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United Nations Interim  
Administration Mission in  
Kosovo



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Mission d'Administration  
Intérimaire des Nations Unies  
au Kosovo

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30 January 2004

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**REGULATION NO. 2004/1  
ON THE CUSTOMS CODE OF KOSOVO**

The Special Representative of the Secretary-General,

Pursuant to the authority given to him under United Nations Security Council Resolution 1244 (1999) of 10 June 1999,

Taking into account United Nations Interim Administration Mission in Kosovo (UNMIK) Regulation No. 1999/1 of 25 July 1999, as amended, on the Authority of the Interim Administration in Kosovo, UNMIK Regulation No. 1999/3 of 31 August 1999, as amended, on the Establishment of the Customs and other Related Services in Kosovo, UNMIK Regulation No. 1999/16 of 6 November 1999, as amended, on the Establishment of the Central Fiscal Authority of Kosovo and Other Related Matters, UNMIK Regulation No. 2000/2 of 22 January 2000, as amended, on Excise Taxes in Kosovo, and UNMIK Regulation No. 2001/11 of 31 May 2001, as amended, on Value Added Tax in Kosovo,

In conformity with the Constitutional Framework for Provisional Self-Government in Kosovo (UNMIK Regulation No. 2001/9 of 15 May 2001),

Having consulted with the Government and the Assembly,

For the purposes of establishing an efficient system of customs and tax control for goods imported into and exported from Kosovo,

Hereby promulgates the following:

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**TITLE I**  
**GENERAL PROVISIONS**

**Chapter 1**  
**Scope and Basic Definitions**

Section 1  
Application of Tariff

1.1 The Customs Tariff for Kosovo, which shall be based on the Harmonised System, shall apply to the importation of goods into and the exportation of goods from Kosovo, as those concepts are defined in section 2.

1.2 The Director General shall maintain a current copy of the Customs Tariff for Kosovo at the Headquarters of the Customs Service and shall:

- (a) make that copy available there for public inspection; and
- (b) maintain a further copy available for public inspection by electronic means.

Section 2  
Definitions

2.1 In this Regulation:

“airport” means any area of land designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft;

“aircraft” includes airships, balloons and helicopters;

“amount of duty” shall have the meaning given to it by section 57.1;

“buying commissions” means fees paid by an importer to his agent for the service of representing him in the purchase of the goods;

“carnet” means:

- (a) a TIR carnet provided for the international transport of goods under the TIR Convention;
- (b) an ATA carnet, provided for the international transport of goods under the ATA Convention; and
- (c) a form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951;

“commander”, in relation to an aircraft, includes any person having or taking charge or command of the aircraft;

“compensating products” means all products resulting from processing operations;

“container” includes any bundle or package and any box, cask or other receptacle;

“country” includes the territorial waters of that country;

“customs-approved treatment or use” in respect of goods means:

- (a) the placing of those goods under a customs procedure;
- (b) the entry of the goods into a free zone or free warehouse;
- (c) the exportation of the goods from Kosovo;
- (d) the destruction of the goods; and
- (e) the abandonment of the goods to the Customs Service;

“Custom Service” means the UNMIK Customs Service, or any successor authority designated to perform customs functions and other assigned matters;

“customs control” means the performance of specific acts, such as examining goods, verifying the existence and authenticity of documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official enquiries and other similar acts with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervisions are observed;

“customs procedure” means:

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

“customs supervision” means actions taken by the Customs Service with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed;

“customs warehouse” means any place approved by the Director General and under the supervision of the Customs Service where goods may be stored under the conditions laid down. A customs warehouse may be either a public warehouse or a private warehouse;

“depositor” means a person bound by the declaration placing the goods under the customs warehousing procedure or to whom the rights and obligations of such a person have been transferred;

“Director General” means a person appointed as such by the Special Representative of the Secretary-General under section 3.1;



“domestic goods” means goods:

- (a) wholly obtained in Kosovo and not incorporating goods imported from countries or places outside Kosovo;
- (b) imported from outside Kosovo which have been released for free circulation in Kosovo; and
- (c) obtained or produced in Kosovo, either from goods referred to in (b) alone, or from goods referred to in (a) and (b) together;

“drawback system” means the inward-processing relief arrangements as provided for in section 41.1(a)(ii);

“equivalent goods” mean domestic goods which are used instead of imported goods for the manufacture of compensating products;

“export” and “exportation” mean the moving or delivery of goods from Kosovo and into a country, area or place outside of Kosovo;

“export duty” means all duties and taxes chargeable on the exportation of goods from Kosovo;

“free warehouse” means premises approved as a free warehouse by the Director General in an Administrative Instruction issued under section 48.2;

“free zone”, of control types I and II, means any part of Kosovo designated by the Director General in an Administrative Instruction issued under section 48.2;

“generally accepted accounting principles” means the recognised consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared;

“goods” includes luggage, stores and baggage;

“goods of the same class or kind” means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

“Harmonised System” means the Harmonised Commodity Description and Coding System of the World Customs Organization;

“identical goods” means goods produced in the same country which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in

appearance shall not preclude goods otherwise conforming to the definition from being regarded as identical;

“import” and “importation” mean the moving or delivery of goods from a country, area or place outside Kosovo and into Kosovo;

“import duty” means all duties and taxes chargeable on the importation of goods into Kosovo;

“Kosovo” means the territory as i t is defined by United Nations Security Council resolution 1244 (1999), which includes land, inland waters and airspace related to Kosovo;

“marketing activities” means all activities relating to advertising and promoting the sale of the goods in question and all activities relating to warranties or guarantees in respect of them and such activities undertaken by the buyer shall be regarded as having been undertaken on his own account even if they are performed in pursuance of an obligation on the buyer following an agreement with the seller;

“non-domestic goods” means any goods other than domestic goods;

“officer” means, subject to section 4.4, any person employed by the Customs Service;

“persons established in Kosovo” means:

- (a) in the case of a natural person, any person who is a habitual resident of Kosovo; and
- (b) in the case of a legal person or an association of persons, any person that has in Kosovo its registered office, central headquarters or a permanent business establishment;

“private warehouse” means a customs warehouse reserved for the warehousing of goods belonging to a warehousekeeper;

“processing operations”, except in respect of section 44, means:

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

“produced goods” includes goods grown, manufactured or mined;

“prohibited or restricted goods” means goods of a class or description of which the importation or exportation is prohibited or restricted by any enactment or the applicable law;

“public warehouse” means a customs warehouse available for use by any person for the warehousing of goods;

“rate of yield” means the quantity or percentage of compensating products obtained from the processing of a given quantity of imported goods;

“repayment” means the total or partial refund of import duties or export duties which have been paid;

“remission” means either a decision to waive all or part of the amount of a customs debt or a decision to render void an entry in the accounts of all or part of an amount of import or export duty which has not been paid;

“revenue trader” means any person carrying on a trade or business of buying, selling, importing, exporting, dealing in or the handling of any goods of a class or description which is subject to a duty of excise (whether or not duty is chargeable on the goods);

“similar goods” means goods produced in the same country which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable; the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

“suspension system” means the inward-processing relief arrangements as provided for in section 41.1(a);

“tax” means only those taxes chargeable on the importation and exportation of goods, in addition to duties, arising out of a matter assigned to the Customs Service by the Special Representative of the Secretary-General; together with any other tax, fee or other form of payment payable to the Customs Service arising out of any other such matter;

“temporary export goods” means goods placed under the outward-processing procedure;

“travellers’ allowances” means the quantity of specified goods and the overall value of goods a traveller arriving in Kosovo may bring, once per day, free of import duties and taxes, provided that such goods are of a non-commercial nature;

“vehicle” means any transport means of conveyance on land, including trains;

“a type I free zone” and “a type II free zone” mean areas of Kosovo designated such by the Director General in an Administrative Instruction issued under section 48.2; and

“a warehousekeeper” means a person authorized to operate a customs warehouse.

- 2.2 In this Regulation, unless the context otherwise requires:
- (a) the singular includes the plural and the plural includes the singular, and
  - (b) “he” includes “she”, and “him” includes “her”.

2.3 In this Regulation, unless the context otherwise requires, references to titles, chapters, sections, and subsections are references to such items in this Regulation.

## **Chapter 2**

### **Organisation of Customs Administration**

#### Section 3

#### Appointment of the Director General of the Customs Service

3.1 The Special Representative of the Secretary-General shall appoint a Director General of the Customs Service in Kosovo under such terms and conditions as he may see fit to impose. The Director General shall report to the Deputy Special Representative of the Secretary-General for Economic Development and Reconstruction.

3.2 The Special Representative of the Secretary-General shall have the power to dismiss, suspend or restore the Director General.

#### Section 4

#### Powers of the Director General

4.1 The Director General shall have the power to:

- (a) appoint officers and Directors. The number of officers, their conditions of pay and employment, shall be agreed with the Deputy Special Representative of the Secretary-General, after consultation with the Government; and
- (b) promote, dismiss, suspend with or without pay, demote or restore any officer or Director.

4.2 Where, in this Regulation, the Director General is under any duty or has any power to do any act by Administrative Instruction, he shall record any action taken under that duty or power in a written Instruction and shall:

- (a) make a copy available for public inspection at the Headquarters of the Customs Service; and
- (b) maintain a further copy available for public inspection by electronic means.

4.3 The Director General shall, in writing, lay down rules for the administration of the Customs Service, including:

- (a) after consultation with the Government, the places at which there shall be customs or tax collection offices;

- (b) after consultation with the Government, the hours of opening of each customs or tax collection office, and any limitation on the work carried out there;
- (c) a code of conduct for officers;
- (d) procedures to be followed where any officer breaches the code of conduct referred to in section 4.3(c);
- (e) after consultation with the Government, the uniform to be worn by officers;
- (f) the payment of rewards to officers and members of the public; and
- (g) any other matter necessary for the efficient running of the Customs Service.

4.4 The Director General shall:

- (a) ensure that all officers have clear job descriptions, detailing the work they are required to perform; and
- (b) after consultation with the Government, set out in an Administrative Instruction the limits to be imposed on the powers available to and duties of officers, whether according to the grade of that officer, or his place of work, or any other criteria that the Director General shall see fit to impose.

#### Section 5

#### Power of the Director General to Delegate his Functions

Where, in this Regulation, the Director General is under any duty or has any power to do any act, he may delegate that duty or power to any named person, or any rank of officer, or any rank of officer at any particular place, and shall record any action taken under that duty or power in writing and shall:

- (a) make that copy available for public inspection at the Headquarters of the Customs Service; and
- (b) maintain a further copy available for public inspection by electronic means.

#### Section 6

#### Uniform, Identification and Protection of Officers

6.1 Except where the Director General shall otherwise permit, all officers shall, while performing their duty as officers, wear a distinctive uniform and carry and display an official Customs Service identification card.

6.2 Where he considers it necessary for the protection of any officer, the Director General shall order that officer to carry such defensive devices as the Director General considers necessary in the circumstances of each case.

6.3 Where an officer considers it necessary to identify his vehicle as a customs vehicle, he may switch on the blue lights and audible signal system fitted to that vehicle.

Section 7  
Authority to Perform Customs and Other Assigned Matters

7.1 The Customs Service shall be the sole institution in Kosovo that shall have the authority to perform customs functions and any other matter assigned to the Customs Service by the Special Representative of the Secretary-General.

7.2 The Customs Service shall assess, levy and collect all duties and taxes on imports and exports, as well as undertake any other relevant functions as may be assigned to the Customs Service under the authority of the Deputy Special Representative of the Secretary-General. All duties and taxes collected by the Customs Service shall be deposited into the Kosovo Consolidated Fund.

7.3 When required to do so by an officer, it shall be the duty of every member of the Kosovo Police Force and KFOR to assist in the enforcement of the law relating to customs and any other matter assigned to the Customs Service by the Special Representative of the Secretary-General.

7.4 Where goods which are or appear to be subject to an import duty are found abandoned, the person finding those goods shall report that finding to the Customs Service.

**Chapter 3**  
**Sundry General Provisions Relating in Particular to the Rights  
and Obligations of Persons with Regard to Customs Rules**

Section 8  
Right of Representation

8.1 Subject to the provisions of any Administrative Instruction laid down under section 22, any person may appoint a representative in his dealings with the Customs Service to perform any act or formality laid down by this Regulation and any Administrative Direction or Instruction issued thereunder.

8.2 Representation under section 8.1 may be:

- (a) direct, in which case the representative shall act in the name of and on behalf of the other person; or
- (b) indirect, in which case the representative shall act in his own name but on behalf of the other person.

8.3 The Director General may, in any particular case by his ruling, or, after consultation with the Government, by Administrative Instruction, restrict the right to make customs declarations to customs agents carrying on business in Kosovo.

8.4 Subject to the provisions of any Administrative Instruction laid down under section 22, all representatives shall be persons established in Kosovo.

8.5 When acting on behalf of another person, a representative appointed under section 8.1 shall state that he is so acting, and specify whether the representation is direct or indirect.

8.6 A person who fails to state that he is acting in the name of or on behalf of another person or who states that he is acting in the name of or on behalf of another person without being empowered to do so shall be deemed to be acting in his own name and on his own behalf.

8.7 The Director General may require any person stating that he is acting in the name of or on behalf of another person to produce evidence of his powers to act as a representative.

### Section 9 Rulings Relating to the Application of Customs Rules

9.1 (a) Where a person requests that the Director General make a ruling relating to the application of customs rules to that person, that person shall supply all the information and documents required by the Director General in order for the Director General to make that ruling.

(b) Where the person making a request for a ruling is not in a position to provide all the documents and information necessary for the Director General to make that ruling, the Director General shall provide that person with any such documents and information that are in his possession.

9.2 The Director General may refuse to make a ruling where it does not relate to an operation to be conducted under customs control or an envisaged operation which would be under that control.

9.3 A ruling under this section shall be notified within 60 days of the date of the request. However, where the Director General is unable to comply with that time limit, he shall so inform the person who made the request before the expiry of the 60 days, stating the grounds which justify exceeding that limit and indicating the further period of time which is considered necessary in order to make a ruling on the request.

9.4 Where a request for a ruling is made in writing, it shall be notified in writing. Where the ruling either rejects the request or is otherwise detrimental in any way to the person who made the request, it shall set out the grounds on which the ruling is based. It shall also refer to the right of appeal provided for in section 94.1.

9.5 Subject to the right of appeal provided for by section 94.1, a ruling under this section shall be immediately enforceable.

9.6 (a) Any ruling shall be annulled if it was made on the basis of incorrect or incomplete information where:

- (i) the person who requested it knew or should reasonably have known that the information was incorrect or incomplete; and
- (ii) the ruling made could not have been given on the basis of correct or complete information.

(b) The person for whom the ruling was made shall be informed in writing of its annulment.

(c) The annulment shall take effect from the date on which the annulled ruling was given.

9.7 (a) Any ruling shall be revoked or amended where, in cases other than those referred to in section 9.6, one or more of the conditions laid down for its issue were not or are no longer fulfilled.

(b) A ruling may be revoked where the person to whom it is addressed fails to fulfil an obligation imposed on him under that ruling.

(c) The person for whom the ruling was made shall be informed in writing of its revocation or amendment.

