laws of the Czechoslovak Socialist Republic, Issue No. 7, of May 8, 1974, under No. 44.

## **Customs houses**

### **Section 4**

- (1) Customs houses are the executive agencies of customs administration.
- (2) Customs houses shall be established and their territorial jurisdiction (districts) shall be determined by the Federal Ministry of Foreign Trade in agreement with the competent central agencies of state administration of the Czechoslovak Socialist Republic and the two national Republics. The Federal Ministry of Foreign Trade may establish customs branch offices, as component parts of individual customs houses.
- (3) Customs houses located on the territory of the Czech Socialist Republic shall be directly subordinated to the Customs Directorate for the Czech Socialist Republic and customs houses located on the territory of the Slovak Socialist Republic shall be directly subordinated to the Customs Directorate for the Slovak Socialist Republic.

- (4) A customs house is headed by a director who shall be appointed and recalled by the director of the respective Customs Directorate.

### **Section 5**

- (1) Customs houses located on the state frontiers are frontier customs houses. Customs houses located in ports, at airports and in other places where they carry out entry and exit customs inspection are also considered to be frontier customs houses. Other customs houses are considered to be inland customs houses.
- (2) A list of customs houses, customs branch offices and the territorial districts under the competence of individual customs houses shall be issued by the Federal Ministry of Foreign Trade.

## **Competence of the Central Customs Administration, Customs Directorates and customs houses**

### **Section 6**

- The Central Customs Administration shall
- (a) direct and coordinate the work of the Customs Directorates,
  - (b) provide for the realization of the tasks of the Federal Ministry of Foreign Trade in the customs field under the provisions of the present Act to the extent specified by the Ministry of Foreign Trade of the Czechoslovak Socialist Republic.

### **Section 7**

- The Customs Directorate shall
- (a) direct and control the customs houses located on the territory of the respective national Republic;
  - (b) cooperate with the authorities of the respective Republic in cases where the implementation of the present Act affects the competence of such authorities.

### **Section 8**

- (1) The customs houses shall
- (a) carry out customs inspection of exports, import and transit of goods;
- (b) rule on the release of imported, exported and transited goods;
- (c) assess and collect customs duties;
- (d) consider offences against customs regulations;

For detailed Republic:

The Federal Assembly of the Czechoslovak Socialist Republic has passed the following Act:

### **Section 1**

#### **The purpose of the Customs Act**

The purpose of the Customs Act is to secure protection of the interests of the Czechoslovak Socialist Republic in the import, export and transit of goods, to govern the customs control of the import, export and transit of goods, and to specify the rights and duties of the Customs Administration agents and agencies as well as of individuals and organizations in the course of customs inspection.

## **CHARTER ONE**

### **THE CUSTOMS ADMINISTRATION AGENCIES AND THEIR ORGANIZATION**

### **Section 2**

#### **The Federal Ministry of Foreign Trade and the Central Customs Administration**

### **Section 2**

(1) The central federal agency of state administration in charge of customs, customs policy and customs tariffs is the Federal Ministry of Foreign Trade. The Central Customs Administration is a special component part of the Federal Ministry of Foreign Trade.

(2) The Central Customs Administration is headed by a Director General. His deputy is the Assistant Director General of the Central Customs Administration.

(3) The Director General of the Central Customs Administration is a citizen of the Czech Socialist Republic, the Assistant Director General of the Central Customs Administration shall be a citizen of the Slovak Socialist Republic and vice versa.

(4) The Director General of the Central Customs Administration and his deputy shall be appointed and recalled by the Minister of Foreign Trade of the Czechoslovak Socialist Republic.

### **Section 3**

#### **The Customs Directorate**

- (1) The Customs Directorate for the Czech Socialist Republic and the Customs Directorate for the Slovak Socialist Republic (hereinafter referred to only as "Customs Directorate") shall act as agencies of the Central Customs Administration on the territory of the respective Republics.
- (2) The Customs Directorate is headed by a Director who shall be appointed and recalled by the Minister of Foreign Trade of the Czechoslovak Socialist Republic.

- (e) levy fines on organizations for breaches of customs regulations;
- (f) fulfil their other duties specified by the present Act.
- 2) Customs houses shall also carry out duties specified by special regulations.

#### **Cooperation between Customs Administration and other agencies**

##### **Section 9**

**Agencies of the Customs Administration shall**

- (a) report to the state authorities and the Czechoslovak State Bank serious cases of violation of the present Act in the import, export and transit of goods;
- (b) report to the financial administration and finance departments of national committees ascertained cases where taxes, levies or fees provided for under the regulations governing taxes, levies and fees have not been paid to the state with respect to imported or exported goods;
- (c) supply to state notarial offices information on imported goods acquired abroad by inheritance or as a gift, provided that such goods are subject to notarial fees;
- (d) report to the Prosecutor's Office or agencies of the National Security Corps ascertained facts which warrant the suspicion that a crime was committed in the importation, exportation or transit of goods.

##### **Section 10**

- (1) The state authorities shall
  - (a) provide the customs administration agencies with all-round and effective assistance in arresting goods which are imported or exported or are in transit at variance with the present Act;
  - (b) report to the customs administration agencies cases of violations of the present Act in so far as they learn of them in the exercise of their competence;
  - (c) surrender to the customs administration agencies goods for proceedings under the provisions of the present Act.
- (2) Agencies active in penal proceedings shall surrender to the respective customs houses goods which are subject to customs inspection once the penal proceedings have been concluded.

##### **Customs officers**

##### **Section 11**

- (1) The term customs officer covers every member of the staff of customs houses, the customs directorates and the Central Customs Administration, who fulfills the tasks set by the present Act under his or her employment contract.
- (2) Any Czechoslovak citizen may become a customs officer, who
  - (a) is devoted to the socialist system;
  - (b) has civic integrity;

The Act No. 142/1970, concerning foreign exchange management, Notice No. 31/1964, concerning export proceedings, Notice No. 32/1964, concerning import proceedings, Notice No. 63/1964, concerning protection against pests and plant diseases words in import, transit and export.

- (c) is competent to carry out customs inspection;
- (d) meets the specified qualification requirements.

##### **Section 12**

- (1) Every customs officer shall take an oath of office which reads: "As a customs officer I hereby solemnly pledge allegiance to my socialist homeland, the working class and all the working people led by the Communist Party of Czechoslovakia.

I pledge to be an honest and disciplined customs officer and to protect the interests of the socialist state and the legitimate rights of its citizens in carrying out customs inspection.

I shall improve my political consciousness on the basis of Marxism-Leninism, the standard of my general and professional education and training, and shall maintain my civic integrity. I shall strictly observe and protect state and service secrets."

- (2) Every customs officer shall confirm his oath of office by his signature.

##### **Section 13**

- (1) The duties and qualification requirements of customs officers shall be determined by the Federal Ministry of Foreign Trade in agreement with the Federal Ministry of Labour and Social Affairs.

(2) The official uniform of customs officers, the manner of its wearing and the ranks of customs officers shall be determined by the Federal Ministry of Foreign Trade.

##### **Section 14**

- (1) Customs officers shall be authorized to carry a weapon in places and under conditions specified by the Federal Ministry of Foreign Trade in agreement with the Federal Ministry of the Interior.

(2) A customs officer authorized to carry a weapon under paragraph 1 above may use the weapon in carrying out customs inspection only in the following cases:

- (a) in the case of necessary defence in order to avoid an attack against his person or an attack directly threatening him, or an attack against the life of another person;
- (b) in order to prevent at a customs checkpoint the escape of a dangerous offender who did not stop when repeatedly challenged and if his escape cannot be otherwise prevented;
- (c) in order to prevent the escape of a person attempting to avoid customs inspection and cross the state frontier, who did not stop when repeatedly challenged and who cannot be otherwise apprehended;
- (d) in order to bring to a stop at a customs checkpoint a vehicle which did not stop when so instructed or when challenged to stop.

(3) When using his weapon, a customs officer shall take all necessary care in order, in particular, not to endanger the life and health of other persons; he shall also have the duty to spare as much as possible the life of the person against whom his action is directed.

- (4) A customs officer may not use a weapon in cases where the purpose he follows may be achieved by less extreme means.

(5) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of the Interior, shall regulate in greater detail the conditions the circumstances and the methods of using weapons and the condi-

tions, the circumstances and the methods of using less extreme means by a customs officer.

#### Section 15

##### **Confidential Information**

- (1) Customs officers and other employees of the Customs Administration shall keep confidential all matters of which they learn in the course of fulfilling their duties.
- (2) The Federal Ministry of Foreign Trade, a Customs Directorate or a customs house may relieve a customs officer or another employee of the Customs Administration of the duty specified in paragraph 1.

#### CHAPTER TWO

##### **CUSTOMS TERRITORY, CUSTOMS BORDER ZONE AND FREE CUSTOMS ZONE**

###### **Customs territory and customs border zone**

- Section 16  
The territory of the Czechoslovak Socialist Republic is a single customs territory.

###### Section 17

- (1) The customs border zone is a strip of territory running along the state frontier to the depth of five kilometres from the frontier. Communities through which runs the line of the inner limits of the customs border zone or communities located inside the zone but linked with a customs crossing point by rail or road are not a part of the customs border zone.
- (2) Territory which is not a customs border zone is considered to be customs interior.

- (3) Acting in agreement with the Federal Ministry of the Interior, the Federal Ministry of Foreign Trade shall specify the details concerning the demarcation of the customs border zone.

###### **Free customs zone**

###### Section 18

- (1) In the interest of promoting international economic cooperation, foreign trade in particular, a free customs zone may be established on the territory of the Czechoslovak Socialist Republic.
- (2) The free customs zone shall be used for storing goods.
- (3) Goods stored in the free customs zone may be refined and processed.
- (4) Goods shall be admitted into the free customs zone free of duty or customs bond.

###### Section 19

- (1) Free customs zones shall be established by the Federal Ministry of Foreign Trade.
- (2) The Federal Ministry of Foreign Trade shall determine the conditions of storing goods in a free customs zone and the conditions under which goods stored in a free customs zone may be refined or processed in such zone.

(3) The Federal Ministry of Foreign Trade shall determine the method of customs inspection in the case of goods which are to be stored in a free customs zone or released therefrom.

#### CHAPTER THREE

##### **CUSTOMS INSPECTION**

###### **Division One**

###### **General provisions**

###### **Section 20**

- (1) The purpose of customs inspection is to safeguard the protection of economic and other society-wide interests in the importation, exportation and transit of goods.
- (2) Customs inspection of the imports, exports and transit of goods secures the observance of the rights and duties set by the present Act and by the regulations issued under its provisions, as well as the observance of rights and duties set by special regulations concerning bans and restrictions of imports, exports and transit, and permissions to engage in foreign trade activities.

###### **Section 21**

- All imported, exported and transited goods are subject to customs inspection.

###### **Goods**

###### **Section 22**

- (1) As understood by the present Act, the term goods covers all movable material things with the exception of things and other values whose import and export are governed by the regulations concerning foreign exchange control.<sup>2</sup>
- (2) Of the things whose import and export are governed by foreign exchange control regulations, the import, export and transit of gold for industrial purposes shall be subject to customs inspection.

- (3) The Federal Ministry of Finance, acting in agreement with the Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance, shall specify by Notice what is to be understood under the term gold for industrial purposes.

###### **Section 23**

- Commercial goods are all things which are the object of foreign trade activities. All other things are non-commercial goods.

###### **Section 24**

###### **Goods shall be subject to customs inspection**

- (a) In the case of imports from the time the goods enter the territory of the Czechoslovak Socialist Republic until the time a customs house releases them for free circulation in Czechoslovakia or until goods with a dutiable status are re-exported abroad;

<sup>2</sup> The Act No. 142/1970, concerning foreign exchange control.

- (b) In the case of exports from the time the goods are presented to a customs house until the time they have crossed the frontier or until goods released under dutiable status abroad are re-imported to Czechoslovakia or until the customs house releases them for free circulation abroad;
- (c) in the case of transit from the time the goods enter the territory of the Czechoslovak Socialist Republic until their exit abroad.

## Division Two

### Execution of customs inspection

#### Inspection

##### Section 25

- (1) Customs inspection is effected through actual inspection of the goods and control of documents, papers, transport and dispatch documents.
- (2) The Federal Ministry of Foreign Trade shall specify the details regarding the execution of customs inspection in a Notice.

##### Section 26

- (1) The purpose of customs inspection is to determine the type, amount and other facts regarding the inspected goods in order to ascertain whether the export, import or transit of the goods are realized in keeping with the present Act.
- (2) The constitutional and other legal regulations concerning protection of personal freedom and secrecy of the post shall be respected in the course of customs inspection.

##### Section 27

- (1) When carrying out customs inspection, customs officers may effect personal search in cases warranting the suspicion that an individual crossing the frontier is concealing goods on his person.
- (2) A personal search may be carried out only after the suspected person has failed to comply with the order of the customs officer to surrender the concealed goods.

##### Section 28

Customs inspection of letters shall be carried out only if there is warranted suspicion that a letter contains not only a written communication but also goods.

##### Section 29

#### Exemption from customs inspection

- (1) Exemption from customs inspection shall apply to
- (a) goods imported and exported by representatives of the Czechoslovak Socialist Republic as well as representatives of the Czech Socialist Republic and the Slovak Socialist Republic on their trips abroad;
- (b) goods imported, exported or carried in transit on trips from or to foreign countries by representatives of other states and other persons enjoying privileges and immunities under international treaties.
- (2) Also exempt from customs inspection shall be
- (a) the diplomatic mail of the Federal Ministry of Foreign Trade and Czechoslovak diplomatic missions in Czechoslovakia and diplomatic mail exempt from customs inspection under international treaties;
- (b) goods exempt in individual cases by the Federal Ministry of Foreign Trade.

- (3) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Foreign Affairs, shall determine by Notice the detailed scope of persons and cases where goods are exempt from customs inspection.

## Section 30

### Direct supervision and customs seal

- (1) Goods subject to customs inspection may be placed under the direct supervision of customs officers or under customs seal.

- (2) The term customs seal is to be understood as writing goods in conveyances, containers, packaging and bags with a seal, mark or other means so that the goods cannot be moved from or placed into them without leaving visible traces on the seal or a damaged customs seal.

## Division Three

### Authority of customs officers during customs inspection

## Section 31

- When carrying out customs inspection, customs officers may enter the premises of socialist and other organizations, containing goods subject to customs inspection and inspect papers of socialist and other organizations concerning such goods.

## Section 32

- In the customs border zone customs officers may stop individuals and conveyances, and carry out customs inspection of luggage, conveyances, their cargo and transport and shipping documents.

## CHAPTER FOUR

### TRANSPORTATION OF GOODS ACROSS THE STATE FRONTIER

## Section 33

- Declaration of goods at the state frontier
- Individuals and organizations transporting goods across the state frontier shall declare the goods at the frontier customs house and present therewith documents relating to the import, export or transit of the goods.

## Section 34

### Customs routes and customs crossing points

- (1) Goods may be transported across the state frontier only along customs routes and through customs crossing points.
- (2) Customs routes are specified sections of railway lines, roads and waterways, leading from a customs crossing point to the frontier customs house and, in the case of air transport, the airways between the state frontier and the customs airport.

(3) The customs routes shall be determined by the Federal Ministry of Foreign Trade in agreement with the Federal Ministry of Transport and the Federal Ministry of the Interior.

(4) Transport of goods along a customs route must be effected without delay, without any change in the cargo and without any departure from the customs route.