(d) The revocation or amendment of the ruling shall take effect from the date of its notification. However, in exceptional cases, where the legitimate interests of the person to whom the ruling is addressed so require, the Director General may defer the date when revocation or amendment is to take effect.

(e) A revocation shall not affect goods which have already been placed under a customs procedure by virtue of the revoked authorisation. However, in such circumstances, the Director General may require that such goods be assigned to a permitted customs-approved treatment or use within such period as he may require.

9.8 Any ruling concerning security by a person who has signed an undertaking to pay the sums due at the first written request of the Director General, shall be revoked where the said undertaking is not fulfilled.

## Section 10 Binding Information

10.1 Any person may, in writing, request the Director General to issue, in writing, binding tariff information or binding origin information.

10.2 The Director General may refuse to give binding information where the ruling requested does not relate to an import or export actually envisaged.

10.3 The Director General, after consultation with the Government, may by Administrative Instruction lay down:



- (a) the methods and forms to be used and the information required from persons requesting binding tariff or origin information; and
- (b) the methods and forms to be used to notify the binding tariff and origin information, and the facts on which the ruling was given.

10.4 Any notification of binding tariff or origin information shall refer to the right of appeal provided for in section 94.1.

10.5 A ruling under this section shall be notified within 90 days of the date of the request. However, where the Director General is unable to comply with that time limit, he shall so inform the person who made the request before the expiry of the 90 days, stating the grounds which justify exceeding that limit and indicating the further period of time which is considered necessary in order to give a ruling on the request.

10.6 Binding tariff or binding origin information shall be binding on the Director General only:

- (a) as against the person who requested the information;
- (b) in respect of the tariff classification or determination of the origin of goods;
- or
- (c) in respect of goods on which customs formalities are completed after the date on which the information was supplied.

10.7 Where the holder of binding tariff information or binding origin information is in the process of clearing any goods to which that information applies, he shall inform the officer concerned that he is in possession of that information and provide him with a copy of it.

10.8 Binding tariff information shall be valid for a period of 6 years, and binding origin information 3 years, from the date of their issue, except that where the ruling was based on inaccurate or incomplete information supplied by the person making the request, it shall be annulled and invalid from the date and time of its issue.

10.9 Binding tariff or origin information shall cease to be valid if, before the expiration of the time periods set forth in section 10.8, the laws or conventions on which it was based are changed or repealed, provided that the Director General may allow any person adversely affected by invalidation under this subsection to continue to use the information for a period of up to 6 months from the date on which the person was notified of the invalidation.

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

**Chapter 4**  
**Origin of goods**

Section 11  
Definition of the Concept of Country of Originating Status

11.1 Goods shall be considered as originating in a country if they were wholly obtained in that country or have undergone sufficient working or processing in that country to confer that status.

11.2 The following goods shall be considered as wholly obtained in a country:

- (a) minerals extracted from its soil or from its seabed;
- (b) vegetables harvested there;
- (c) live animals born and raised there;
- (d) goods from live animals raised there;
- (e) goods obtained by hunting or fishing conducted there;
- (f) goods of sea fishing and other goods taken from the sea outside its territorial waters by its vessels;
- (g) goods made on board its factory ships exclusively from the goods referred to in section 11.2(f);
- (h) used articles collected there fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) goods extracted from the seabed or below the seabed which is situated outside its territorial waters but where it has exclusive exploitation rights; and
- (k) goods produced there exclusively from goods specified in sections 11.2(a) to 11.2(j).

11.3 The terms 'its vessels' and 'its factory ships' in sections 11.2(f) and 11.2(g) shall apply only to vessels and factory ships:

- (a) which are registered or recorded in the country;
- (b) which sail under the flag of the country;
- (c) which are at least 50% owned by nationals of the country or by a company having its head office in that country, of which the manager or managers, Chairman of the Board of Directors or of the Supervisory Board, and the majority of the members of such boards are nationals of that country and of which, in addition, in the case of companies, at least half the capital belongs to that country or to public bodies or nationals of that country;
- (d) of which the master and officers are nationals of the country; and
- (e) of which at least 75% of the crew are nationals of the country.

11.4 Vessels operating on the high seas, including factory ships on which the fish caught are worked or processed, shall be considered as part of the territory of the country to which they belong where they satisfy the conditions set out in section 11.3.

11.5 Accessories, spare parts and tools sent with any equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price of that equipment, machine, apparatus or vehicle and which are not separately invoiced, shall be regarded as part of that equipment, machine, apparatus or vehicle.

11.6 (a) Sets, as defined in General Rule 3 for the interpretation of the Harmonised System, shall be regarded as originating in the country where all the component parts originate. When a set is composed of parts, some of which originate in a country and other parts which originate in another country or countries, the set as a whole shall be regarded as originating in the first country, provided that the value of the other parts does not exceed 15% of the ex-works price of the set.

(b) Where, under General Rule 5 for the interpretation of the Harmonised System, packaging is included with the goods for classification purposes, it shall also be included for the purposes of determining origin.

11.7 In order to determine whether goods originate in a particular country:

(a) no account shall be taken of the origin of any of the following which may have been used in their manufacture:

- (i) energy and fuel;
- (ii) plant and equipment;
- (iii) machines and tools; and
- (iv) goods which do not enter, and which are not intended to enter, into the final composition of the product; and

(b) except where the goods fall within Chapters 50 to 63 of the Harmonised System, goods originating in another country may be used in the manufacture of any given product, provided that their total value does not exceed 10% of the ex-works price of the product.

11.8 (a) Where required to do so by the Special Representative of the Secretary-General, the Director General, after consultation with the Government, shall by Administrative Instruction publish a list of conditions to be fulfilled for goods which are not considered as wholly obtained in a country to be considered sufficiently worked or processed to confer the status of originating in that country.

(b) Where goods which have acquired originating status by fulfilling the conditions set out in the list published by the Director General in an Administrative Instruction under section 11.8(a) are used in the manufacture of other goods, any condition applicable to the goods in which they have been incorporated shall not apply to them, and no account shall be taken of the original goods which may have been used in the latter's manufacture.

11.9 All the operations carried out in a country on any goods shall be considered together when determining whether the processing or working undergone by those goods is to be regarded as sufficient to confer the status of originating in that country.

11.10 Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

11.11 Any processing or working in respect of which it is established, or in respect of which the facts as ascertained justify the presumption, that its sole object was to confer the status of originating in a particular country shall be deemed not to confer that status.

11.12 Without prejudice to any other provision of this section, the following operations shall be considered as insufficient working or processing to confer the status of originating goods:

- (a) operations to ensure the preservation of goods in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, painting, cutting up;
- (c)
  - (i) changes of packing and breaking-up and assembly of packages; and
  - (ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards, etc., and all other simple packaging operations;
- (d) affixing marks, labels and other like distinguishing signs on goods or their packaging;
- (e) simple mixing of goods, whether or not of different kinds, where one or more components of the mixture do not meet the conditions laid down in this section to enable them to be considered as originating in a beneficiary country;
- (f) simple assembly of parts to constitute a complete product;
- (g) a combination of two or more of the operations specified in sections 11.12(a) to 11.12(f); and
- (h) slaughter of animals.

11.13 Where required to do so by the Special Representative of the Secretary-General, the Director General, after consultation with the Government, shall by Administrative Instruction:

- (a) provide that subject to such conditions as the Instruction may impose, where goods originate in any group of countries provided for in that Administrative Instruction, the goods shall be deemed to originate in the country in that group where the last working or processing was carried out;
- (b) provide that subject to such conditions as the Instruction may impose, where goods are not considered to originate in a particular country by virtue of any

provision of this Chapter, provide that that provision shall be ignored for all or certain goods from that country; and

(c) provide that subject to such conditions as the Instruction may impose, where goods are considered to originate in a particular country, provide that those goods shall benefit from the tariff preferences provided for in that Administrative Instruction, including where goods have been used for exhibitions purposes in a third country and subsequently sold for importation into Kosovo.

11.14 The Director General, after consultation with the Government, shall by Administrative Instruction provide that the status of goods coming from outside Kosovo may, subject to such conditions as the Instruction may impose, be proved by any document provided for in that Instruction.

11.15 (a) At the request of any country or organisation of countries, or customs authority of any country, the Director General may order enquiries to take place to ascertain the correctness of any document claiming to prove the originating status of goods from or passing through Kosovo.

(b) The Director General may request any country or organisation of countries, or customs authority of any country to carry out enquiries to ascertain the correctness of any document claiming to prove the originating status of any goods from outside Kosovo, and may supply that country or customs authority with any document or other information within his possession, and unless or until a satisfactory reply is received in respect of that request, refuse any tariff preference that may have been claimed.

## **Chapter 5**

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

#### Section 12 Interpretation

12.1 “Identical goods” and “similar goods”, as the case may be, do not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under section 13.4(a)(ii)(D) because such elements were undertaken in Kosovo.

12.2 For the purposes of this Chapter, persons shall be deemed to be related only if:

- (a) they are officers or directors of one another’s businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or

(h) they are members of the same family. Persons shall be deemed to be members of the same family only if they stand in any of the following relationships to one another:

- (i) husband and wife;
- (ii) parent and child;
- (iii) brother and sister (whether by whole or half blood);
- (iv) grandparent and grandchild;
- (v) uncle or aunt and nephew or niece;
- (vi) parent-in-law and son-in-law or daughter-in-law; and
- (vii) brother-in-law and sister-in-law.

12.3 For the purposes of this Chapter, persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related only if they fall within the criteria of section 12.2.

### Section 13 Primary Method of Valuation

13.1 The value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to Kosovo, adjusted, where necessary, in accordance with sections 13.4 and 13.5, provided:

- (a) that there are no restrictions as to the disposal or use of the goods by the buyer, other than restrictions which:
  - (i) are imposed or required by a law or by the public authorities in Kosovo;
  - (ii) limit the geographical area in which the goods may be resold; or
  - (iii) do not substantially affect the value of the goods;
- (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with section 13.4; and
- (d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under section 13.2.

13.2 (a) In determining whether the transaction value is acceptable for the purposes of section 13.1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the Director General has grounds for considering that the relationship influenced the price, he shall communicate his grounds

to the declarant who shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be in writing.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with section 13.1 wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:

- (i) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Kosovo;
- (ii) the value of identical or similar goods, as determined under section 14.2(c); and
- (iii) the value of identical or similar goods, as determined under section 14.2(d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in section 13.4 and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.

(c) The tests set forth in section 13.2(b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values shall not be established under the said paragraph.

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

(b) Activities, including marketing activities, undertaken by the buyer on his own account, other than those for which an adjustment is provided in section 13.4, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the value of the imported goods.

13.4 (a) In determining the value of goods under this section, there shall be added to the price actually paid or payable for the imported goods:

- (i) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
  - (A) commissions and brokerage, except buying commissions;
  - (B) the cost of containers which are treated as being one, for customs purposes, with the goods in question; and
  - (C) the cost of packing, whether for labour or materials;
- (ii) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for

export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (A) materials, components, parts and similar items incorporated in the imported goods;
- (B) tools, dies, moulds and similar items used in the production of the imported goods;
- (C) materials consumed in the production of the imported goods; and
- (D) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Kosovo and necessary for the production of the imported goods;

(iii) 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;

(iv) 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; and

- (v) (A) the cost of transport and insurance of the imported goods; and
- (B) loading and handling charges associated with the transport of the imported goods to the place of introduction into Kosovo.

(b) Additions to the price actually paid or payable shall be made under this subsection only on the basis of objective and quantifiable data. No additions shall be made to the price actually paid or payable in determining the value of goods except as provided in this subsection.

(c) Notwithstanding section 13.4(a)(iii):

(i) charges for the right to reproduce the imported goods in Kosovo shall not be added to the price actually paid or payable for the imported goods in determining the value of goods; and

(ii) payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Kosovo of the goods.

13.5 Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the value of the goods:

(a) charges for the transport of goods after their arrival at the place of introduction into Kosovo;

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

(c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:



- (i) such goods are actually sold at the price declared as the price actually paid or payable; and
- (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- (d) charges for the right to reproduce imported goods in Kosovo;
- (e) buying commissions; and
- (f) import duties or other charges payable in Kosovo by reason of the importation or sale of the goods.

13.6 For the purposes of determining the value of goods under this section, in regard to which the price has not actually been paid at the material time for valuation for customs purposes, the price payable for settlement at the said time shall as a general rule be taken as the basis for that value.

13.7 Where goods declared for free circulation are part of a larger quantity of the same goods purchased in one transaction, the price actually paid or payable for the purposes of this section shall be that price represented by the proportion of the total price which the quantity so declared bears to the total quantity purchased. Apportioning the price actually paid or payable shall also apply in the case of the loss of part of a consignment or when the goods being valued have been damaged before entry into free circulation.

13.8 Where the price actually paid or payable for the purposes of this section includes an amount in respect of any internal tax applicable within the country of origin or export in respect of the goods in question, the said amount shall not be incorporated in the value of the goods provided that it can be demonstrated to the satisfaction of the Director General that the goods in question have been or will be relieved therefrom for the benefit of the buyer.

13.9 For the purposes of this section, the fact that the goods which are the subject of a sale are declared for free circulation shall be regarded as adequate indication that they were sold for export to Kosovo. In the case of successive sales before valuation, only the last sale, which led to the introduction of the goods into Kosovo, or a sale taking place in Kosovo before entry for free circulation of the goods shall constitute such indication.

13.10 (a) Where a price is declared which relates to a sale taking place before the last sale on the basis of which the goods were introduced into Kosovo, it must be demonstrated to the satisfaction of the Director General that this sale of goods took place for export to Kosovo.

(b) Where goods are used in a third country between the time of sale and the time of entry into free circulation the value need not be the transaction value and the buyer need satisfy no condition other than that of being a party to the contract of sale.

13.11 Where, in applying section 13.3(b), it is established that the sale or price of imported goods is subject to a condition or consideration the value of which can be determined with respect to the goods being valued, such value shall be regarded as an

indirect payment by the buyer to the seller and part of the price actually paid or payable provided that the condition or consideration does not relate to either:

- (a) an activity to which section 13.3(b) applies; or
- (b) a factor in respect of which an addition is to be made to the price actually paid or payable under the provisions of section 14.4.

13.12 (a) Where containers referred to in section 13.4(a)(i)(B) are to be the subject of repeated importations, their cost shall, at the request of the declarant, be apportioned, as appropriate, in accordance with generally accepted accounting principles.

(b) For the purposes of section 13.4(a)(ii)(D), the cost of research and preliminary design shall not be included in the value of the goods.

(c) Section 13.5(c) shall apply wherever the value of goods is determined by a method other than the transaction value.

13.13 (a) The Director General may, at the request of the person concerned, authorize:

- (i) by derogation from section 13.4(b), certain elements which are to be added to the price actually paid or payable, although not quantifiable at the time of incurrence of the customs debt; and
- (ii) by derogation from section 13.5, certain charges which are not to be included in the value of the goods, in cases where the amounts relating to such elements are not shown separately at the time of incurrence of the customs debt;

to be determined on the basis of appropriate and specific criteria.

(b) The authorisation shall be granted under the following conditions:

- (i) the carrying out of the procedures provided for would, in the circumstances, represent disproportionate administrative costs;
- (ii) recourse to an application of sections 14 and 15 appears to be inappropriate in the particular circumstances;
- (iii) there are valid reasons for considering that the amount of import duties to be charged in the period covered by the authorisation will not be lower than that which would be levied in the absence of an authorisation; and
- (iv) competitive conditions amongst operators are not distorted.

#### Section 14 Secondary Method of Valuation

14.1 Where value cannot be determined under section 13, it is to be determined by proceeding sequentially through subsections (a), (b), (c) and (d) of section 14.2, under which it can be determined, subject to the proviso that the order of application of section 14.2(c) and section 14.2(d) shall be reversed if the declarant so requests. It is only when such value cannot be determined under a particular subsection that the provisions of the next subsection in the sequence established by this subsection can be applied.

- 14.2 The value as determined by this subsection shall be:
- (a) the transaction value of identical goods sold for export to Kosovo and exported at or about the same time as the goods being valued;
  - (b) the transaction value of similar goods sold for export to Kosovo and exported at or about the same time as the goods being valued;
  - (c) the value based on the unit price at which the imported goods for identical or similar imported goods are sold within Kosovo in the greatest aggregate quantity to persons not related to the sellers; and
  - (d) the computed value, consisting of the sum of:
    - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
    - (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Kosovo; and
    - (iii) the cost or value of the items referred to in section 13.4(a)(v).

14.3 (a) In applying sections 14.2(a) and (b) (the transaction value of identical or similar goods), the value shall be determined by reference to the transaction value of identical or similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued. Where no such sale is found, the transaction value of identical or similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(b) Where the costs and charges referred to in subsection 13.4(a)(v) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical or similar goods in question arising from differences in distances and modes of transport.

(c) If, in applying this section, more than one transaction value of identical or similar goods is found, the lowest such value shall be used to determine the value of the imported goods.

(d) In applying this section, a transaction value for goods produced by a different person shall be taken into account only when no transaction value can be found under section 14.3(a) for identical or similar goods produced by the same person as the goods being valued.

(e) For the purposes of this section, the transaction value of identical or similar imported goods means a value previously determined under section 13, adjusted as provided for in sections 14.3(a), (b) and (c).

14.4 (a) If the imported goods or identical or similar imported goods are sold in Kosovo in the condition as imported, the value of imported goods, determined in accordance with section 14.2(c), shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate

quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

- (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including the direct and indirect costs of marketing the goods in question) in connection with sales in Kosovo of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within Kosovo; and
- (iii) the import duties and other charges payable in Kosovo by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the value of imported goods determined under this section shall, subject to the provisions of section 14.4(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Kosovo in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

(c) If neither the imported goods nor identical nor similar imported goods are sold in Kosovo in the condition as imported, then, if the importer so requests, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Kosovo who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in section 14.4(a).

(d) For the purposes of this section, the unit price at which imported goods are sold in the greatest aggregate quantity is the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(e) Any sale in Kosovo to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in section 13.4(a)(ii) should not be taken into account in establishing the unit price for the purposes of this section.

(f) For the purposes of section 14.4(b), the 'earliest date' shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

14.5 (a) In applying section 14. 2(d) (computed value), the Director General may not require or compel any person not resident in Kosovo to produce for examination, or to allow access to, any account or other record for the purposes of determining this value. However, information supplied by the producer of the goods for the purposes of determining the value under this section may be verified outside Kosovo by the customs authorities of another country with the agreement of the producer and provided that the customs authorities of the country in question do not object to the investigation.

(b) The cost or value of materials and fabrication referred to in section 14.2(d)(i) shall include the cost of elements specified in section 13.4(a)(i)(B) and (C). It shall also include the value, duly apportioned, of any product or service specified in section

13.4(a)(ii) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in section 13.4(a)(ii)(D) which are undertaken in Kosovo shall be included only to the extent that such elements are charged to the producer.

(c) Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the Director General shall inform the declarant, if the latter so requests, of the source of such information, the data used and the calculations based on such data.

(d) The 'general expenses' referred to in section 14.2(d)(ii) cover the direct and indirect costs of producing and selling the goods for export which are not included under section 14.4(d).

### Section 15 Tertiary Method of Valuation

15.1 Where the value of imported goods cannot be determined under sections 13 or 14, it shall be determined, on the basis of data available in Kosovo, using reasonable means consistent with the principles and general provisions of:

- (a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade of 1994;
- (b) Article VII of the General Agreement on Tariffs and Trade of 1994; and
- (c) the provisions of this Chapter.

15.2 No value shall be determined under section 15.1 on the basis of:

- (a) the selling price in Kosovo of goods produced in Kosovo;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with section 14.2(d);
- (e) prices for export to a country other than Kosovo;
- (f) minimum values for customs purposes; or
- (g) arbitrary or fictitious values.

### Section 16 Special Provisions

16.1 (a) For the purposes of section 13.4(a)(iii), royalties and licence fees shall be taken to mean in particular payment for the use of rights relating:

- (i) to the manufacture of imported goods (in particular, patents, designs, models and manufacturing know-how);
- (ii) to the sale for exportation of imported goods (in particular, trade marks and registered designs); or

(iii) to the use or resale of imported goods (in particular, copyright and manufacturing processes inseparably embodied in the imported goods).

(b) Notwithstanding section 13.4(c), when the customs value of imported goods is determined under the provisions of section 13, a royalty or licence fee shall be added to the price actually paid or payable only when this payment:

- (i) is related to the goods being valued; and
- (ii) constitutes a condition of sale of those goods.

(c) (i) When the imported goods are only an ingredient or component of goods manufactured in Kosovo, an adjustment to the price actually paid or payable for the imported goods shall only be made when the royalty or licence fee relates to those goods.

(ii) Where goods are imported in an unassembled state or only have to undergo minor processing before resale, such as diluting or packing, this shall not prevent a royalty or licence fee from being considered related to the imported goods.

(iii) If royalties or licence fees relate partly to the imported goods and partly to other ingredients or component parts added to the goods after their importation, or to post-importation activities or services, an appropriate apportionment shall be made only on the basis of objective and quantifiable data, in accordance with the interpretative notes issued by the Director General under section 16.7(b).

(d) A royalty or licence fee in respect of the right to use a trade mark is only to be added to the price actually paid or payable for the imported goods where:

- (i) the royalty or licence fee refers to goods which are resold in the same state or which are subject only to minor processing after importation;
- (ii) the goods are marketed under the trade mark, affixed before or after importation, for which the royalty or licence fee is paid; and
- (iii) the buyer is not free to obtain such goods from other suppliers unrelated to the seller.

(e) When the buyer pays royalties or licence fees to a third party, the conditions provided for in section 16.1(b) shall not be considered as met unless the seller or a person related to him requires the buyer to make that payment.

(f) Where the method of calculation of the amount of a royalty or licence fee derives from the price of the imported goods, it may be assumed in the absence of evidence to the contrary that the payment of that royalty or licence fee is related to the goods to be valued. However, where the amount of a royalty or licence fee is calculated regardless of the price of the imported goods, the payment of that royalty or licence fee may nevertheless be related to the goods to be valued.

(g) In applying section 13.4(a)(iii), the country of residence of the recipient of the payment of the royalty or licence fee shall not be a material consideration.

16.2 For the purposes of subsection 13.4(a)(ii) and section 13.5(a), the place of introduction into Kosovo shall be:

- (a) for goods carried by rail, inland waterway, or road, the place where the first customs office is situated; and
- (b) for goods carried by other means, the place where they enter Kosovo.

16.3 For the purposes of section 13.4(a)(v) and section 13.5(a):

- (a) where goods are carried by the same mode of transport to a point beyond the place of introduction into Kosovo, transport costs shall be assessed in proportion to the distance covered outside and inside Kosovo, unless evidence is produced to the Director General to show the costs that would have been incurred under a general compulsory schedule of freight rates for the carriage of the goods to the place of introduction into Kosovo;
- (b) where goods are invoiced at a uniform free domicile price which corresponds to the price at the place of introduction, transport costs within Kosovo shall not be deducted from that price. However, such deduction shall be allowed if evidence is produced to the Director General that the free-frontier price would be lower than the uniform free domicile price; and
- (c) where transport is free or provided by the buyer, transport costs to the place of introduction, calculated in accordance with the schedule of freight rates normally applied for the same modes of transport, shall be included in the customs value.

16.4 All postal charges levied up to the place of destination in respect of goods sent by post shall be included in the value of these goods, provided that:

- (a) no charge shall be included in respect of:
  - (i) any supplementary postal charge levied in Kosovo; and
  - (ii) goods carried by the express postal services known as EMS-Datapost;
 and
- (b) no adjustment shall be made in respect of the value of consignments of a non-commercial nature.

16.5 The Director General after consultation with the Government, shall by Administrative Instruction lay down the rules and percentages to be included in the value of goods in respect of air transport costs.

16.6 (a) Notwithstanding Sections 13 to 15, in determining the value of imported carrier media bearing data or instructions for use in data processing equipment, only the cost or value of the carrier medium itself shall be taken into account. The value of imported carrier media bearing data or instructions shall not, therefore, include the cost or value of the data or instructions, provided that such cost or value is distinguished from the cost or value of the carrier medium in question.

- (b) For the purposes of this subsection:
  - (i) 'carrier medium' shall not include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices; and
  - (ii) 'data or instructions' shall not include sound, cinematographic or video recordings.

16.7 (a) The Director General, after consultation with the Government, shall by Administrative Instruction lay down:

- (i) rules for applying the rates of exchange laid down by the Banking and Payments Authority of Kosovo to any value of goods expressed in terms other than euros, and shall make available for public inspection by electronic means those rules;

- (ii) rules for determining the value of certain perishable goods; and
- (iii) the declarations and documents to be furnished with any customs entry, and the procedures for their furnishing.

(b) The Director General, after consultation with the Government, shall issue an Administrative Instruction providing Interpretative Notes for use with the sections of this Chapter.

**TITLE III**  
**PROVISIONS APPLICABLE TO GOODS BROUGHT INTO KOSOVO UNTIL**  
**THEY ARE ASSIGNED A CUSTOMS-APPROVED TREATMENT OR USE**

**Chapter 6**  
**General and Specific Provisions**

Section 17  
General Provisions

17.1 The Director General, after consultation with the Government, shall by Administrative Instruction designate:

- (a) in respect of goods brought into Kosovo by road and rail, the routes to be taken by the vehicles and trains carrying those goods and the customs offices where those goods shall be declared;
- (b) in respect of goods brought into Kosovo by air, the airports where those goods are to be first taken and the customs offices where those goods shall be declared; and
- (c) in respect of goods brought into Kosovo by post, the post office where those goods are to be first taken and subject to customs controls.

17.2 Except as otherwise provided for by or under this Regulation, all goods brought into Kosovo, from the time of their entry:

- (a) shall be subject to customs supervision;
- (b) may be subject to customs control until they are assigned a customs-approved treatment or use; or
- (c) shall be conveyed by the person bringing them into Kosovo, or by any person who assumes responsibility for the carriage of those goods, without delay and by the route specified under section 17.1 and to the customs office so specified or to any other place designated or approved by the Director General; or, to a free zone, if the goods are to be brought into that free zone direct:
  - (i) by air; or
  - (ii) where the free zone adjoins the boundary between Kosovo and an area outside Kosovo, by land without passing through another part of Kosovo.

17.3 (a) Where, by reason of unforeseeable circumstances or *force majeure*, the obligation laid down in section 17.2(b) cannot be complied with, the person bound by



that obligation or any other person acting in his place shall inform the Customs Service of the situation without delay. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, the Customs Service shall also be informed of the precise location of the remaining goods.

(b) Where, by reason of unforeseeable circumstances or *force majeure*, an aircraft which is not excepted by section 18.1(b) is forced to land temporarily in Kosovo and the obligation laid down in section 17.2(b) cannot be complied with, the person bringing the aircraft into Kosovo or any other person acting in his place shall inform the Customs Service of the situation without delay.

(c) The Director General shall determine the measures to be taken in order to permit customs supervision of the goods referred to in section 17.3(a) as well as those on board an aircraft in the circumstances specified in section 17.3(b) and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by him.

### Section 18

#### Special Provisions Relating to Different Methods of Transport

18.1 (a) Customs supervision and control shall not apply to any aircraft entering the airspace of Kosovo which does not have the intention to and does not land in Kosovo.

(b) With the exception of the following types of aircraft:

(i) military aircraft;

(ii) private aircraft not carrying goods subject to customs supervision and control; and

(iii) aircraft arriving from another part of Kosovo without having stopped at any place outside Kosovo,

the commander of any aircraft landing at an airport designated under section 17.1(b), shall lodge with the Customs Service a manifest of all goods carried on that aircraft, and shall permit officers to carry out customs controls on the aircraft, goods carried on that aircraft, its crew and the luggage of the crew, and the passengers and their luggage.

18.2 It is prohibited to import goods into, or export goods from, Kosovo by water over Lakes Fierza and Gazivoda.

18.3 (a) Any railway company which transports goods into Kosovo by rail shall be responsible for all customs formalities in respect of those goods.

(b) When required to do so by an officer, any railway company that has transported goods into Kosovo, shall make available to that officer all records held by it in respect of those goods, their senders and the persons receiving them.

(c) Where passengers are transported into Kosovo by rail, the railway company transporting them shall provide facilities for officers to carry out customs controls on those passengers and their luggage, and the train, its crew and their luggage, on the train or at the point of crossing into Kosovo or at such other place as the Director General may direct.

18.4 (a) Goods received into Kosovo by post shall remain under customs supervision until the customs formalities are completed at the post office designated in section 17.1(c).

(b) With the exception of the following:

- (i) postcards and letters containing personal messages only;
- (ii) printed matter not liable to import duties;
- (iii) braille letters; and
- (iv) non commercial goods, the value of which does not exceed the threshold laid down by the Special Representative to the Secretary-General in an Administrative Direction issued under this Regulation,

all good received into Kosovo by post are subject to customs declaration.

(c) The Director General may, on receipt of an appropriate general and periodical customs declaration made on such form as he may permit, allow the immediate release of goods imported by post.

18.5 (a) The Special Representative of the Secretary-General shall, by Administrative Direction, lay down the relief from import duty permitted to passengers and people entering Kosovo.

(b) Goods carried by diplomatic courier shall not be subject to customs control.

#### Section 19

##### Summary Declaration and Assignment of Customs-Approved Treatment or Use

19.1 Where goods, pursuant to section 17.2(b) are conveyed to a customs office or other place designated or approved by the Director General, those goods shall be presented to an officer by the person who brought the goods into Kosovo or, if appropriate, by the person who has assumed responsibility for the carriage of the goods, following such conveyance.

19.2 Where goods have been presented to an officer under this section, a summary declaration shall be made in respect of them, not later than the end of the next working day, on a form and containing such details as may be laid down by the Director General, after consultation with the Government, in an Administrative Instruction, and different forms and details may be applied to different types of goods and circumstances.

19.3 Where goods have been presented to an officer, that officer may require the goods to be unloaded and unpacked, and may examine those goods.