(5) A customs crossing point is the point specified for the passage of individuals and transport of goods across the state frontier.

(6) In individual cases the Federal Ministry of Foreign Trade may permit the transport of goods across the state frontier outside a customs crossing point and may specify in what case such permit is to be issued by the frontier customs house.

(7) The permit to transport goods to a customs crossing point or from such a point via other than customs routes may be issued by the nearest frontier customs house.

#### Section 35

##### Conveyances

(1) Only such conveyances may be used for transporting goods from abroad, which do not contain secret or uneasily detectable spaces.

(2) Enclosable compartments of conveyances used for the carriage of goods under a customs seal shall be fitted with appliances facilitating the attachment of customs seals.

(3) Conveyances shall be designed so as to prevent the removal of goods therefrom or the placement of other goods therein after a customs seal has been affixed thereto without leaving visible traces.

#### Section 36

Duties of transport organizations and the post

(1) Transport organizations and the postal authorities shall enable customs houses to carry out customs inspection in conveyances, operational warehouses and in other places containing goods which are imported or exported or which are in transit.

(2) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Transport and the Federal Ministry of Communications, shall determine by Notice the details governing the procedure to be followed by organizations in the customs inspection of goods shipped by transport organizations and the post, as well as the details regarding the facilities used for transporting or storing goods subject to customs inspection, as well as the rooms and premises needed for customs inspection.

#### Section 37

(1) Customs houses shall agree with transport organizations and the post on the conditions of carrying out customs inspection so as not to disturb the operation of such organizations and the post beyond the essential degree.

(2) Transport organizations shall determine in agreement with the respective Customs Directorate the necessary waiting period of conveyances used for regular passenger or goods transport at the customs crossing point for carrying out customs inspection.

(3) Customs houses shall not be liable for any damage due to the delay of a conveyance resulting from customs inspection.

#### Section 38

Customs houses shall control whether and how transport organizations and the post are fulfilling their duties under the present Act and regulations issued hereunder in transporting goods from abroad or abroad.

#### CHAPTER FIVE

##### CUSTOMS DUTY

###### Division One

###### Customs duty and its types

#### Section 39

##### Dutiable goods

(1) All imported goods shall be subject to import duty with the exception of goods expressly listed in the tariff as duty free.

(2) Exported goods shall be subject to export duty only if the tariff expressly specifies such duty.

(3) Goods expressly specified as duty free in international treaties shall not be subject to duty.

#### Tariffs

#### Section 40

(1) Duty shall be levied on commercial goods according to the rates and criteria specified in the tariff of commercial goods.

(2) Duty on non-commercial goods shall be levied according to the rates and criteria specified in the tariff of non-commercial goods. The rates of the tariff of non-commercial goods also include compensatory charge for the turnover tax.

#### Section 41

(1) The rules of the tariff of commercial goods shall be determined and the tariff of commercial goods shall be issued by the Government of the Czechoslovak Socialist Republic.

(2) The rules of the tariff of non-commercial goods shall be determined and the tariff of non-commercial goods shall be issued by the Federal Ministry of Foreign Trade by Notice in agreement with the Federal Ministry of Finance.

(3) Explanatory notes to the tariff of commercial goods and the tariff of non-commercial goods shall be issued by the Federal Ministry of Foreign Trade by Notice in agreement with the Federal Ministry of Finance.

#### Section 42

Classification of goods

(1) Should any doubt arise as to the classification of goods regarding their nomenclature, rates and customs tariff, the decision on such classification shall be issued at the request of the respective party to the customs proceedings by the Federal Ministry of Foreign Trade.

Section 47

**Assessment of customs duties**

(2) The Federal Ministry of Foreign Trade shall specify by Notice the procedure to be followed in filing a motion classifying goods according to their nomenclature, rates and customs tariff, as well as the effects resulting from decisions on these matters.

Section 43

**Conventional duty**

(1) Conventional duty shall be levied on goods in cases specified by international treaties concerning the reciprocal extension of customs privileges.

(2) The Federal Ministry of Foreign Trade may order that conventional duty should also be levied on goods imported from a state with which no treaty has been concluded on the reciprocal extension of customs privileges.

Section 44

**Exemption from customs duty**

(1) Goods shall be exempt from customs duty, which are exempt from customs inspection when imported and exported, just as goods in the case of which public interest so requires.

(2) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance and the Federal Ministry of Communications, shall specify by Notice the cases in which goods are exempted from customs duty, as well as the conditions under which goods are exempt from customs duty.

(3) If a state does not exempt goods imported from the Czechoslovak Socialist Republic from customs duty to the extent corresponding to the extent specified by a Notice of the Federal Ministry of Foreign Trade, the Federal Ministry of Foreign Trade may limit or deny exemption from customs duty to goods imported from such a state.

Section 45

**Reinulatory customs duties**

The Government of the Czechoslovak Socialist Republic may for reasons of economic retaliation specify the levy of surcharges to customs duties on goods imported from a state which discriminates against the Czechoslovak Socialist Republic in economic relations, or introduce special customs duty on goods which are duty-free under the customs tariff.

Division Two

**Title of the state in customs duty**

Section 46

**Establishment of the title to customs duty**

(1) The title of the state to customs duty shall be established by the decision of a customs house to release goods for free circulation.  
(2) If goods have evaded customs inspection or if the goods have been handled in contravention of the conditions under which they were relensed, the title of the state to customs duty shall be established at the moment the goods crossed the state frontier.

Section 48

**Payability of customs duty**

(1) The duty shall be assessed according to the state of the goods and to the regulations in force at the time the application for entry release was filed.

(2) If temporarily imported goods are released for free circulation, the customs duty shall be assessed according to the state of the goods and the regulations in force at the time the application for temporary importation of the goods was filed.  
(3) If the goods evaded customs inspection, the duty shall be assessed according to the state of the goods and the regulations in force at the time the goods were transported across the state frontier. If it is impossible to determine when the goods had been transported across the state frontier, the duty shall be assessed according to the state of the goods, and the regulations in force at the time the evasion of customs inspection was ascertained.

(4) If the kind of goods is known but their character cannot be determined according to the customs tariff, the duty shall be assessed according to the maximum rate of the respective chapter of the tariff.

(5) If the duty is assessed according to the price of the goods and the party to the customs proceedings fails to document the price or, states a sum which does not correspond to the actual price of the goods, the customs house may determine the price according to its own experience or on the basis of expert opinion produced at the cost of the party to the customs proceedings.

(6) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance and the Federal Ministry of Communications, shall determine by Notice the details of assessing customs duties and stipulate the cases where the assessed duty may be collected by the post.

Section 49

The customs duty is due immediately upon the release of the goods for free circulation.

Section 49

**Postponement of payment**

(1) The customs house may grant a postponement of the payment of customs duty. Interest shall be charged on the postponement of the payment of customs duty and on arrears in such payment.

(2) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance and the Federal Ministry of Communications, postponement of payment and on arrears in payment of customs duty, as well as the conditions under which and the terms for which payment of customs duty may be granted.

Section 50

**The obligation to pay customs duty**

(1) Customs duty shall be paid by every party to customs proceedings, whose dutiable goods are relevant for free circulation.  
(2) A party to customs proceedings shall repay the amount of relief

granted to him from the full duty if after his goods had been released for conditional circulation he has failed to meet the obligations set by the customs house or if the customs house has cancelled on his motion the terms under which the goods were released for conditional circulation.

(3) Customs duty shall be paid jointly and severally with the party to the customs proceedings by whoever

(a) acting contrary to the present Act imports or exports goods or part;

(b) handles the respective goods at variance with the present Act;

(c) acquires goods for which no import or export duty was paid.

(4) Whoever obtains from another person goods for which no import or export duty was paid shall pay the duty only if he knew or must have known that the goods had evaded customs inspection or that they are being mislabeled.

#### Section 51

##### Customs lien

(1) A customs lien shall be attached to imported, exported or transiting goods, if the goods are held by the customs house, the respective transport organization, the post or the person obligated to pay the customs duty; this provision shall not apply to goods which are national property.

(2) The customs lien attached to some goods shall be lifted when the time of the state to customs duty relating to such goods expires.

#### Section 52

##### Customs bond

(1) In order to ensure that imported, exported or transiting goods do not evade customs inspection or that goods under customs control are not handled at variance with the present Act, the customs house may demand the deposit of a customs bond.

(2) The customs house may demand a customs bond amounting to as much as the price of the goods.

(3) If the party to customs proceedings fails to meet his obligations under the customs proceedings, the deposited customs bond shall be used for paying the customs duty, the transportation and storage fees, postal charges, a fine imposed under the present Act, and the costs of the proceedings. The balance of the deposited customs bond, if any, shall be returned to the party to customs proceedings.

#### Section 53

##### Extinction of the title to customs duty

The title of the state to customs duty shall become extinct by

(a) payment of the duty;

(b) remission of the duty;

(c) payment of the duty from the proceeds of the sale of the respective goods;

(d) payment of the duty from the deposited customs bond;

(e) abandonment of the goods to the state;

(f) forfeiture of the goods to the state;

(g) cancellation of the goods;

(h) failure to assert the title.

#### Section 54

##### Remission and reduction of customs duty

(1) If the payment of customs duty would result in hardship, full or partial remission of the duty may be granted.

(2) Remission or reduction of customs duty whose amount does not exceed 20,000 crowns shall be within the competence of the customs houses. In other cases such competence shall belong to the Customs Directorate.

(3) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance, shall stipulate by Notice the details regarding remission and reduction of customs duty.

#### Section 55

##### Non-assertion of title

(1) Customs duty (supplementary duty) may not be levied or enforced after the expiration of three years from the end of the calendar year in which the title to the duty had arisen.

(2) If goods had evaded customs inspection or if goods had been handled in contravention of the conditions under which they were released, customs duty (supplementary duty) may not be levied on such goods or its payment enforced after the expiration of five years from the end of the calendar year in which the title to the duty had arisen.

(3) A new term of three years shall run from the end of the calendar year in which the party to the customs proceedings was notified of an act aimed at the levy of customs duty (supplementary duty) or at enforcing the payment of such duty, or in which such party was granted deferment of payment of the duty (supplementary duty). However, customs duty (supplementary duty) may not be levied or its payment enforced if ten years have elapsed since the end of the calendar year in which the title to the duty had arisen.

(4) A written reminder to pay customs duty, served on the party to the respective customs proceedings, also constitutes an act to enforce the payment of customs duty (supplementary duty).

##### Refund of customs duty

#### Section 56

(1) The customs house shall refund the customs duty if the duty was paid by a person not obligated to do so.

(2) The customs house shall also refund paid duty if the export of goods released for free circulation abroad did not materialize.

(3) The customs house shall refund over-entry if more was paid in duty than was due.

(4) The customs house may refund paid import duty if goods released for free circulation in Czechoslovakia are re-exported in unaltered condition within one year of the end of the calendar year in which they were imported.

(5) The customs house may refund paid export duty if goods released for free circulation abroad are re-imported in unaltered condition within one year of the end of the calendar year in which they were exported.

#### Section 57

(1) If the duty (over-duty) does not exceed the amount of ten crowns, the customs house shall not refund it.

(2) The title of the party to customs proceedings to refund of duty (over-entry) held by him shall expire if it is not asserted by the end of the third calendar year following the year in which his title was established.

**CHAPTER SIX**  
**CUSTOMS PROCEEDINGS**  
**Division One**  
**General provisions**

**Section 58**  
**The purpose of customs proceedings**

The purpose of customs proceedings, carried out within the framework of customs inspection, is to determine whether the imported, exported or transiting goods are to be released and if so, under what conditions.

**Section 59**  
**Release of goods**

Goods shall be cleared and released by the customs authorities, if their import, export or transit are being realized in accordance with the regulations stipulating import, export or transit bans or restrictions, and in accordance with the respective authorization to engage in foreign trade activities.

**Section 60**  
**Jurisdiction**

(1) Customs proceedings shall be carried out by the customs house to which the goods have been submitted.

(2) In cases where customs proceedings carried out by frontier customs houses would hamper traffic across the state frontier, the Federal Ministry of Foreign Trade, acting in agreement with the central authorities involved shall stipulate that certain goods are to be submitted for customs proceedings at an inland customs house.

**The place of customs proceedings**

**Section 61**

(1) Customs proceedings shall be carried out at a customs house or in a customs area. Customs areas include railway stations, ports, airports and other premises reserved for customs proceedings.

(2) The customs area shall be determined by the respective customs house in agreement with the organization involved.  
(3) At the request of the party to the customs proceedings, these proceedings may also be carried out outside a customs area.  
(4) Acting in agreement with the Federal Ministry of Transport and the Federal Ministry of Communications, the Federal Ministry of Foreign Trade shall stipulate by Notice the conditions under which customs proceedings may be carried out outside a customs area.

**Section 62**

(1) Customs proceedings may also be carried out while a train is in motion or a boat is navigating.

(2) The sectors in which customs proceedings may be carried out in a moving train or boat shall be specified by the Federal Ministry of Foreign Trade in agreement with the Federal Ministry of Transport and the Federal Ministry of the Interior.

**Section 03**

**Initiation of customs proceedings**

Customs proceedings are initiated on the motion of the party to the proceedings.

**Section 04**

**Party to the customs proceedings**

(1) The party to customs proceedings is the person who imports or exports goods or moves them by transit.  
(2) The person for whom imported, exported or transiting goods are to be released is also a party to customs proceedings.

**Section 05**

**Representative of the party to customs proceedings**

(1) A party to customs proceedings may appoint a representative to act for him in the proceedings.  
(2) Such representative shall prove by a power of attorney that he is authorized by the party to the customs proceedings to act for him.  
(3) If a transport organization or the post carry goods with respect of which customs proceedings are to be carried out, such organization or the post are authorized under the present Code to carry out the acts necessary for customs proceedings, unless such acts are made by the party to the proceedings.

**Section 06**

**Customs application**

(1) The motion to initiate customs proceedings shall be made as a rule in writing. Such customs application shall specify whether the respective goods are to be released for free circulation or under dutiable status.  
(2) The customs application shall be supplemented with the specified documents.  
(3) The party to customs proceedings may ascertain the facts needed for filing the customs application by inspecting the goods under customs supervision.  
(4) The party to customs proceedings may change his application up to the time customs inspection begins. In the course of customs inspection until the end of the customs proceedings the application may be changed only with respect to information whether the goods are to be released for free circulation or under dutiable status or for re-import or re-export.  
(5) The Federal Ministry of Foreign Trade shall stipulate by Notice, what data must be listed in the customs application, which documents must accompany it and in what cases the customs house may admit an oral customs application.

**Procedure**

**Section 07**

(1) The party to customs proceedings shall submit the goods for customs proceedings, supply the necessary explanations and prepare the grounds for customs inspection.

(2) When filing a customs application, the party to the customs proceedings shall supply the customs house with all exact and complete date regarding the imported, exported or transiting goods, which are necessary for determining whether the goods may be released for the proposed circulation.

(3) The customs house shall inspect the goods so as to be able to determine whether the goods correspond to the data listed in the customs application.

(4) The Federal Ministry of Foreign Trade shall stipulate by Notice when a customs house may waive the presentation of the goods for customs proceedings.

(1) The customs proceedings shall be carried out in the presence of the party to the proceedings.

(2) Customs proceedings may be carried out in the absence of the party to the proceedings in cases where such party refuses to attend the proceedings or if his whereabouts are unknown or if there is danger of default.