19.4 Where a summary declaration has been submitted in respect of goods, the formalities necessary for them to be assigned a customs-approved treatment or use must be completed within 20 days from the date on which the summary declaration was lodged, provided that the Director General, after consultation with the Government, may by Administrative Instruction provide that in certain circumstances a shorter time limit

shall apply or, in individual cases, where justified by the individual circumstances, a longer limit.

Section 20  
Temporary Storage of Goods

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

20.2 Goods in temporary storage shall be stored only in places approved by the Director General under conditions laid down by him. Where the place has been approved for the placing of goods in temporary storage on a permanent basis, such a place shall hereinafter be described as ‘temporary storage facilities’.

20.3 In order to ensure the application of customs rules, the Director General may, where the Customs Service do not themselves manage a temporary storage facility, require that:

- (a) the temporary storage facility be double-locked, one key being held by the Customs Service; and
- (b) the person operating the temporary storage facility shall:
  - (i) keep stock accounts which enable the movements of goods to be traced; and
  - (ii) provide security with a view to ensuring payment of any customs debt.

20.4 Where goods are in temporary storage, they shall be subject only to such forms of handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

20.5 The Director General shall without delay take all measures necessary, including the sale of the goods, to regularize the situation of goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use are not completed within the periods determined in accordance with section 19.4, and the person responsible for those formalities shall bear the costs of such measures.

**TITLE IV**  
**CUSTOMS-APPROVED TREATMENT OR USE**

**Chapter 7**  
**General Provisions**

Section 21  
General Provisions

21.1 Save as may otherwise be provided for by or under this Regulation, goods may at any time, under such conditions as the Director General, after consultation with the Government, may by Administrative Instruction lay down, be assigned any customs-approved treatment or use, irrespective of their nature, quantity, country of origin, consignment or destination.

21.2 Section 21.1 shall not preclude the imposition of any prohibition or restriction justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

**Chapter 8**  
**Customs Procedures**

Section 22  
Declarations

22.1 The Director General, after consultation with the Government, shall by Administrative Instruction lay down in respect of all declarations, the conditions and requirements of, the forms and electronic means for, and the documents to accompany them, and shall, subject to any condition or limitation provided for in that Instruction, permit declarations to be made:

- (a) in writing;
- (b) using data-processing techniques;
- (c) by oral declaration;
- (d) by any other act; or
- (e) by any combination of (a) to (d).

22.2 The Director General shall provide explanatory notes to assist in completing the forms laid down by section 22.1 and the codes to be used in so doing, and shall make copies available for public inspection by electronic means.

22.3 The Director General shall, in the Administrative Instruction provided for by section 22.1, permit:

- (a) the Customs Service to accept, in a duly justified case, an incomplete declaration which does not contain all the particulars required, or which is not accompanied by all documents necessary for the customs procedure in question;
- (b) a simplified declaration procedure to enable goods to be entered for the customs procedure in question on presentation of a simplified declaration with subsequent presentation of a supplementary declaration which may be of a general, periodic or recapitulative nature; and
- (c) a local clearance procedure to enable the entry of goods for the customs procedure in question to be carried out at the premises of the person concerned or at other places designated or approved by the Director General.

22.4 Subject to section 22.3, where a declaration does not comply with the requirements of the Administrative Instruction issued under section 22.1, an officer may refuse to accept that declaration.

### Section 23

#### Placing of Goods Under a Customs Procedure

23.1 All goods placed under a customs procedure shall be covered by a declaration for that procedure.

23.2 Where a declaration covers two or more articles, the particulars relating to each article shall be regarded as constituting a separate declaration.

23.3 For the purposes of declaration, component parts of industrial plant coming under a single Combined Nomenclature Code Heading in the tariff referred to in section 1.1, shall be regarded as constituting a single item of goods.

23.4 Subject to section 23.5, declarations shall be lodged with the customs office where the goods were presented and may be lodged as soon as such presentation has taken place.

23.5 The Director General may authorize a declaration to be lodged before the presentation of the goods. Where the Director General so authorizes, he may set a time limit, to be determined according to the circumstances, for presentation of the goods. If the goods have not been presented within this time limit, the declaration shall be considered not to have been lodged.

23.6 Where a declaration has been lodged before the goods to which it relates have arrived at the customs office or other place authorized by the Director General, it may be accepted only after the goods in question have been presented to the Customs Service.

23.7 All declarations shall be lodged with the competent customs office during the days and hours appointed for opening. The Director General may, at the request of the declarant and at the declarant's expense, authorize the declaration to be lodged outside the appointed days and hours and at a place other than a competent customs office.

23.8 Any declaration lodged with the officials of a customs office at a place other than a customs office authorized for that purpose by agreement between the Director General and the person concerned, shall be considered to have been lodged at the office of the said officials.

23.9 Documents accompanying a declaration shall be kept by the Customs Service unless that Service provides otherwise or unless they are required for other purposes, in which case the Director General shall take the necessary steps to ensure that the documents in question cannot subsequently be used except in respect of the quantity or value of goods for which they remain valid.

#### Section 24

##### Acceptance, Amendment and Invalidation of Declaration

24.1 Where a declaration is not to be subject to verification, and where it complies with the conditions laid down under section 22, it shall be accepted by the Customs Service immediately, provided that the goods to which it refers have been presented to that Service.

24.2 The date of acceptance of the declaration shall be noted thereon and shall be the date to be used for the purposes of all provisions governing the customs procedure for which the goods are declared, except that where the rate of duty is reduced between the date of acceptance and the date of release of the goods, the declarant may request application of the more favourable rate.

24.3 Without prejudice to the possible application of penal provisions, the lodging with a customs office of a declaration signed by the person declaring the goods or his representative shall render them responsible under the provisions in force for:

- (a) the accuracy of the information contained in the declaration;
- (b) the authenticity of the documents attached; and
- (c) compliance with all the obligations relating to the entry of the goods in question under the procedure concerned.

24.4 The person who declares the goods shall, at his request, be permitted to amend one or more of the particulars of the declaration after it has been accepted by an officer, provided that the amendment shall not have the effect of rendering the declaration applicable to goods other than those originally declared.

24.5 The Director General may allow or require the corrections referred to in section 24.4 to be made by the lodging of a new declaration to replace the original declaration,

but the relevant date for the acceptance of the declaration shall remain the date of the acceptance of the original declaration.

24.6 The Director General shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

24.7 Subject to what the Director General may otherwise allow, no amendment, replacement or invalidation shall be permitted where permission is requested after the Customs Service has:

- (a) informed the declarant that they intend to examine the goods;
- (b) established that the particulars in question are incorrect; or
- (c) released the goods.

24.8 Amendment, replacement or invalidation of the declaration shall be without prejudice to any action that might be taken in respect of any offence.

#### Section 25 Verification of Declarations

25.1 In order to verify any declaration which has been accepted, an officer may:

- (a) examine the documents containing the declaration and the documents accompanying it and may require the person who declared the goods to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration; and
- (b) examine the goods and take samples for analysis or for detailed examination.

25.2 The Director General, after consultation with the Government, shall by Administrative Instruction lay down the procedures to be followed where samples are to be taken from goods.

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

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

25.5 The person who declared the goods shall be entitled to be present when the goods are examined and when samples are taken. Where he deems it appropriate, the Director General shall require that person to be present or represented when the goods are examined or samples are taken in order to provide him with the assistance necessary to facilitate such examination or taking of samples.

25.6 Provided that samples are taken in accordance with the provisions of the Administrative Instruction made by the Director General under section 25.2, the Customs Service shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

### Section 26 Release and Disposal

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

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

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

26.4 Where a declaration cannot be verified, the provisions referred to in section 26.3 shall be applied on the basis of the particulars contained in the declaration.

26.5 Without prejudice to sections 26.7 and 26.8, where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the officer shall release the goods as soon as the particulars in the declaration have been verified or accepted without verification. The same shall apply where such verification cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.

26.6 All the goods covered by the same declaration shall be released at the same time.

26.7 Where acceptance of a customs declaration gives rise to a customs debt, the goods covered by the declaration shall not be released unless the customs debt has been paid or secured. However, without prejudice to section 26.8, this provision shall not apply to the temporary importation procedure with partial relief from import duties.

26.8 Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the Director General requires the provision of a security, the said



goods shall not be released for the customs procedure in question until such security has been provided.

26.9 Any necessary measures, including confiscation and sale, shall be taken to deal with goods which:

(a) cannot be released because:

(i) it has not been possible to undertake or continue examination of the goods within the period prescribed by the Director General for reasons attributable to the person who declared the goods;

(ii) any document which must be produced before the goods can be placed under the customs procedure requested has not been produced;

(iii) payment or security which should have been made or provided in respect of import duties or export duties, as the case may be, has not been made or provided within the period prescribed; or

(iv) the goods are subject to a prohibition or restriction;

provided that the person who declared the goods, on being notified, shall be given reasonable time to regularize the position; or

(b) are not removed within a reasonable period after their release.

### Section 27

#### Post-Clearance Examination of Declarations

27.1 The Director General may, at the request of the person who declared the goods or otherwise, order an amendment to a declaration after release of the goods.

27.2 The Director General may, after the release of the goods and in order to establish the accuracy of the particulars contained in the declaration, order the inspection of the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the person who declared the goods, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document or data for business purposes. The goods themselves may be examined where it is still possible for them to be produced.

27.3 Where the amendment of the declaration or post-clearance examination indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the Director General shall, in accordance with any provisions laid down, order the necessary measures to be taken to regularize the situation, taking account of the new information available.

## **Chapter 9**

### **Release for Free Circulation**

#### Section 28

##### Change of Status

Release for free circulation shall confer on goods from outside Kosovo a customs status identical to goods which originated in Kosovo, as defined by section 11. It shall entail application of commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any duties due.

#### Section 29

##### Mixed Classification

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

#### Section 30

##### Supervision of Privileged Goods

30.1 Where goods are released for free circulation with favourable tariff treatment or at a reduced or zero-rate of duty on account of their end-use, they shall remain under customs supervision.

30.2 Customs supervision shall end when:

- (a) the conditions laid down for granting such favourable tariff treatment or reduced or zero rate of duty cease to apply;
- (b) where the goods are exported or destroyed; or
- (c) where goods are permitted to be used for purposes other than those laid down in the application for the favourable tariff treatment or reduced or zero rate of duty, subject to payment of any duties due.

30.3 The Director General may make the placing of goods under an arrangement under section 30.2 conditional upon the provision of security, in order to ensure that any customs debt which may be incurred in respect of those goods will be paid.

Section 31  
Loss of Status

Goods released for free circulation shall lose their customs status as identical to goods which originated in Kosovo where:

- (a) the declaration for release for free circulation is invalidated after release; or
- (b) the imported duties payable on those goods are repaid or remitted:
  - (i) under the inward-processing procedure in the form of the drawback system;
  - (ii) in respect of defective goods or goods which fail to comply with the terms of their contract, pursuant to section 54.5; or
  - (iii) in situations of the type referred to in section 60.4(b), where repayment or remission is conditional upon the goods being exported or re-exported or being assigned an equivalent customs-approved treatment or use.

Section 32  
Miscellaneous

32.1 The rights and obligations of the holder of goods subject to favourable tariff treatment or a reduced or zero-rate of duty may, under conditions laid down by the Director General, be transferred successively to any subsequent holder of those goods who fulfils those conditions.

32.2 Waste and scrap which result from the working or processing of goods subject to favourable tariff treatment or a reduced or zero rate of duty, and losses of them due to natural wastage, shall be considered as goods having been assigned to the prescribed end-use.

32.3 Where waste and scrap result from the destruction of goods, customs supervision shall end when they have been assigned a permitted customs-approved treatment or use.

Section 33  
Administration

The Director General, after consultation with the Government, shall by Administrative Instruction lay down the forms to be used, information to be given and conditions and limitations to apply to all applications for the release of goods with a favourable tariff treatment or at a reduced or zero rate of duty on account of their end-use.

## **Chapter 10**

### **Customs Status of Goods**

#### Section 34

##### General Provisions

34.1 Subject to section 34.2, all goods in Kosovo shall be deemed to have originated in Kosovo, unless it is proved that they originated elsewhere.

34.2 The following shall not be deemed to have originated in Kosovo unless it is proved that they did originate in Kosovo:

- (a) goods brought into Kosovo in accordance with section 20.1;
- (b) goods in a free zone of control type I or in a free warehouse; and
- (c) goods placed under a suspensive procedure or in a free zone of control type II.

34.3 The Director General, after consultation with the Government, shall by Administrative Instruction lay down the documents to be used, information to be given and the conditions and limitations which shall apply to prove the status of goods as either having originated in a specific country or place outside Kosovo.

## **Chapter 11**

### **Transit**

#### Section 35

##### General Provisions

35.1 The transit procedure shall permit the movement from one point within Kosovo to another of:

- (a) goods which did not originate in Kosovo, without such goods being subject to import duties and other charges or to commercial policy measures; and
- (b) goods which did originate in Kosovo, which are subject to measures involving their export to countries or places outside Kosovo and in respect of which customs formalities for the export of those goods have already been carried out

35.2 Movement permitted by section 35.1 shall take place:

- (a) under the transit procedure;
- (b) under cover of a TIR carnet, provided that such movement:
  - (i) began or is to end in Kosovo;
  - (ii) relates to consignments of goods which must be unloaded in Kosovo and which are conveyed with goods which are to be unloaded in a country or place outside Kosovo; or
  - (iii) is effected between two points in Kosovo through the territory of a country or place outside Kosovo;

- (c) under cover of an ATA carnet used as a transit document;
- (d) under cover of the form 302 provided for in the Convention between the Parties to the North Atlantic Treaty regarding the Status of their Forces, signed in London on 19 June 1951; or
- (e) by post.

35.3 The transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under a customs procedure with economic impact.

35.4 The transit procedure shall only apply to goods passing through the territory of a country or place outside Kosovo if:

- (a) provision is made to that effect under an international agreement; or
- (b) the carriage through that country or place is effected under cover of a single transport document laid down by the Director General under section 35.6 and drawn up in Kosovo; in such case the operation of that procedure shall be suspended in the territory of that country or place.

35.5 Subject to verification, the transit procedure shall end when the goods and the required documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.

35.6. The Director General, after consultation with the Government, shall by Administrative Instruction lay down

- (a) the procedures, systems, verifications and customs offices to be used, the limitations to routes and vehicles for goods in transit;
- (b) simplified procedures that may be used where:
  - (i) goods do not move outside Kosovo;
  - (ii) by bilateral or multilateral arrangement with other countries, organizations or places, it has been agreed that certain types of goods traffic or specific undertakings apply;
  - (iii) persons have authorised consignor or consignee status; or
  - (iv) goods are transported by air or pipeline; and
- (c) the documents to be used, the information to be given and the conditions and limitations which shall apply to those documents accompanying goods in transit, either under normal or simplified procedures.

### Section 36 Guarantees

36.1 No goods shall move under a transit procedure unless there has been provided in respect of those goods a guarantee, in order to ensure payment of any customs debt or other charges which may be incurred in respect of those goods.

36.2 The guarantee shall be either:

- (a) an individual guarantee covering a single transit procedure; or
- (b) a comprehensive guarantee covering a number of transit procedures where the person providing the guarantee has been authorised to provide such a guarantee by the Director General

36.3 Except as the Director General may otherwise permit, the authorisation referred to in section 36.2(b) shall be granted only to persons who:

- (a) are established in Kosovo;
- (b) are regular users of transit procedures or who are accepted by the Director General as having the capacity to fulfil obligations in relation to such procedures; and
- (c) have not been convicted of a criminal offence under Chapter 26, or have not been made liable to more than one administrative penalty under Chapter 25.

36.4 Where the Director General is satisfied that a person authorised to use a comprehensive guarantee:

- (a) meets higher standards of reliability;
- (b) has made correct use of the transit procedures during a given period;
- (c) has a record of cooperation with customs; and
- (d) is of good financial standing which is sufficient to fulfill the obligations and commitments of the transit procedures;

he may authorise that person to use a comprehensive guarantee for a reduced amount or a guarantee waiver.

36.5 A guarantee waiver authorised in accordance with section 36.4 shall not apply to transit operations outside of Kosovo involving goods which, pursuant to the terms of an Administrative Instruction under section 36.10, are considered to present increased risks.

36.6 Comprehensive guarantees for reduced amounts and guarantee waivers, authorised in accordance with section 36.4 may, in the case of transit operations outside Kosovo, be temporarily prohibited by the Director General as an exceptional measure.

36.7 Except where the Director General lays down by Administrative Instruction under section 36.10, no guarantee need be furnished for:

- (a) journeys by air;
- (b) carriage by pipeline; or
- (d) operations carried out by railway companies.

36.8 Any person providing a guarantee, and any carrier or recipient of goods for a transit procedure outside Kosovo, shall be responsible for:

- (a) observance of the provisions relating to the transit procedure; and
- (b) production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures provided for by the Director General to ensure identification.

36.9 (a) The Director General may revoke his acceptance of any guarantee if the conditions laid down at the time of its issue are no longer fulfilled.

(b) Any person providing the guarantee may, at any time, cancel his undertaking to provide that guarantee.

(c) Any revocation or cancellation made under this subsection shall not become effective before the 16<sup>th</sup> day following the date on which the Director General or the person providing the guarantee, as appropriate, is notified of the other parties actions.

36.10 In addition to the other matters provided for by this section, the Director General, after consultation with the Government, shall by Administrative Instruction lay down the documents to be used, information to be given and the conditions and limitations which shall apply to guarantees.

### Section 37

#### Transport under Other Procedures

37.1 Goods transported under cover of a carnet within Kosovo shall be deemed to be goods originating outside Kosovo, unless their status as goods originating in Kosovo is duly established.

37.2 Where, in the course of transport from one place in Kosovo to another, goods leave Kosovo, the controls and formalities associated with a carnet procedure shall be carried out at the points where the goods temporarily leave Kosovo and where they re-enter it.

37.3 Where it is found that, in the course of, or in connection with, any transport operation carried out under cover of a carnet, an offence or irregularity has been committed in Kosovo, the recovery of duties and other charges which may be payable shall be effected by the Director General, without prejudice to the institution of criminal proceedings.

37.4 Where it is not possible to determine in which county or place an offence or irregularity in the course of, or in connection with, a transport operation carried out under cover of a carnet has been committed, such offence or irregularity shall, where detected in Kosovo, be deemed to have been committed in Kosovo unless, within the period laid down in the Treaties establishing the carnet conventions, proof of the regularity of the operation or of the place where the offence or irregularity was actually committed is furnished to the satisfaction of the Director General.

37.5 The Director General, after consultation with the Government, shall by Administrative Instruction lay down provisions for implementing the rules of the carnet conventions.

Section 38  
Postal Consignments

The Director General, after consultation with the Government, shall by Administrative Instruction prescribe the form to be attached to goods originating in Kosovo where they are sent by post to a country or place outside Kosovo.

**Chapter 12**  
**Customs Procedures with Economic Impact**

Section 39  
Common Provisions

Without prejudice to the other provisions of this chapter, the Director General, after consultation with the Government, shall by Administrative Instruction lay down systems of control for all customs procedures provided for in this Chapter, including the documents to be used and information to be given in the making of applications for authorisation, and the conditions and limitations which shall apply to all such authorisations and the operation of the systems themselves.

Section 40  
Customs Warehousing

40.1 The customs warehousing procedure shall allow the storage in a customs warehouse of:

- (a) non-domestic goods, without such goods being subject to import duties or commercial policy measures; and
- (b) domestic goods, where legislation governing specific fields provides that their being placed in a customs warehouse shall attract the application of measures normally attaching to the export of such goods.

40.2 The Customs Service may operate a customs warehouse.

- 40.3 (a) The warehousekeeper of a customs warehouse shall be responsible for:
- (i) ensuring that while the goods are in that warehouse they are not removed from the supervision of the Customs Service;
  - (ii) fulfilling the obligations that arise from the storage of goods covered by the customs warehousing procedure;
  - (iii) complying with the particular conditions specified in the authorisation of that warehouse; and
  - (iv) providing any guarantee required by the Director General,



except that where the authorisation concerns a public warehouse, it may provide that the responsibilities referred to in sections 40.3(a)(i) and 40.3(a)(ii) devolve exclusively upon the depositor.

(b) The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure.

40.4 The rights and obligations of a warehousekeeper may, with the agreement of the Director General, be transferred to another person.

40.5 Except where the Director General may otherwise permit, the person designated by an authorisation to do so shall keep stock records of all the goods placed under the customs warehousing procedure in a form set out in the Administrative Instructions provided for by the Director General.

40.6 Where an economic need exists and customs supervision is not adversely affected thereby, the Director General may permit:

(a) domestic goods, other than those referred to in section 40.1(b), to be stored on the premises of a customs warehouse;

(b) non-domestic goods to be processed on the premises of a customs warehouse under the inward-processing procedure, subject to the conditions provided for by that procedure, whereupon the Director General may permit such formalities to be dispensed with as he may direct; and

(c) non-domestic goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure, whereupon the Director General may permit such formalities to be dispensed with as he may direct;

in which case the goods shall not be subject to the customs warehousing procedure although the Director General may require the goods to be entered in stock records.

40.7 Goods placed under the customs warehousing procedure shall be entered in the stock records provided for by section 40.6 as soon as they are brought into the customs warehouse.

40.8 Except as the Director General may otherwise provide:

(a) import goods in a customs warehouse may undergo any form of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale;

(b) there shall be no limit to the length of time goods may remain under the customs warehousing procedure;

(c) goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse and while outside the customs warehouse the goods may undergo the forms of handling referred to in section 40.8(a); and

(d) goods placed under the customs warehousing procedure may be transferred from one customs warehouse to another.

40.9 Where the said goods have undergone handling within the meaning of section 40.8(a), the nature of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties shall, at the request of the declarant, be those which would have been taken into account for the goods if they had not undergone such handling.

40.10 Where a customs debt is incurred in respect of import goods and the customs value of such goods is based on a price actually paid or payable, which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs are not required to be included in the customs value if they are shown separately from the price actually paid or payable for the goods.

40.11 Where import goods are released for free circulation in accordance with section 22.3(c), the nature of the goods, the customs value and the quantity to be taken into account for the purposes of section 56.4 shall be those applicable to the goods at the time when they were placed under the customs-warehousing procedure.

#### Section 41 Inward Processing

41.1 (a) Without prejudice to section 41.2, the inward-processing procedure shall allow the following goods to be used in Kosovo in one or more processing operations:

- (i) non-domestic goods which are intended for re-export from Kosovo in the form of compensating products, without such goods being subject to import duties or commercial policy measures; and
- (ii) goods released for free circulation with repayment or remission of the import duties chargeable on such goods, if they are exported from Kosovo in the form of compensating products.

(b) Where section 41.1(a)(ii) applies, and the compensating products would be liable to export duties if they were not exported or re-exported under an inward-processing operation, the holder of the authorisation shall provide the Director General with such security to ensure payment of the duties should the import goods not be imported within the period prescribed.

41.2 Except as the Director General may otherwise provide, where equivalent goods are of the same quality but have the same characteristics as the import goods, he shall allow compensating products to be obtained from equivalent goods, and such goods to be exported from Kosovo before importation of the import goods, in which case the import goods shall be regarded for customs purposes as equivalent goods and the equivalent goods as import goods. Related procedures shall be set out in an Administrative Instruction.

41.3 Authorisation for an inward processing procedure shall only be issued at the request of the person who carries out processing operations or who arranges for them to be carried out, and shall only be granted:

- (a) to persons established in Kosovo;

- (b) in respect of imports of a non-commercial nature, to persons established outside of Kosovo;
- (c) where the import goods can be identified in the compensating products or, in the case referred to in section 41.2, where compliance with the conditions laid down in respect of equivalent goods can be verified; and
- (d) where the inward-processing procedure can help create the most favourable conditions for the export or re-export of compensating products, provided that the essential interests of other producers in Kosovo are not adversely affected.

41.4 The Director General shall, taking account of the time required to carry out the processing operations and disposal of the compensating products, specify the period within which compensating products must be exported or re-exported or assigned to another customs-approved treatment or use, and that period shall run from the date on which the goods are placed under the inward-processing procedure.

41.5 The Director General shall set the rate of yield of the operation to be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out or, where appropriate, the method of determining such rate.

41.6 Subject to section 41.7, where a customs debt is incurred, the amount of such debt shall be determined on the basis of the taxation elements appropriate to the import goods at the time of the acceptance of the declaration placing those goods under the inward-processing procedure, and where such goods fulfill the conditions to qualify for any preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for such preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration of release for free circulation.

41.7 Compensating products:

- (a) shall be subject to the import duties appropriate to them where they are released for free circulation, to the extent that they are in proportion to the exported part of the compensating products, except that the holder of the authorisation may ask for the duty on those products to be assessed in the manner referred to in section 41.6;
- (b) shall be subject to import duties calculated in accordance with the rules applicable to the customs procedure in question or to free zones or free warehouses where they have been placed under a suspensive arrangement or in a free zone or free warehouse, except that:
  - (i) the person concerned may request that duty be assessed in accordance with section 41.6; and
  - (ii) in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duty levied shall be at least equal to the amount calculated in accordance with section 41.6;
- (c) may be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control where the import goods could have been placed under that procedure;

- (d) shall enjoy favourable tariff treatment owing to the special use for which they are intended, where provision is made for such treatment in the case of identical imported goods; and
- (e) shall be admitted free of import duty where such duty-free provision is made in the case of identical goods imported in accordance with section 51.

41.8 Some or all of the compensating products or goods in an unaltered state may be temporarily exported for the purpose of further processing outside Kosovo if the Director General so authorizes, in accordance with the conditions laid down in the outward-processing provisions.

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

- (a) import duties on the compensating products or goods in an unaltered state referred to in section 41.8, calculated in accordance with sections 41.6 and 41.8; and
- (b) import duties on products reimported after processing outside of Kosovo, calculated in accordance with the provisions relating to the outward-processing procedure, on the same conditions as would have applied had the products exported under the latter procedure been released for free circulation before such export took place.

41.10 The drawback system may be used for all goods except those where, at the time the declaration of their release for free circulation is accepted:

- (a) they are import goods subject to quantitative import restrictions;
- (b) they are import goods to which a tariff measure within quotas is applied; or
- (c) an export refund or tax has been set for compensating products.

41.11 A declaration of release for free circulation shall indicate that a drawback system is being used and shall provide particulars of that authorisation.

41.12 The holder of an authorisation may ask for import duty to be repaid or remitted where he can establish to the satisfaction of the Director General that import goods released for free circulation under the drawback system in the form of compensating products or goods in an unaltered state have been either:

- (a) exported; or
- (b) placed, with a view to being subsequently reexported, under the transit procedure, the customs-warehousing procedure, the temporary importation procedure or the inward-processing procedure (suspensive arrangement), or in a free zone or free warehouse, provided that all conditions for the use of that procedure have also been fulfilled.

41.13 In the inward-processing procedure, applying the suspension system shall also apply in order that the compensating products may qualify for exemption from the export duties to which identical products obtained from domestic goods, instead of import goods, would be liable.

Section 42  
Processing under Customs Control

42.1 The procedure for processing under customs control shall allow goods which are not domestic goods to be used in Kosovo in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them, and such products shall be called “processed products”.

42.2 Authorisation for processing under customs control shall be issued at the request of the person who carries out the processing or arranges for it to be carried out, and shall only be granted:

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

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

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

(b) Where the preferential tariff treatment referred to in section 42.4(a) in respect of the import goods is subject to tariff quotas or tariff ceilings, the application of the rate of duty referred to in section 42.4(a) in respect of the processed products shall also be subject to the condition that the said preferential tariff treatment is applicable to the import goods at the time of acceptance of the declaration of release for free circulation, in which case, the quantity of import goods actually used in the manufacture of the processed products released for free circulation shall be charged against the tariff quotas or ceilings in force at the time of acceptance of the declaration of release for free

circulation and no quantities shall be counted against tariff quotas or ceilings opened in respect of products identical to the processed products.

Section 43  
Temporary Importation

43.1 The temporary importation procedure shall allow the use in Kosovo, with total or partial relief from import duties and without their being subject to commercial policy measures, of goods which are non-domestic goods and intended for re-export without having undergone any change except normal depreciation due to the use made of them.

43.2 Authorisation for temporary importation shall be issued at the request of the person who uses the goods or arranges for them to be used.

43.3 Except where he considers that the absence of identification measures is not liable to give rise to any abuse of the procedure, the Director General shall refuse to authorize use of the temporary importation procedure where it is impossible to ensure that the imported goods can be identified.

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

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

43.5 (a) Transfer of the rights and obligations deriving from the temporary importation procedure shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.

(b) Where the transfer referred to in section 43.5(a) is made with partial relief and two persons are authorized to use the procedure during the same month, the holder of the initial authorisation shall be liable to pay the amount of import duties due for the whole of that month.

43.6 The Director General, after consultation with the Government, shall by Administrative Instruction, lay down reliefs from import duties under the temporary importation procedure for the following classes of goods:

- (a) means of transport;
- (b) personal effects and goods for sports purposes imported by travellers;
- (c) welfare material for seafarers;
- (d) disaster relief material;

- (e) medical, surgical and laboratory equipment;
- (f) animals;
- (g) goods for use in frontier zones;
- (h) sound, image or data carrying media, publicity material;
- (i) professional equipment;
- (j) pedagogic material and scientific equipment;
- (k) packings;
- (l) moulds, dies, blocks, drawings, sketches, measuring, checking and testing instruments and other similar articles,
- (m) special tools and instruments;
- (n) goods to carry out tests or subject to tests;
- (o) samples;
- (p) replacement means of production;
- (q) goods for events and not for sale;
- (r) spare parts, accessories and equipment; and
- (s) such other goods as he sees fit;

and shall lay down such conditions and limitations that may apply to those reliefs.

#### Section 44 Outward Processing

44.1 (a) The outward-processing procedure shall allow domestic goods to be exported temporarily from Kosovo in order to undergo any processing operations, and the products resulting from those operations to be released in Kosovo for free circulation with total or partial relief from import duties.