#### Section 69

##### Decisions in customs proceedings

(1) The decision issued in customs proceedings shall include in particular:

(a) the ruling whether the goods are released or not;

(b) the conditions under which the goods are released under dutiable status or for conditional free circulation;

(c) instructions on further procedure to be followed in cases where the customs house does not release the goods.

(2) In the case of dutiable goods the decision shall specify the amount of duty and, where applicable, the ruling that the goods are released duty free.

#### Section 70

##### Handling of goods

Unless the customs house decides otherwise, the party to the customs proceedings may handle imported, exported or transiting goods only after the ruling releasing such goods has been issued.

#### Section 71

##### Rights and obligations arising in customs proceedings

(1) The representative of the party to customs proceedings shall be responsible for the implementation of the obligations arising in customs proceedings until he has notified the latter of the decision and delivered the goods to him.

(2) The customs house permit on the motion of the party to the customs proceedings that a third person assume fully or in part the rights and obligations arising from the release of imported, exported or transiting goods.

#### Section 72

##### Cancellation of decisions

If goods were released for free circulation or under dutiable status abroad, the customs house shall cancel on the motion of the party to the proceedings.

(1) If the party to customs proceedings fails to file a customs application within two days after presentation of the respective goods to the customs house, the customs house may store the goods under Section 80 of the present Act at his cost and risk, or take other measures to prevent unauthorized handling of the goods.

(2) If the customs application is incomplete or is the party to the customs proceedings does not furnish the necessary documents or provide the required explanation, the customs house shall ask him to supplement his application or furnish the necessary documents or provide the required explanation within a term it specifies.

(3) If the party to the customs proceedings fails to do so, the customs house shall reject the customs application and dispose of the goods in the manner specified in paragraph 1.

#### Section 73

(1) If a proper customs application is not filed after the expiration of the terms stipulated in Section 73, pars. 1 and 2, within three additional days in the case of perishable goods or within thirty additional days in the case of other goods, the customs house may sell the goods. In such case it shall proceed in keeping with the provisions of Sections 107 to 109.

(2) If the goods are of greater value and are not perishable, the customs house shall notify the party to the customs proceedings in time of the intended sale of his goods.

(3) The customs house may grant the party to the customs proceedings an appropriate additional term for filing the customs application, supplementing it, furnishing the necessary documents or providing the required explanation.

#### Division Two

##### The methods of releasing goods

###### Free circulation

#### Section 75

(1) The customs house shall release for free circulation in Czechoslovakia imported goods which are to remain permanently on the territory of the Czechoslovak Socialist Republic.

(2) The customs house shall release for free circulation abroad any goods which are to remain permanently on the territory of another state.

(3) Goods released for free circulation in Czechoslovakia or for free circulation abroad may be freely disposed of from the viewpoint of the present Act.

#### Section 76

(1) If dutiable goods are released duty free or against the payment of reduced duty, the customs house may stipulate to the party to the customs

proceedings, that such goods may be used only for a particular purpose or that they must not be alienated at the most within five years of the day they had thus been released.

(2) Imported Goods released under paragraph 1 shall be in conditional free circulation in Czechoslovakia and exported goods so released shall be in conditional free circulation abroad.

(3) In the case of goods released for conditional free circulation, customs houses shall control whether the party to the customs proceedings is observing the conditions stipulated under paragraph 1.

#### Dutiable status

##### Section 77

(1) Goods shall be under dutiable status, if they are released as temporarily imported or exported, consigned, stored and carried or shipped in transit.

(2) In the case of goods released under dutiable status, the customs house shall control whether the party to the customs proceedings is meeting his obligations stipulated in the customs proceedings.

(3) The Federal Ministry of Foreign Trade shall regulate by Notice the details of releasing goods under dutiable status.

##### Section 78

(1) The customs house shall release temporarily imported goods under the condition that such goods shall be re-exported abroad within a specified term.

(2) The customs house shall release temporarily exported goods under the conditions that such goods shall be re-imported within a specified term.

(3) Goods released as temporarily imported or exported may permanently remain in Czechoslovakia or abroad only after a decision has been issued releasing them for free circulation.

(4) If the value of goods temporarily imported or exported is changed by their processing, treatment or temporary use, the provisions of the present Act, regarding free circulation, shall be applied to the increased or decreased value of such goods when they are re-exported or re-imported.

(5) The Federal Ministry of Foreign Trade shall stipulate by Notice the purposes for which goods may be temporarily imported or exported.

##### Section 79

(1) The customs house shall consign goods in cases where further customs proceedings are to be carried out by another customs house.

(2) The consigned goods shall be under the customs control of the consigning customs house until they are presented to the recipient customs house.

(3) A frontier customs house may initiate the consignment of goods in cases where the customs proceedings disturb the flow of traffic across the state frontier and there is another customs house between the frontier customs house and the place of destination of the goods.

(4) The party to the customs proceedings shall present the consigned goods to the recipient customs house within the specified term in unaltered condition, with the customs seal undisturbed and with the attached documents.

(5) If a transport organization transfers the consigned goods to another transport organization for further transport, the obligation specified in the

preceding paragraph shall pass onto every subsequent organization transporting the consigned goods.

#### Section 80

(1) Goods which cannot be consigned or released for free circulation or for temporary importation or exportation, or which cannot be cleared for export, may be stored.

(2) Goods shall be stored on the initiative of the customs house in cases where importation, exportation or transit effected in contravention of the present Act cannot be otherwise prevented.

(3) The customs house may also initiate the storing on cases where:

- (a) a customs application is not filed;
- (b) a filed customs application is incomplete, wrong, or not accompanied by the respective documents;
- (c) the party to customs proceedings refuses to pay duty or deposit a customs bond.

#### Section 81

(1) Goods shall be stored in customs warehouses, operational warehouses of transport organizations and the post, or in customs-house warehouses.

(2) In order to facilitate foreign trade transactions, socialist organizations may establish customs warehouses.

(3) Customs warehouses may be established only after prior approval by the Federal Ministry of Foreign Trade.

(4) Customs warehouses are intended for storing goods which is to have the object of foreign trade. Other goods shall be stored in operational warehouses of transport organizations and the post and in customs-house warehouses.

(5) Goods stored in customs warehouses, in operational warehouses, in transport organizations and the post and in customs-house warehouses may not be handled in any manner which would alter its kind and character.

(6) Storage fees shall be paid for the storage of goods in customs-house warehouses in accordance with the rates stipulated in the storage tariff.

(7) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Price Control Office and the Federal Ministry of Finance, shall stipulate by Notice the tariff of storage fees for goods stored in customs-house warehouses.

#### Section 82

(1) Customs houses shall clear for transit goods transported from abroad to another country through the territory of the Czechoslovak Socialist Republic.

(2) The frontier customs house through which the goods are transported into the Czechoslovak Socialist Republic shall consign the goods in transit to the frontier customs house through which it is to be shipped abroad.

(3) The customs house shall carry out customs inspection of the transiting goods if there is suspicion that the transit of such goods is being made in contravention of the present Act.

#### Section 83

(1) The customs house shall clear for transit goods transported from the territory of the Czechoslovak Socialist Republic through the territory of another state back to the territory of the Czechoslovak Socialist Republic.

(2) Such transit may be carried out only in sectors and under conditions stipulated by the Federal Ministry of Foreign Trade in agreement with the Ministry of Transport.

(3) The goods in such transit shall be under the control of the customs house of exit until they are presented for customs procedures at the customs house of entry.

(4) The party to the customs proceedings shall present the transit documents to the customs house of entry within the specified term in unaltered condition, with the customs seal intact and with the accompanying documents.

## CHAPTER SEVEN

### CUSTOMS OFFENCE PROCEEDINGS

#### Section 84

##### Customs offence

A customs offence is a culpable act specified in Sections 85 to 87 of the present Act, unless it is qualified as a crime or misdemeanour.