(b) The temporary exportation of domestic goods under section 44.1(a) shall not affect the application of export duties, commercial policy measures and other customs formalities.

44.2 The outward-processing procedure shall not be open to domestic goods :

- (a) which, except as the Director General may otherwise permit, were prior to export, released for free circulation with total relief from import duties by virtue of end use, for as long as the conditions for granting such relief continue to apply;
- (b) whose export gives rise to repayment or remission of import duties; or
- (c) whose export gives rise to the granting of export refunds or in respect of which a financial advantage accrues.

44.3 (a) Subject to the other provisions of this subsection, authorisation to use the outward processing procedure shall be issued at the request of the person who arranges for the processing operations to be carried out.

(b) Authorisation to use the outward-processing procedure may be granted to a person in respect of goods which originate in Kosovo, where the processing operation consists in incorporating those goods into goods obtained outside Kosovo and imported as compensating products, provided that use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of other producers in

Kosovo, who produce products identical or similar to the imported compensating products.

- (c) Authorisation shall only be granted:
  - (i) to persons established in Kosovo;
  - (ii) except as the Director General may otherwise permit, where it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods; and
  - (iii) where authorisation to use the outward-processing procedure is not liable to harm seriously the essential interests of other processors in Kosovo (economic conditions).

44.4 The Director General shall set either the rate of yield of the operation or, where necessary, the method of determining that rate.

44.5 The total or partial relief from import duties shall:

- (a) be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:
  - (i) the holder of the authorisation; or
  - (ii) any other person established in Kosovo, provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled;
- (b) not be granted where one of the conditions or obligations relating to the outward-processing procedure is not fulfilled, unless it is established that the failure would have no significant effect on the correct operation of the said procedure; and
- (c) be effected by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into Kosovo from the country in which they underwent the processing operation or last processing operation. The amount to be deducted shall be calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward-processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration relating to the release for free circulation of the compensating products.

44.6 The value of the temporary export goods shall be that taken into account for those goods in determining the customs value of the compensating products in accordance with section 13.4(a)(ii)(A) or, if the value cannot be determined in that way, the difference between the customs value of the compensating products and the processing costs determined by reasonable means, except that:

- (a) certain charges set out in the Administrative Instruction issued by the Director General under section 39 shall not be taken into account in calculating the amount to be deducted; and
- (b) where, prior to being placed under the outward-processing procedure, the temporary export goods were released for free circulation at a reduced rate by



virtue of their end use, and for as long as the conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the amount of import duties actually levied when the goods were released for free circulation.

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

44.8 Where compensating products qualify for a preferential tariff measure and the measure exists for goods falling within the same tariff classification as the temporary export goods, the rate of import duty to be taken into account in establishing the amount to be deducted pursuant to section 44.5(c) shall be that which would apply if the temporary export goods fulfilled the conditions under which that preferential measure may be applied.

44.9 This section shall be without prejudice to any agreements the Special Representative of the Secretary-General may reach with other countries, places or organizations which provide for relief from import duties in respect of certain compensating products.

44.10 Where the purpose of the processing operation is the repair of the temporary export goods:

(a) they shall be released for free circulation with total relief from import duties where it is established to the satisfaction of the Director General that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect, except that this subsection shall not apply where account was taken of the defect at the time when the goods in question were first released for free circulation; and

(b) where such repair is carried out in return for payment, then except as the Director General may otherwise permit, the partial relief from import duties provided for in section 44.1 shall be granted by establishing the amount of the duties applicable on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of release for free circulation of those products and taking into account as the customs value an amount equal to the repair costs, provided that those costs represent the only consideration provided by the holder of the authorisation and are not influenced by any links between that holder and the operator.

44.11 Where goods are to be released for free circulation following an outward processing operation, the Director General may allow the value of those goods to be regarded as the cost of that processing operation.

Section 45  
Standard Exchange System

45.1 The standard exchange system shall permit an imported product, hereinafter referred to as a 'replacement product', to replace a compensating product.

45.2 The Director General shall allow the standard exchange system to be used where the processing operation involves the repair of domestic goods other than those subject to the specific arrangements applicable to certain goods resulting from the processing of agricultural products.

45.3 The provisions applicable to compensating products shall also apply to replacement products.

45.4 Subject to such conditions as he may impose, the Director General shall permit replacement products to be imported before the temporary export goods are exported (prior importation), in which case, security shall be provided to cover the amount of the import duties.

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

45.6 Except as the Director General may provide, where the temporary export goods have been used before export, the replacement products must have also been used and may not be new products.

45.7 Standard exchange shall be authorized only where it is possible to verify that the conditions laid down in section 45.5, or provided by the Director General under section 45.6, are fulfilled.

45.8 In the case of prior importation and where sections 44.5(c), 44.6, 44.7, 44.8 and 44.9 are applied, the amount to be deducted shall be determined on the basis of the items of charge applicable to the temporary export goods on the date of acceptance of the declaration placing them under the procedure.

**Chapter 13**  
**Export**

Section 46  
General Provisions

46.1 The export procedure shall allow domestic goods to leave Kosovo.

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

46.3 With the exception of goods placed under the outward-processing procedure all domestic goods intended for export shall be placed under the export procedure.

46.4 Except as the Director General may otherwise permit, all goods leaving Kosovo are subject to an export declaration.

46.5 Except as the Director General may otherwise permit, all export declarations must be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment.

46.6 Release for export shall be granted on condition that the goods in question leave Kosovo in the same condition as when the export declaration was accepted.

46.7 Without prejudice to the other provisions of this chapter, the Director General, after consultation with the Government, shall by Administrative Instruction lay down a system of control for the exportation of goods, including the documents to be used and information to be given, and the operation of the system itself.

#### Section 47

##### Temporary Exportation using an ATA Carnet

47.1 The Director General, after consultation with the Government, shall by Administrative Instruction lay down a system of control for the exportation of goods intended for reimportation under an ATA carnet.

47.2 The ATA carnet system shall be applicable only to domestic goods:

- (a) which have not been subject on export from Kosovo to customs export formalities with a view to the payment of refunds or other export amounts;
- (b) in respect of which no other financial benefit has been granted, coupled with an obligation to export the said goods; or
- (c) in respect of which no request for repayment has been submitted.

47.3 Where goods which left Kosovo under cover of an ATA carnet are no longer intended to be re-imported, an export declaration shall be presented to the customs office where the goods were exported.

**Chapter 14**  
**Other Types of Customs-Approved Treatment or Use**

Section 48  
Free Zones and Free Warehouses

48.1 Free zones and free warehouses shall be parts of Kosovo or premises situated within Kosovo and separated from the rest of it, in which:

- (a) domestic goods are considered, for the purpose of import duties and commercial policy import measures, as not being within Kosovo, provided they are not released for free circulation in Kosovo or placed under another customs procedure or used or consumed under conditions other than those provided for in an Administrative Instruction issued under section 48.3; or
- (b) domestic goods for which such provision is made under an Administrative Instruction issued under section 48.3, qualify by virtue of being placed in a free zone or free warehouse, for measures normally attaching to the export of goods.

48.2 The Director General, after consultation with the Government, may by Administrative Instruction, designate defined parts of Kosovo as a type I or type II free zone or approve defined premises as a free warehouse and shall, in respect of each type I free zone or free warehouse designated, define their entry and exit points.

48.3 Without prejudice to the other provisions of this chapter, the Director General, after consultation with the Government, shall by Administrative Instruction lay down systems of control for type I free zones and free warehouses, including the documents to be used and information to be given, and the conditions and limitations which shall apply to the operation of such systems.

48.4 The system of control for type II free zones shall be that laid down for customs warehouses under sections 39 and 40.

48.5 (a) All type I free zones and free warehouses shall be enclosed by a fence of sufficient height and size to prevent entry and exit.

(b) The construction or alteration of any building in a type I free zone, and the alteration of any building forming part of a free warehouse, shall require the prior approval of the Director General.

48.6 (a) The perimeter and the entry and exit points of type I free zones and of free warehouses shall be subject to supervision by the Customs Service.

(b) Any officer may at any time enter upon and inspect:

- (i) a type I free zone and all buildings and goods within it; and
- (ii) a free warehouse and all goods within it.

(c) At any time while a vehicle is entering or leaving a free zone, any officer may board that vehicle and search any part of it.

(d) Any person entering or leaving a free zone shall answer such questions as any officer may put to him with respect to any goods carried with him and shall, if required by that officer, produce those goods for examination at such place as the officer may require.

(e) Where a person does not comply with any requirement imposed by an Administrative Instruction issued under this section, that person may, in addition to any administrative penalty imposed under section 84, be denied future access to all type I free zones and free warehouses.

48.7 (a) Subject to section 48.7(b), both domestic goods and non-domestic goods may be placed in a free zone or free warehouse.

(b) The Customs Service may require that goods which present a danger or are likely to spoil other goods or which, for other reasons, require special facilities, be placed in premises especially equipped to receive them.

48.8 Goods need only to be presented to the Customs Service and undergo the prescribed customs formalities where:

(a) they have been placed under a customs procedure which is discharged when they enter a free zone or free warehouse, except that, where the customs procedure in question permits exemption from the obligation to present goods, such presentation shall not be required;

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

(c) they qualify for the measures referred to in section 48.1(b).

48.9 Subject to what the Director General may otherwise require:

(a) there shall be no limit to the length of time goods may remain in free zones or free warehouses; and

(b) any industrial, commercial or service activity shall be permitted in a free zone or free warehouse, but the carrying on of such activities may be required to be notified in advance to the Director General.

48.10 (a) Non-domestic goods placed in a free zone or free warehouse may, while they remain in a free zone or free warehouse:

(i) be released for free circulation under the conditions laid down by that procedure and by section 48.13;

(ii) undergo the usual forms of handling referred to in section 40.8(a) without authorisation;

(iii) be placed under the inward-processing procedure under the conditions laid down by that procedure;

(iv) be placed under the procedure for processing under customs control under the conditions laid down by that procedure;

(v) be placed under the temporary importation procedure under the conditions laid down by that procedure;

(vi) be abandoned in accordance with section 49; or

(vii) be destroyed, provided that the person concerned supplies the Director General with all the information he may require.

(b) Where goods are placed under one of the procedures referred to in sections 48.10(a)(iii), 48.10(a)(iv) or 48.10(a)(v), the Director General shall, in so far as is necessary to take account of the operating and customs supervision conditions of the free zones or free warehouses, adapt the control arrangements laid down in the Administrative Instruction issued under section 39.

48.11 All persons carrying on an activity involving the storage, processing or working, or sale or purchase, of goods in a free zone or free warehouse shall keep stock records in a form laid down in an Administrative Instruction issued by the Director General. Goods shall be entered in the stock records as soon as they are brought into the free zone or free warehouse.

48.12 Without prejudice to special provisions adopted under this Regulation governing specific fields, goods leaving a free zone or free warehouse may be:

- (a) exported or re-exported from Kosovo; or
- (b) brought into another part of Kosovo.

48.13 (a) Where a customs debt is incurred in respect of non-domestic goods and the customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing or of preserving goods while they remain in a free zone or free warehouse, such costs shall not be included in the customs value if they are shown separately from the price actually paid or payable for the goods.

(b) Where the said goods have undergone, in a free zone or free warehouse, one of the usual forms of handling within the meaning of section 40.8(a), the nature of the goods, the customs value and the quantity to be taken into consideration in determining the amount of import duties shall, at the request of the declarant, be those which would be taken into account in respect of those goods, at the time referred to in section 56.4(a), had they not undergone such handling.

#### Section 49

#### Re-exportation, Destruction and Abandonment

49.1 Non-domestic goods may be:

- (a) re-exported from Kosovo;
- (b) destroyed; or
- (c) abandoned to the Director General, who shall sell them and shall pay the proceeds of the sale into the Kosovo Consolidated Fund.

49.2 Re-exportation shall, where appropriate, involve the application of the formalities laid down for all goods leaving Kosovo, including commercial policy measures.

49.3 Except as the Director General may otherwise permit, re-exportation, destruction and abandonment shall be the subject of prior notification to him in writing and signed by

the person concerned and in sufficient time for arrangements to be made for the procedure to be supervised by the Customs Service.

49.4 Where goods placed under an economic customs procedure when in Kosovo are intended for re-exportation, a customs declaration shall be lodged.

49.5 Destruction or abandonment shall be at the expense of the owner or person in possession of the goods.

49.6 (a) Where the goods in question are the subject of a declaration accepted by the Customs Service, they shall make a reference to the destruction on the declaration and invalidate the declaration in accordance with section 24.6.

(b) Any officer present when the goods are destroyed shall specify on the form or declaration the type and quantity of any waste or scrap resulting from the destruction in order to determine any item of charge applicable to those goods and to be used when they are assigned another customs-approved treatment or use.

49.7 Any waste or scrap resulting from destruction shall be assigned a customs-approved treatment or use prescribed for non-domestic goods and shall remain under the supervision of the Customs Service until that assignment.

## **TITLE V GOODS LEAVING KOSOVO**

### **Chapter 15 General**

#### Section 50 General Provisions

50.1 Goods leaving Kosovo shall be subject to customs supervision by the Customs Service. Goods shall leave Kosovo using, where appropriate, a route determined by the Director General and in accordance with the procedures laid down by him.

50.2 Without prejudice to the other provisions of this Chapter, the Director General, after consultation with the Government, shall by Administrative Instruction lay down systems of control for goods leaving Kosovo, including the documents to be used and information to be given, and the conditions and limitations which shall apply and the operation of the systems themselves.

**TITLE VI  
PRIVILEGED OPERATIONS**

**Chapter 16  
Reliefs from Customs Duty**

Section 51  
Special Reliefs

The Special Representative of the Secretary-General shall, by Administrative Direction, determine the cases in which, on account of special circumstances, relief from import duties or export duties shall be granted where goods are to be released for free circulation or exported.

**Chapter 17  
Reliefs for Returned Goods**

Section 52  
General Provisions

52.1 (a) Where domestic goods which, having been exported from Kosovo, are returned to Kosovo and released for free circulation within a period of three years, they shall, at the request of the person concerned, be granted relief from import duties.

(b) The Director General may extend the three-year period referred to in section 52.1(a) in order to take account of special circumstances.

(c) Where, prior to their exportation from Kosovo, the returned goods had been released for free circulation at a reduced or zero-rate of import duty because of their use for a particular purpose, exemption from duty under section 52.1(a) shall be granted only if the goods are to be re-imported for the same purpose.

(d) Where the purpose for which returned goods are to be imported is not the same as provided for in section 52.1(c), the amount of import duties chargeable upon them shall be reduced by any amount levied on the goods when they were first released for free circulation, but should the latter amount exceed that levied on the entry for free circulation of the returned goods, no refund shall be granted.

52.2 The relief from import duties provided for in section 52.1 shall not be granted in the case of goods exported from Kosovo under the outward-processing procedure, unless those goods remain in the state in which they were exported.

52.3 The relief from import duties provided for in section 52.1 shall be granted only if goods are reimported in the state in which they were exported.



52.4 The amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward-processing procedure, the date of re-export being regarded as the date of release for free circulation.