#### Section 85

##### Violation of regulations governing circulation of goods

###### In contacts with other countries

(1) A customs offence violating the regulations governing circulation of goods in contacts with other countries shall be committed by whoever fails to declare goods to a customs house when crossing the state frontier;

(b) imports or exports goods under a permit issued by the competent agency on the basis of false, altered or forged documents or false information;

(c) causes goods to be released for him on the basis of wrong or false information;

(d) alienates goods temporarily imported or exported without authorization;

(e) buys or otherwise acquires without authorization temporarily imported or exported goods.

(2) The fine imposed for violation of regulations governing circulation of goods in contacts with other countries may amount to as much as the price of the goods but not more than 5000 crowns.

#### Section 86

Evasion of duty

(1) The customs offence of evasion of duty shall be committed by whoever

(a) imports or exports goods without the payment of duty;

(b) alienates temporarily imported or exported goods or goods in conditional free circulation without the payment of duty;

(c) states false data for the assessment of duty in import or export customs proceedings.

(2) The fine imposed for evasion of duty may be levied up to double the amount of the evaded duty but may not exceed the amount of 5000 crowns.

#### Section 87

##### Frustration of customs inspection

(1) The customs offence of frustration of customs inspection shall be committed by whoever

(a) forges customs or other documents concerning imported, exported or transiting goods;

(b) states wrong data concerning imported, exported or transiting goods during customs inspection;

(c) fails to meet the conditions set with respect to goods released for temporary import or export or for conditional free circulation;

(d) transports or receives goods which evaded customs inspection;

(e) releases goods from a customs or operational warehouse without the approval of the customs authorities;

(f) disturbs the customs seal on shipments, conveyances or premises containing goods which are subject to customs inspection;

(g) obstructs customs authorities in the exercise of their activity.

(2) The fine imposed for frustration of customs inspection shall not exceed the amount of 1000 crowns.

#### Section 88

##### Penalties

(1) A customs house may impose one of the following penalties for a customs offence:

(a) reprimand;

(b) a fine in the amounts specified in Sections 85, 86 or 87;

(c) forfeiture of the goods.

(2) If by its action a person commits several customs offences, the customs house shall impose only one penalty under the provision applying to the offence which is subject to the steepest penalty.

(3) The customs house may order the forfeiture of the goods in addition to a reprimand or a fine.

#### Section 89

##### Forfeiture of goods

(1) The customs house may order forfeiture of the goods which were the object of the customs offence or which were acquired through such offence or which was used for committing such offence.

(2) Forfeiture of goods may be ordered only if the goods belong to the offender.

(3) Forfeiture of goods may not be ordered if the value of the goods is disproportionate to the seriousness of the customs offence.

(4) The forfeited goods pass into the ownership of the state.

#### Section 90

##### Sale of goods

(1) The customs house may seize goods which were the object of a customs offence or which were acquired through such offence or which were used for committing such offence, if the offender is unknown or if he cannot be made liable.

(2) Goods not belonging to the offender may be seized only if they were the object of the customs offence or were acquired through such offence or

were used for committing such offence and if they threaten the safety of persons or property, or if public interest so requires.

(3) Goods may not be seized if their value is not proportionate to the seriousness of the customs offence.

(4) The seized goods pass into the ownership of the state.

#### Section 91

##### **Payability of fines**

A fine imposed for a customs offence shall be payable within thirty days of the day the decision whereby it was imposed became final.

#### Section 92

##### **Jurisdiction**

(1) A customs offence shall be considered by the customs house within whose jurisdiction it was committed or ascertained.

(2) The customs house competent to consider a customs offence under paragraph 1 may refer the case to the customs house within whose jurisdiction the offender resides or works.

##### **Summary procedure**

#### Section 93

(1) Customs officers may levy and collect fines for customs offences up to the amount of 500 crowns without any further procedure if the offence has been reliably ascertained and if a simple warning is not sufficient [summary procedure].

(2) If the offender refuses to pay the fine, the offence shall be considered by the competent customs house.

(3) No appeal may be filed against a fine imposed under summary procedure.

#### Section 94

(1) Under summary procedure forfeiture may also be ordered of goods which were the object of the customs offence or which were acquired through such offence or which were used for committing such offence.

(2) If the offender refuses to accept the order regarding the forfeiture of goods, the offence shall be considered by the competent customs house.

#### CHAPTER EIGHT

### **PROCEDURE GOVERNING IMPOSITION OF FINES ON ORGANIZATIONS**

#### Section 95

If an organization violates the regulations governing circulation of goods in contact with other countries, evades the payment of customs duty or frustrates customs inspection (hereinafter referred to as "violation of customs regulations"), it may be ordered by the customs house to pay a fine in the amounts stipulated in Sections 96, 97 or 98.

#### Section 96

The customs house may fine an organization up to the price of the goods involved, if the organization has violated the regulations governing circulation of goods in contact with other countries by

- (a) Importing or exporting goods without license;
- (b) having failed to declare the goods when they cross the state frontier;
- (c) having imported or exported goods under a license issued by the competent agency on the basis of false, altered or forged documents, or false data;
- (d) having caused the goods to be cleared on the basis of incorrect or false data;
- (e) having alienated temporarily imported or exported goods without authorization;
- (f) having bought or otherwise acquired temporarily imported or exported goods.

#### Section 97

- The customs house may fine an organization up to double the amount of duty, if the latter has evaded customs duty by having
  - (a) imported or exported goods without the payment of duty;
  - (b) alienated goods released for temporary importation or exportation or for conditional free circulation without the payment of duty;
  - (c) listed incorrect data for the assessment of duty in import or export customs proceedings.

#### Section 98

- The customs house may fine an organization up to the amount of 25,000 crowns, if the latter frustrates customs inspection by
  - (a) listing false data regarding the imported, exported or transiting goods during customs inspection;
  - (b) fails to meet the conditions set with respect to goods released for temporary importation or exportation or for conditional free circulation;
  - (c) transports goods which evaded customs inspection;
  - (d) releases goods from a customs or operational warehouse without the permission of the customs authorities.

#### Section 99

- The customs house may initiate proceedings on the imposition of a fine under Section 95 only within one year of the day on which the facts warranting the fine took place.

#### Section 100

- A fine imposed on an organization for the violation of customs regulations shall be payable within thirty days of the day on which the decision imposing the fine became final.

#### Section 101

- (1) Violations of customs regulations shall be considered by the customs house within whose jurisdiction the offending organization has its seat.
- (2) If such organization does not have its seat in the Czechoslovak Socialist Republic, the respective violation of customs regulations may be considered by the customs house within whose jurisdiction the violation took place or the customs house within whose jurisdiction the violation was ascertained.

## CHAPTER NINE

### PROCEDURE OF SECURING AND SELLING GOODS

#### Division One

##### Securing goods

###### Section 102

- (1) The customs house may secure goods to which a customs house has been attached for the purpose of recovering customs duty.
- (2) In order to consider illicit import, export or transit of goods, the customs house may
  - (a) secure from an individual goods which were the object of a customs offence or which were acquired through such offence or which were used for committing such offence;
  - (b) secure from an organization goods which were the object of a violation of customs regulations or which were acquired through such violation or which were used for such violation.
- (3) The customs house may secure goods under the provisions of paragraphs 1 and 2 irrespective of the rights of third persons.
- (4) If there is suspicion that a crime or a misdemeanour were committed in the importation, exportation or transit of goods, the customs house shall surrender the secured goods to the agencies active in penal proceedings at the latter's request.

###### Section 103

- (1) If goods cannot be secured under Section 102, pars. 1 and 2, because they are not available or because they have been used up, the customs house may, in order to recover customs duty or a fine imposed on a person who committed a customs offence or an organization which violated customs regulations, also secure other goods imported, exported or shipped in transit by such persons or organizations.
- (2) The customs house may secure goods under paragraph 1 only if
  - (a) the goods belong to the person or organization which failed to pay the duty or the fine;
  - (b) the value of the goods is proportionate to the amount of the duty or the imposed fine.