52.5 Without prejudice to the other provisions of this section, the Director General, after consultation with the Government, shall by Administrative Instruction lay down systems of control for reliefs for returned goods, including the documents to be used and information to be given, and the conditions and limitations which shall apply to the operation of the systems and shall indicate where the permission referred to in this section shall be applied.

## TITLE VII CUSTOMS DEBT

### Chapter 18 Security to Cover Customs Debt

#### Section 53 General Provisions

53.1 (a) Where under this Regulation security is required to be provided in order to ensure payment of a customs debt, such security shall be provided by the person who is liable or who may become liable for that debt.

(b) The security referred to in section 53.1(a) shall be required:

- (i) at the time the rules require such security to be provided; or
- (ii) at any subsequent time when the Director General considers that the customs debt which has been or may be incurred is not certain to be paid within the prescribed period.

(c) Only one security is required to be provided in respect of one customs debt. However, at the request of the person who is to provide the security, the Director General may allow a comprehensive security to be provided to cover two or more operations in respect of which a customs debt has been or may be incurred.

(d) The Director General may authorize the security to be provided by a person other than the person from whom it is required.

(e) Where the person who has incurred or who may incur a customs debt is a public authority, no security shall be required.

(f) The Director General may waive the requirement for the provision of security where the amount to be secured does not exceed €500, but may nevertheless require from the person who would otherwise be required to provide the security an undertaking to comply with the other obligations which that person is legally obliged to fulfil.

53.2 (a) Where security is required to be provided, the Director General shall fix the amount of such security at a level equal to:

- (i) the precise amount of the customs debt or debts in question where that amount can be established with certainty at the time when the security is required, and
- (ii) in other cases the maximum amount, as estimated by the Director General, of the customs debt or debts which have been or may be incurred.

(b) Where comprehensive security is provided for customs debts which vary in amount over time, the amount of such security shall be set at a level enabling the customs debts in question to be covered at all times.

(c) Where the provision of security is optional and the Director General requires that security be provided, the amount of the security shall be fixed so as not to exceed the level provided for in section 53.2(a).

53.3 Security may be provided by:

- (a) a cash deposit;
- (b) a guarantor;
- (c) the creation of a mortgage, a charge on land, or other right deemed equivalent to a right pertaining to immovable property;
- (d) the giving up of a claim, the pledging, with or without surrendering possession, of goods, securities or, in particular, a savings bank book;
- (e) the assumption of joint contractual liability for the full amount of the debt by a third party approved for that purpose by the Director General and, in particular, the lodging of a bill of exchange the payment of which is guaranteed by such third party;
- (f) a cash deposit or security deemed equivalent thereto in a currency other than the euro; and
- (g) participation, subject to payment of a contribution, in a general guarantee scheme administered by the Director General.

53.4 A cash deposit shall be made in euros. The following shall be deemed equivalent to a cash deposit:

- (a) submission of a cheque the payment of which is guaranteed by the institution on which it is drawn in any manner acceptable to the Director General; or
- (b) submission of any other instrument recognised by the Director General as a means of payment.

53.5 Any guarantor shall undertake in writing to pay jointly and severally with the debtor the secured amount of a customs debt which falls to be paid. The guarantor must be a third person established in Kosovo and approved by the Director General, who may refuse to approve the guarantor or type of security proposed where the latter do not appear certain to ensure payment of the customs debt within the prescribed period.

53.6 Where security is given by making a cash deposit, no interest thereon shall be payable by the Director General.

53.7 The Director General may refuse to accept the type of security proposed where it is incompatible with the proper functioning of the customs procedure concerned. The same shall apply as regards the security proposed. The Director General may require that the type of security chosen be maintained for a specific period.

53.8 Where the Director General considers that any security provided does not ensure, or is no longer certain or sufficient to ensure, payment of the customs debt within the prescribed period, he may require the person required to pay the security, at the latter's option, to provide additional security or to replace the original security with a new security.

53.9 (a) The security shall not be released until such time as the customs debt in respect of which it was given is extinguished or can no longer arise. Once the customs debt is extinguished or can no longer arise, the security shall be released forthwith.

(b) Once the customs debt has been extinguished in part or may arise only in respect of part of the amount which has been secured, part of the security shall be released accordingly at the request of the person concerned, unless the amount is less than €500.

53.10 Without prejudice to the other provisions of this Title, the Director General, after consultation with the Government, shall by Administrative Instruction lay down systems for control of securities, including the documents to be used and information to be given, and the conditions and limitations which shall apply to the operation of such systems.

## **Chapter 19** **Incurrence of a Customs Debt**

### Section 54 Customs Debts on Importation

- 54.1 (a) A customs debt on importation shall be incurred through:
- (i) the release for free circulation of goods liable to import duties; or
  - (ii) the placing of such goods under the temporary importation procedure with partial relief from import duties.
- (b) The customs debt shall be incurred at the time of acceptance of the customs declaration in question.
- (c) The debtors shall be:
- (i) the declarant;
  - (ii) in the event of indirect representation, the person on whose behalf the customs declaration is made; and
  - (iii) where a customs declaration in respect of one of the procedures referred to in section 54.1(a) is drawn up on the basis of information which leads to all or part of the duties legally owed not being collected,

any person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false.

- 54.2 (a) A customs debt on importation shall be incurred through:
- (i) the unlawful introduction into Kosovo of goods liable to import duties; or
  - (ii) the unlawful introduction into another part of Kosovo of such goods located in a free zone or free warehouse.
- (b) The customs debt shall be incurred at the moment when the goods are unlawfully introduced.
- (c) The debtors shall be:
- (i) the person who introduced such goods unlawfully;
  - (ii) any persons who participated in the unlawful introduction of the goods and who were aware or should reasonably have been aware that such introduction was unlawful; and
  - (iii) any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been introduced unlawfully.

- 54.3 (a) A customs debt on importation shall be incurred through the unlawful removal from customs supervision of goods liable to import duties.
- (b) The customs debt shall be incurred at the moment when the goods are removed from customs supervision.
- (c) The debtors shall be:
- (i) the person who removed the goods from customs supervision;
  - (ii) any persons who participated in such removal and who were aware or should reasonably have been aware that the goods were being removed without due customs authority from customs supervision;
  - (iii) any persons who acquired or held the goods in question and who were aware or should reasonably have been aware at the time of acquiring or receiving the goods that they had been removed without due customs authority from customs supervision; and
  - (iv) where appropriate, the person required to fulfil the obligations arising from temporary storage of the goods or from the use of the customs procedure under which those goods were placed.

- 54.4 (a) A customs debt on importation shall be incurred through:
- (i) non-fulfilment of one of the obligations arising, in respect of goods liable to import duties, from their temporary storage or from the use of the customs procedure under which they are placed; or
  - (ii) non-compliance with a condition governing the placing of the goods under that procedure or the granting of a reduced or zero rate of import duty by virtue of the end-use of the goods, in cases other than those referred to section 54.3 unless it is established that those failures have no

significant effect on the correct operation of the temporary storage or customs procedure in question.

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

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

54.5 (a) A customs debt on importation shall be incurred through the consumption or use, in a free zone or a free warehouse, of goods liable to import duties, under conditions other than those laid down in an Administrative Instruction by the Director General. Where goods disappear and where their disappearance cannot be explained to the satisfaction of the Director General, he may regard the goods as having been consumed or used in the free zone or the free warehouse.

(b) The debt shall be incurred at the moment when the goods are consumed or are first used under conditions other than those laid down in an Administrative Instruction by the Director General.

(c) The debtor shall be the person who consumed or used the goods and any persons who participated in such consumption or use and who were aware or should reasonably have been aware that the goods were being consumed or used under conditions other than those laid down in an Administrative Instruction by the Director General. Where the Director General regards goods which have disappeared as having been consumed or used in the free zone or the free warehouse, and it is not possible to apply section 54.5(b), the person liable for payment of the customs debt shall be the last person known to the Director General to have been in possession of the goods.

54.6 Without prejudice to the other provisions of this section, no customs debt on importation shall be deemed to be incurred in respect of:

(a) specific goods where the person concerned proves that the non-fulfilment of the obligations arise from:

- (i) the provisions of sections 17.2 and 17.3 and section 48.13(b);
- (ii) keeping the goods in question in temporary storage; or
- (iii) the use of the customs procedure under which the goods have been placed,

and results from the total destruction or irretrievable loss of the said goods as a result of the actual nature of the goods or unforeseeable circumstances or *force majeure*, or as a consequence of authorisation by the Customs Service. For the purposes of this paragraph, goods shall be irretrievably lost when they are rendered unusable by any person and any scrap or waste resulting from such rendering shall be deemed to be non-domestic goods; and

(b) goods released for free circulation at a reduced or zero rate of import duty by virtue of their end-use, where such goods are exported or re-exported with the permission of the Director General.

54.7 Where:

- (a) in accordance with sections 57.3 or 57.4 a customs debt is incurred in respect of goods released for free circulation at a reduced rate of import duty on account of their end-use; or
- (b) a customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods;

the amount paid when the goods were released for free circulation shall be deducted from the amount of the customs debt.

#### Section 55 Customs Debts on Exportation

55.1 (a) A customs debt on exportation shall be incurred through the exportation from Kosovo, under cover of a customs declaration, of goods liable to export duties.

(b) The customs debt shall be incurred at the time when such customs declaration is accepted.

(c) The debtors shall be:

- (i) the declarant; and
- (ii) in the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

55.2 (a) A customs debt on exportation shall be incurred through the removal from Kosovo of goods liable to export duties without a customs declaration.

(b) The customs debt shall be incurred at the time when the said goods actually leave Kosovo.

(c) The debtors shall be:

- (i) the person who removed the goods; and
- (ii) any persons who participated in such removal and who were aware or should reasonably have been aware that a customs declaration had not been but should have been lodged.

55.3 (a) A customs debt on exportation shall be incurred through any failure to comply with the conditions under which the goods were allowed to leave Kosovo with total or partial relief from export duties.

(b) The debt shall be incurred at the time when the goods reach a destination other than that for which they were allowed to leave Kosovo with total or partial relief from export duties or, should the Director General be unable to determine that time, the expiry of the time limit set for the production of evidence that the conditions entitling the goods to such relief have been fulfilled.

- (c) The debtors shall be:
- (i) the declarant; and
  - (ii) in the event of indirect representation, the person on whose behalf the declaration is made shall also be a debtor.

Section 56  
General Provisions

56.1 Any customs debt referred to in sections 54 and 55 shall be incurred even if it relates to goods subject to measures of prohibition or restriction on importation or exportation of any kind whatsoever. However, no customs debt shall be incurred on the unlawful introduction into Kosovo of counterfeit currency or of narcotic drugs and psychotropic substances which do not enter into the economic circuit strictly supervised by the competent authorities with a view to their use for medical and scientific purposes. For the purposes of criminal law as applicable to customs offences, the customs debt shall nevertheless be deemed to have been incurred where customs duties provide part of the basis for determining penalties.

56.2 Where provision is made for favourable tariff treatment of goods by reason of their nature or end-use, or for relief or total or partial exemption from import or export duties, such favourable tariff treatment, relief or exemption shall also apply in cases where a customs debt is incurred pursuant to sections 54 and 55, on condition that the behaviour of the person concerned involves neither fraudulent dealing nor obvious negligence and he produces evidence that the other conditions for the application of favourable treatment, relief or exemption have been satisfied.

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

56.4 (a) Save as otherwise expressly provided for by or under this Regulation, the amount of the import duty or export duty applicable to goods shall be determined on the basis of the rules of assessment appropriate to those goods at the time when the customs debt in respect of them is incurred.

(b) Where it is not possible to determine precisely when the customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the time when the Director General concludes that the goods are in a situation in which a customs debt is incurred. However, where the information available to the Director General enables him to establish that the customs debt was incurred prior to the time when he reached that conclusion, the amount of the import duty or export duty payable on the goods in question shall be determined on the basis of the rules of assessment appropriate to the goods at the earliest time when existence of the customs debt arising from the situation may be established from the information available.

56.5 Compensatory interest may be applied to the customs debt where it will prevent the wrongful acquisition of a financial advantage through deferment of the date on which the customs debt was incurred or entered in the accounts.

- 56.6 (a) A customs debt shall be incurred:
- (i) at the place where the events from which it arises occur;
  - (ii) if it is not possible to determine that place, at the place where the Director General considers that the goods are in a situation in which a customs debt is incurred; or
  - (iii) if the goods have been entered for a customs procedure which has not been discharged, and the place cannot be determined pursuant to sections 56.6(a)(i) or 56.6(a)(ii) within a reasonable period of time, at the place where the goods were either placed under the procedure concerned or were introduced into Kosovo under that procedure.
- (b) Where the information available to the Director General enables him to establish that the customs debt was already incurred when the goods were in another place at an earlier date, the customs debt shall be deemed to have been incurred at the place which may be established as the location of the goods at the earliest time when existence of the customs debt may be established.

56.7 Where the Director General discovers that a customs debt of a type mentioned in section 54.2 has been incurred outside Kosovo, and the amount of that debt is lower than €5,000, that debt shall be deemed to have been incurred, and be recoverable in Kosovo.

## **Chapter 20**

### **Recovery of the Amount of the Customs Debt**

#### Section 57

##### Entry in the Accounts and Communication of the Amount of Duty to the Debtor

57.1 Each and every amount of import duty or export duty resulting from a customs debt, hereinafter called 'amount of duty', shall be calculated by the Customs Service as soon as they have the necessary information, and entered by them in the accounting records of the Service.

- 57.2 Section 57.1 shall not apply:
- (a) where a provisional anti-dumping or countervailing duty has been introduced;
  - (b) where the amount of duty legally due exceeds that determined on the basis of binding information;
  - (c) where the amount of duty is less than €10; and
  - (d) where the amounts of duty could not be communicated to the debtor until after the end of the time allowed.



57.3 The Director General, after consultation with the Government, shall by Administrative Instruction lay down rules and systems for the recording of amounts of duty in the accounting records of the Customs Service, the limits on the requirements to do so, and the time limits for so doing.

57.4 Subsequent entry in the accounting records shall not occur:

- (a) where the original decision not to enter duty in the accounts or to enter it in the accounts at a figure less than the amount of duty legally owed was taken on the basis of general provisions invalidated at a later date by a court decision; and
- (b) where the amount of duty legally owed was not entered in the accounts as a result of an error on the part of the Customs Service which could not reasonably have been detected by the person liable for payment, the latter for his part having acted in good faith and complied with all the provisions laid down by the legislation in force as regards the customs declaration.

57.5 (a) Where the preferential status of the goods is established on the basis of a system of administrative cooperation involving the authorities of organizations, countries and places outside of Kosovo, the issue of a certificate by those authorities, should it prove to be incorrect, shall constitute an error which could not reasonably have been detected within the meaning of section 57.4(b).

(b) The issue of an incorrect certificate shall not, however, constitute an error where the certificate is based on an incorrect account of the facts provided by the exporter, except where the issuing authorities were aware or should have been aware that the goods did not satisfy the conditions laid down for entitlement to the preferential treatment.