###### Section 104

- (1) The customs house shall issue a decision securing the goods and shall communicate it to the person or organization from whom the goods were secured.
- (2) The decision securing the goods shall list the grounds on which the goods are being secured and include instructions regarding the rights and obligations of the person or organization affected by the decision. The decision shall also contain the warning that the goods will be sold unless the due customs duty and/or fine are paid.
- (3) Goods which can be secured under Sections 102 and 103 may be left by the customs house in the possession of the person or organization involved with the instruction that the goods must not be used, sold or otherwise disposed of.

###### Section 105

- (1) The person or organization notified of the decision of the customs house, securing its goods, shall surrender the goods to the customs house.

(2) If the secured goods are not surrendered on the order of the customs house, they may be taken away from whoever has them in his possession.

(3) A document shall be issued regarding the surrender or removal of secured goods, which shall also include the description of such goods, and shall be served on the person or the organization which surrendered the goods or from whom the goods were taken away.

###### Section 106

- (1) If the secured goods are no longer needed for further proceedings and if their forfeiture under Section 89 or seizure under Section 90 or sale under Section 107 are not envisaged, they shall be returned to the person or organization from whom they were secured.
- (2) If little to the secured goods is asserted by another person or organization than those from whom the goods were secured, the customs house shall surrender the goods to the person or organization about whose title thereto is not in doubt.
- (3) If the customs house has doubts as to whether the goods belong to the person or organization from whom they were secured or to another person or organization which claims title thereto, the customs house shall instruct such persons and organizations to assert their claim in proceedings concerned with the settlement of their property relations.

###### Division Two

###### Sale of goods

###### Section 107

- (1) The customs house may sell goods secured under Section 102, par. 1, if the customs duty levied on such goods is not paid within thirty days of the day the decision ordering the payment became enforceable.
- (2) The customs house may sell goods secured under Section 102, par. 2, with respect of which forfeiture was not ordered or which were not seized for the purpose of recovering a fine imposed on a person for a customs offence or on an organization for having violated customs regulations, if the fine is not paid within thirty days of the day the decision whereby it was imposed became final.

(3) The customs house may sell goods secured under Section 103, if the customs duty or fine imposed on a person for a customs offence or on an organization for the violation of customs regulation are not paid within the terms specified in paragraphs 1 and 2.

(4) Goods which constitute national property may not be sold under the provisions of paragraphs 1 to 3.

###### Section 108

- (1) The customs house shall sell the goods to the competent trade or other organizations.
- (2) The customs house may also sell the goods at a public auction. In doing so it shall proceed in accordance with special regulations.<sup>1</sup>
- (3) Goods which must not be sold or used for public health, veterinary, phytopathological, safety or other reasons shall be handled by the customs house in accordance with special regulations.

<sup>1</sup> The Act No. 174/1950, concerning auctions other than executors.

Section 109

(1) The proceeds of the sale of goods shall be preferentially used for paying the customs duty, transportation fees, storage fees, postage, the fine imposed on a person for a customs offence or on an organization for violation of customs regulations, and the costs of the proceedings. The balance of the proceeds shall be paid by the customs house to the entitled person. If such person does not present itself within three years of the day the goods were sold, such balance shall fall to the state.

(2) If a third person or organization assists at the sale within three years of the sale, the customs house shall instruct such person or organization to assert its claim in proceedings concerned with the regulation of property relations.

(3) The person or organization whose goods were secured or placed in storage shall be notified of the sale.

Section 110

(1) The customs house shall have the authority to sell or otherwise dispose of goods

(a) which were ordered forfeited or which were seized in customs offence proceedings;

(b) in the case of which forfeiture of a thing was ordered or which were seized in penal proceedings relating to crimes and misdemeanours committed in imports, exports and transit of goods;

(c) which the party to the customs proceedings abandoned for the benefit of the state.

(2) The Federal Ministry of Foreign Trade, acting in agreement with the Federal Ministry of Finance, shall stipulate by Notice the procedure to be followed in the sale or other disposal of goods specified in paragraph 1.

CHAPTER TEN

JOINT RULES GOVERNING PROCEDURE BEFORE CUSTOMS AUTHORITIES

Section 111

Unless the provisions of the present Act indicate otherwise, customs offences and procedure before customs authorities shall be governed by the general regulations governing misdemeanours and administrative procedure.<sup>4</sup>

Appeals

Section 112

(1) Appeals against decisions issued by a customs house shall be considered and decided by the Customs Directorate to which the respective customs house is subordinated.

(2) Appeals against decisions of the Customs Directorate shall be considered and decided by the Central Customs Administration.

<sup>4</sup> The Act No. 7/1/1967, concerning administrative procedure.

The Act No. 6/1/1961, concerning the tasks of national committees in securing socialist order.

Section 113

(1) Appeals filed against decisions issued by customs administration agencies have no dilatory effect. The customs administration agency against whom decision the appeal is directed, or the appellate agency, may grant dilatory effect, provided that it will not hamper the execution of the decision or that a public interest does not prevent so.

(2) An appeal filed in time against a decision concerning a customs offence or against a decision filing an organization for violation of customs regulations shall have dilatory effect which may not be excluded.

Section 114

Execution of decisions

If a customs duty, transportation fee, storage fee, postage, a fine imposed on a person for a customs offence or on organization for violation of customs regulations, and the costs of proceedings are not paid in the prescribed terms and if they cannot be recovered by the sale of goods under Section 107, the customs house may execute the respective decision in accordance with the rules of administrative procedure.

CHAPTER ELEVEN

JOINT, INTERIM AND FINAL PROVISIONS

Section 115

(1) The provisions of the present Act concerning the penalties of forfeiture of goods, seizure of goods and the sale of goods shall also apply to things and other values under the foreign exchange regulations, if they were acquired through a customs offence.

(2) The provisions of the present Act concerning the procedure of selling goods under Section 103 shall also apply to things and other values under the foreign exchange regulations.

Section 116

Unless the present Act provides otherwise, the transport of goods in transit shall be governed by the provisions governing the import and export of goods.

Section 117

Customs houses shall consider foreign exchange offences ascertained in the course of foreign exchange control of imports and exports of things and values under the foreign exchange regulation.<sup>5</sup> When considering foreign exchange offences customs houses shall proceed in accordance with the general regulations governing the consideration of misdemeanours.

Section 118

(1) The Federal Ministry of the Interior, acting in agreement with the Federal Ministry of Foreign Trade, may authorize members of the National Security Corps to perform some duties of customs houses.

(2) The Federal Ministry of Foreign Trade, acting in agreement with the competent agencies of state administration, may authorize customs houses

<sup>5</sup> The Act No. 7/1/1967, concerning administrative procedure.

<sup>6</sup> Sections 24 and 27 (b) of the Act No. 14/2/1970, concerning foreign exchange control.

with the performance of some tasks under regulations governing public health, veterinary and phytopathological protection and under the regulations governing the levy of taxes, returns and charges.

#### Section 119

(1) Customs houses may also accept foreign currency in payment of customs duty, transportation and storage fees, postage, fines and costs of proceedings.

(2) The conditions under which payment can be accepted under the preceding paragraph shall be stipulated by the Federal Ministry of Finance.

#### Section 120

(1) Proceedings initiated prior to the day on which the present Act entered into effect shall be completed in accordance with the existing regulations.

(2) Customs offences committed prior to the day on which the present Act entered into effect shall be considered under the existing regulations.

#### Section 121

The customs tariff issued under Government Decree No. 32/1947 with the subsequent amendments and supplements shall be considered to be the tariff of commercial goods under the present Act. The lump-sum tariff issued under the Notice of the Ministry of Foreign Trade No. 8/1909 shall be considered to be the tariff of non-commercial goods under the present Act.

#### Section 122

The following provisions are hereby repealed:

1. The Customs Act No. 3/1953;
2. Notice of the Ministry of Foreign Trade No. 147/1954, Issuing the Railway Customs Rules;
3. Notice of the Ministry of Foreign Trade No. 149/1954, Issuing the Air Transport Customs Rules;
4. Notice of the Ministry of Foreign Trade No. 151/1954, Issuing the Postal Service Customs Rules;
5. Notice of the Ministry of Foreign Trade No. 82/1901, Implementing the Customs Act;
6. Notice of the Ministry of Foreign Trade No. 81/1902, concerning the customs exemption of articles imported for the needs of persons and agencies enjoying privileges and immunities in the Czechoslovak Socialist Republic;
7. Notice of the Ministry of Foreign Trade No. 38/1903, Issuing the Inland Navigation Customs Rules;
8. Notice of the Ministry of Foreign Trade No. 108/1963, Issuing the Road Transport Customs Rules;
9. Notice of the Ministry of Foreign Trade No. 7/1905, concerning the organization of the network of customs houses and their competence;
10. Notice of the Ministry of Foreign Trade No. 85/1907, amending and supplementing Notice No. 82/1901, which implements the Customs Act No. 30/1953;
11. Sections 15, 31, par. 2, and 32 [b] and [c] of the Act No. 80/1901, concerning the tasks of national committees in securing socialist order.

#### Section 123

The present Act shall enter into effect on January 1, 1975.

Law No. 117/83 Coll. of October 27. 1983 amending and supplementing  
Customs Act No. 44/1974 Coll.

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Section 32 is amended as follows:

Section 32

Unless the international agreement, by which the Czechoslovak Socialist Republic is bound, provides otherwise, customs officers may stop individuals and conveyances and carry out customs inspection of luggage conveyances, their cargo and transport and shipping documents in the customs border zone only.

Section 112 is supplemented by the following new subsection 3:

Section 112, subsection 3

Legal remedy against decisions by a Customs Directorate concerning a determination of customs value of commercial goods under subsection 1 may be submitted to the court of justice. This legal remedy is decided by the Regional Court, in whose district the Customs Directorate has its seat.

Translation

Federal Ministry of Foreign Trade  
Central Customs Administration

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No: 10 - 2426/1983

Prague, 11 November 1983

Instruction on customs valuation

Instruction No 7/1983  
group 2

Instruction  
on customs valuation

Part I

General provisions

Section 1 - General principles

1/ The customs value shall be determined for purposes of assessment of customs duties on commercial goods, customs inspection and customs statistics, for the enforcement of Art. 29 of the Notice of the Federal Ministry of Foreign Trade No 119 1974 Coll.

Part II

Definition of customs value and modalities  
of its determination

Section 1 - definition of customs value

2/ The Customs value shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation

- 3/ In determining the customs value under par./4/ there shall be added to the price actually paid or payable for the goods imported or exported:
- a/ the following elements, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods imported or exported:
- i/ commissions and brokerage, except buying commissions
  - ii/ the cost of containers which are treated as being one for customs purposes with the goods in question,
  - iii/ the cost of packing whether for labour or materials,
- b/ the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connexion with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
- i/ materials, components, parts and similar items incorporated in the imported goods,
  - ii/ tools, dies moulds and similar items used in the production of the imported goods,
  - iii/ materials consumed in the production of the imported goods
  - iv/ engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods,
- c/ royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable,
- d/ the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.
- 4/ In addition to the costs enumerated in par./3/, there shall be included in the transaction price of the imported goods or excluded from the transaction

price of the exported goods the direct commercial costs accruing abroad:

- a/ the cost of transport of the goods,
- b/ loading, unloading and handling charges associated with the transport of the goods,
- c/ the cost of insurance.

5/ If the goods are transported by air, there shall be included in the customs value of the imported or exported goods the proportionate part of the cost corresponding to the transport outside of the territory of the Czechoslovak Socialist Republic.

6/ If the transaction value cannot be determined under par. /4/ above directly, the customs value shall be determined in applying the following methods in the order as they are enumerated except the order mentioned in par. c/ and d/ where the party to the customs proceedings is free to choose the order.

The costs under par. /3/, /4/ and /5/ have to be taken into consideration in applying any of the following methods of determination of the transaction value:

- a/ the transaction value of identical goods imported from or exported to the same country at or about the same time as the goods being valued,
- b/ the transaction value of similar goods imported from or exported to the same country at or about the same time as the goods being valued,
- c/ on the basis of the unit price at which the imported or exported goods are sold,
- d/ on the basis of the computed value which shall consist of the price or value of the materials, fabrication, general expenses and profit.

7/ The conversion of foreign currencies for the determination of the customs value shall be effected in accordance with the Czechoslovak foreign exchange regulations valid at the day of the presentation of the customs application.

Section 2 - Determination of customs value

- 8/ The customs value of goods which are reimported or reexported after having been worked over, adjusted, repaired against payment or leased shall be the amount of the price for such work, adjustment, repairment or leasing.
- 9/ The party to the customs proceedings or its representative is obliged to declare in the customs application before the initiation of the customs proceedings the customs value of each item of the imported or exported goods classified under the customs tariff of commercial goods in whole Czechoslovak crowns, unless the Federal Ministry of Foreign Trade - Central Customs Administration determines otherwise.
- 10/ The price of the goods /ev. of the paid repairment, work or adjustment and the price of the leasing/ shall be proved by the presentation of the invoice or the pro-forma-invoice, with the exception of cases specified by the instructions of the Federal Ministry of Foreign Trade - Central Customs Administration on the assessment and levying of customs duties at the import of commercial goods. If the invoice price is not specified fco Czechoslovak border and the party of the customs proceeding entrusts its representative with the presentation of the customs application the price has to be verified by a further document, f.i. the entrustment letter, the invoice addressed by the foreign trade organization to the domestic customer etc. In the case of postal parcels on orderly filled international customs declaration C1, C2/ CP3 is admitted as proof of the price.
- 11/ If in par. 13 of the customs application the customs value is not declared before the initiation of the customs proceeding and these instructions do not specify otherwise, the document is considered as incomplete and the customs

office cannot on its basis release the goods for the proposed circulation. The customs office may however in such a case allow the party to customs proceedings to handle the imported goods under Art. 70 of the customs act No. 44/1974 coll. before the decision on the release of goods /before the presentation of the completely filled customs application/ and specify the time-limit for the completion of the customs application.

12/ The customs value of reimported or reexported goods shall be determined in the amount of the initial customs value of such goods at their export or import, with the exceptions of cases specified in par. /8/.

13/ The party to the customs proceedings or its representative shall be on the basis of its written request informed in writing by the customs office how the customs value has been determined.

### Part III

#### Control of entries on customs value and correction of incorrect entries on customs value

##### Section 1 - Control of entries on customs value

14/ The control of entries on customs value with the exception of the control of the correctness of the calculation of the proportionate part of the costs of air transport under par. 5/ above, shall be effected by the customs office. The Federal Ministry of Foreign Trade - Central Customs Administration shall carry out the supplementary control of entries on customs value on the basis of accounting and banking data of the parties to the customs proceedings.

Section 2 - Correction of incorrect entries on customs value

15/ Amendments and corrections of entries on customs value shall be carried out according to the instructions of the Federal Ministry of Foreign Trade - Central Customs Administration on the assessment and payment of customs duty on import of commercial goods and to the instructions of the Federal Ministry of Foreign Trade - Central Customs Administration on the customs statistics.

Part IV

Final provisions

16/ The instruction No. 6/1981 gr.2 is hereby repealed.

17/ These instructions shall enter into effect on January 1, 1984.

The Director General of the Central  
Customs Administration