(c) The person liable to pay an amount of duty entered on to the accounting records by way of a subsequent entry, may plead good faith when he can demonstrate that, during the period of the trading operations concerned, he has taken due care to ensure that all the conditions for the preferential treatment have been fulfilled.

57.6 As soon as the amount of duty has been entered in the accounting records, it shall be communicated to the debtor in writing either:

- (a) by being given by hand to the debtor or left at or sent by post to his last known address;
- (b) by being given by hand or sent by post to any agent of the debtor; or
- (c) where the debtor has an electronic address, by being sent to that electronic address.

57.7 (a) Subject to sections 57.7(b) and 57.7(c), communication of the amount of duty to the debtor shall not take place after the expiry of a period of three years from the date on which the customs debt was incurred.

(b) The period provided for in section 57.7(a) shall be suspended from the time an appeal within the meaning of section 94 is lodged, for the duration of the appeal proceedings.

(c) Where the customs debt is the result of an act which, at the time it was committed, was liable to give rise to criminal court proceedings, the amount of duty may

be communicated to the debtor after the expiry of the three-year period referred to in section 57.7(a).

### Section 58

#### Time Limits and Procedures for Payment of the Amount of Duty

58.1 The Director General, after consultation with the Government, shall by Administrative Instruction lay down time limits and procedures for the payment of amounts of duty to the Customs Service and the circumstances in which those limits and payment may be deferred, and the amount of interest that may be payable on any deferred payment.

58.2 Payment may be made:

- (a) in euros;
- (b) by any other currency acceptable to the Director General;
- (c) by other means acceptable to the Director General with similar discharging effect; or
- (d) by adjustment of any credit balance.

58.3 The Director General may grant the debtor payment facilities other than deferred payment which may:

- (a) be conditional on the provision of security, except that security need not be required where to require it would, because of the situation of the debtor, create serious economic or social difficulties; and
- (b) result in interest at the normal market rate being charged over and above the amount of duty, except that interest need not be claimed where to claim it would, because of the situation of the debtor, create serious economic or social difficulties.

58.4 An amount of duty due may be paid by a third person instead of the debtor.

58.5 Where the amount of duty due has not been paid within the prescribed period:

- (a) the Director General shall avail himself of all options open to him under the legislation in force, including enforcement, to secure payment of that amount; and
- (b) interest on arrears may be charged at or above the market rate in addition to the amount of duty.

58.6 The Director General may waive collection of interest on arrears:

- (a) where, because of the situation of the debtor, it would be likely to create serious economic or social difficulties;
- (b) where the amount does not exceed €10; or
- (c) if the duty is paid within five days of the expiry of the period prescribed for payment.

## **Chapter 21**

### **Extinction of the Customs Debt**

#### Section 59

#### General Provisions

Without prejudice to any provision in force relating to the time-barring of a customs debt and non-recovery of such a debt in the event of the legally established insolvency of the debtor, a customs debt shall be extinguished:

- (a) by payment of the amount of duty;
- (b) by remission of the amount of duty;
- (c) where, in respect of goods declared for a customs procedure entailing the obligation to pay duties:
  - (i) the customs declaration is invalidated; or
  - (ii) the goods, before their release, are either detained and simultaneously or subsequently seized, destroyed on the instructions of the Customs Service, destroyed or abandoned under the provisions of section 52, or destroyed or irretrievably lost as a result of their actual nature or of unforeseeable circumstances or *force majeure*; or
- (d) where goods in respect of which a customs debt is incurred in accordance with section 54.2 are detained upon their unlawful introduction and are simultaneously or subsequently seized. In the event of detention and seizure, the customs debt shall, nonetheless for the purposes of the criminal law applicable to customs offences, be deemed not to have been extinguished where those customs duties provide the basis for determining penalties or the existence of a customs debt is grounds for taking criminal proceedings.

## **Chapter 22**

### **Remission and Repayment of Duty**

#### Section 60

#### General Provisions

60.1 (a) Import duties or export duties shall be repaid in so far as it is established that when they were paid the amount of such duties was not legally owed or that the amount had been wrongly entered in the accounts.

(b) Import duties or export duties shall be remitted in so far as it is established that when they were entered in the accounts the amount of such duties was not legally owed or that the amount had been wrongly entered in the accounts.

(c) No repayment or remission shall be granted when the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person otherwise entitled to repayment or remission.

60.2 (a) Import duties or export duties shall be repaid or remitted upon submission of an application to the Director General within a period of three years from the date on which the amount of those duties was communicated to the debtor.

(b) The Director General may extend the period provided for by section 60.2(a) if the person concerned provides evidence that he was prevented from submitting his application within the said period as a result of unforeseeable circumstances or *force majeure*.

(c) Where the Customs Service themselves discover within the 3 years that one or other of the situations described in the sections 60.2(a) and 60.2(b) exists, they shall repay or remit on their own initiative.

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

60.4 (a) Import duties shall be repaid or remitted in so far as it is established that the amount of such duties entered in the accounts relates to goods placed under the customs procedure in question and rejected by the importer because at the point in time referred to in section 19.2 they are defective or do not comply with the terms of the contract on the basis of which they were imported. Defective goods shall be deemed to include goods damaged before their release.

(b) Repayment or remission of import duties shall be granted on condition that:

(i) the goods have not been used, except for such initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract; or

(ii) the goods are exported from Kosovo.

(c) At the request of the person concerned, the Director General shall permit the goods to be destroyed or to be placed, with a view to re-export, under the external transit procedure or the customs warehousing procedure or in a free zone or free warehouse, instead of being exported, for which purpose the goods shall be deemed to be non-domestic goods.

(d) Import duties shall not be repaid or remitted in respect of goods which, before being declared, were imported temporarily for testing, unless it is established that the fact that the goods were defective or did not comply with the terms of the contract could not normally have been detected in the course of such tests.

60.5 Repayment by the Director General of amounts of import duties or export duties or of credit interest or interest on arrears collected on payment of such duties shall not give rise to the payment of interest by the Director General; however, interest shall be paid:

(a) where a decision to grant a request for repayment is not implemented within three months of the date of adoption of that decision; or

(b) where the Director General considers that the interests of justice require it.

The amount of such interest shall be calculated in such a way that it is equivalent to the market rate.

60.6 Where a customs debt has been remitted or the corresponding amount of duty repaid in error, the original debt shall again become payable. Any interest paid under section 60.5 must be reimbursed.

60.7 The Director General, after consultation with the Government, shall by Administrative Instruction lay down time limits and procedures for the remission and repayment of import duties, export duties and interest payable thereon, including the documents to be used and information to be given, and the conditions and limitations which shall apply to such procedures.

## **TITLE VIII CUSTOMS CONTROLS**

### **Chapter 23 Control of Persons and Goods**

#### Section 61 Control of Persons Entering or Leaving Kosovo and their Goods

61.1 Any person entering Kosovo shall, at such place and in such manner as the Director General, after consultation with the Government, may by an Administrative Instruction direct, declare any thing contained in his luggage or carried with him which:

- (a) he has obtained outside of Kosovo; or
- (b) being goods on which duty or tax is chargeable in Kosovo, he has obtained in Kosovo without payment of all or part of that duty or tax,

and in respect of which he is not entitled to exemption from duty and tax by virtue of any Administrative Direction issued under section 51.

61.2 Any person entering or leaving Kosovo shall answer such questions as an officer may put to him with respect to his luggage and any thing contained therein or carried with him, and shall, if required by that officer, produce that luggage and any such thing for examination at such place and in such manner as the Director General may by an Administrative Instruction issued under this section.

61.3 Any person failing to declare any thing or to produce any luggage or thing as required by this section shall be liable to an administrative penalty of up to five times the tax paid value of the thing not declared or of the luggage or thing not produced, as the case may be, and that luggage or thing shall be liable to detention and seizure.

Section 62  
Detention and Seizure of Goods

62.1 Where it appears to any officer that any thing is, under any provision of this Regulation, liable to detention and seizure, he may, subject to section 62.2, detain that thing for a maximum of 30 days from the date of its detention, or, where shorter, until a decision is made as to whether or not, without the imposition of any condition, it shall be returned to the owner of it, or any person appearing to be the owner of it (hereinafter referred to as “the owner”).

62.2 Where, in the exceptional circumstances of an individual case, the Director General considers that the maximum period of 30 days provided for in section 62.1 is insufficient to enable sufficient enquiries to be completed, he may, before the expiration of those 30 days, extend that period by up to a further 60 days, in which case he shall:

- (a) notify the owner of the extension in the manner provided for notification in section 62.6; and
- (b) at the same time, explain to the owner why he considers those exceptional circumstances exist.

62.3 Where any thing has been detained but has not yet been seized:

- (a) and is a living creature, or is in the opinion of the Director General of a perishable nature, it may be sold or destroyed; or
- (b) the Director General may, subject to such conditions as he may impose, and without prejudice to any rights the owner may have, return it to that owner.

62.4 Where, at the expiration of the period of 30 days provided for in section 62.1, or the extended period of 90 days provided for by section 62.2, a decision has not been made as to whether or not to return any thing detained to its owner without the imposition of any condition, the thing shall be deemed to be seized.

62.5 Where:

- (a) within the time limits provided for in sections 62.1 and 62.2, a decision is made not to return any thing detained to its owner without the imposition of any condition, the officer shall seize the thing concerned; or
- (b) any thing is deemed to have been seized under section 62.4;

the officer shall notify the owner of that seizure, and the reasons for it, in the manner provided for notification in section 62.6.

62.6 Notification under this section shall be in writing and either:

- (a) given by hand to the owner or left at or sent by post to the owners' last known address;
- (b) given by hand or sent by post to any agent of the owner; or
- (c) where the owner has an electronic address, sent to that electronic address.

62.7 The Director General shall maintain a public display of all current Notices of Seizure at the Headquarters of the Customs Service and shall maintain a copy of that display available by electronic means.

62.8 In section 62.7, “current Notices of Seizure” means all Notices of Seizure where the time for a request for a review under section 94 has not expired, and where a request for a review has been submitted, where the matter has not been resolved, either by the Independent Review Board or the Court, or by reason of the time to appeal to either of them not having expired.

62.9 Where any thing has been deemed to be seized under section 62.4 or has been seized under section 62.5, and:

(a) where the time for a request for a review by the Director General under section 94 has not expired, or where a request for a review has been submitted and the matter has not been ultimately resolved, either by the Director General, the Independent Review Board or the Court, or by reason of the time to appeal to either of the latter not having expired, the Director General may return the thing to its owner upon that person paying to the Customs Service such sum as the Director General may decide, such sum not exceeding the value of the thing, including any duty or tax chargeable on it which has not been paid; or

(b) where the time for a request for a review by the Director General under section 94 has expired and no request for a review has been submitted, or where a request for a review has been submitted and the matter has been ultimately resolved, either by Director General, the Independent Review Board or the Court, and by reason of the time to appeal to either of the latter having expired, the Director General may:

(i) return the thing to its owner upon that person paying to Customs such sum as the Director General may decide, such sum not exceeding the value of the thing, including any duty or tax chargeable on it which has not been paid;

(ii) keep the thing for use by officers in the performance of their duty; or

(iii) at any time, dispose of it by sale or destruction.

62.10 Where any thing has been sold by virtue of a power given by this section, the proceeds of the sale shall be paid into the Kosovo Consolidated Fund.

62.11 Where any thing has become liable to detention and seizure under this Regulation:

(a) any boat, aircraft, vehicle, animal, container (including any article of passengers’ luggage) or other thing whatsoever which has been used for the carriage, handling, deposit or concealment of the thing so liable to detention and seizure; and

(b) any other thing mixed, packed or found with the thing so liable;

shall also be liable to detention and seizure.

62.12 Where any boat, aircraft, vehicle or animal has become liable to detention and seizure under this Regulation, whether by virtue of section 62.9 or otherwise, all its tackle, apparel or furniture shall also be liable to detention and seizure.

62.13 Section 94 shall have effect in relation to appeals against any thing detained or seized.

## **Chapter 24** **Powers of Officers**

### Section 63 Powers of Access

63.1 Any officer shall have access to every part of any aircraft at an airport and to any boat or vehicle which he has the power under this Regulation to board, and may:

- (a) cause any goods found thereon to be marked before they are unloaded from that boat, aircraft or vehicle;
- (b) lock up, seal, mark or otherwise secure any goods chargeable with a duty or tax which has not been paid, carried in the aircraft or vehicle or any place or container in which they are so carried; and
- (c) break open any place or container which is locked and to which the keys are withheld.

63.2 If any person removes, damages or in any way alters any mark made by an officer under this section, or removes or breaks any seal or lock or otherwise removes any securing of any goods made under this section, he shall be liable to an administrative penalty of between €500 and €10,000.

### Section 64 Powers to Inspect Aircraft, Airports, Records, etc.

64.1 The commander of any aircraft shall permit any officer at any time to board the aircraft and inspect:

- (a) the aircraft and any goods loaded therein; and
- (b) all documents relating to the aircraft or to goods or persons carried therein;

and the officer shall have the right of access at any time to any place to which access is required for the purpose of any such inspection.

64.2 The person in control of any airport shall permit any officer at any time to enter upon and inspect the airport and all buildings and goods thereon.

64.3 The Director General, after consultation with the Government, may by Administrative Instruction require the person in control of an airport to:



- (a) keep a record in such form and manner as the Director General may, by the Instruction, require of all aircraft arriving at or departing from the airport;
- (b) keep that record available and produce it on demand to any officer, together with all other documents kept on the airport which relate to the movement of aircraft; and
- (c) permit any officer to make copies of and take extracts from any such record or document.

64.4 If any person contravenes or fails to comply with any of the provisions of this section or any Administrative Instruction issued under this section he shall, in addition to any administrative penalty to which he may be liable under section 83, be liable in addition to a further administrative penalty of €50 for each day that the contravention or failure continues.

#### Section 65 Powers to Detain Aircraft and Vehicles

65.1 Where, in the case of an aircraft or vehicle of which due report has been made any goods are still on board that aircraft or vehicle at the expiration of the relevant period, any officer may detain that aircraft or vehicle until there has been paid to the Customs Service:

- (a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except, in the case of an aircraft, in respect of the day of clearance inwards; and
- (b) where the goods have been removed from an aircraft or vehicle to a Customs warehouse, the expenses of that removal.

In this section:

“due report” means, in relation to goods brought into Kosovo:

- (a) by air, the lodging of a manifest as provided for by section 18.1(b);
- (b) by rail, the declaration by the railway company of the goods carried on the train as provided for by section 18.3(a); and
- (c) by road, the presentation of the goods to an officer, as provided for by section 19.1; and

“the relevant period” means:

- (a) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft or such longer period as the Director General may in any case allow; and
- (b) in the case of vehicle, 21 clear days from the date of making due report of the vehicle or such longer period as the Director General may in any case allow.

65.2 Where, in the case of an aircraft or vehicle coming, driven or brought into Kosovo under legal process, by stress of weather or for reasons of safety it is necessary for the protection of the revenue to station an officer in charge thereof, whether on board or

otherwise, the officer may detain that aircraft or vehicle until any expenses thereby incurred by the Customs Service have been paid.

### Section 66

#### Powers to Prevent Departure of Aircraft and Vehicles

66.1 If it appears to any officer that an aircraft or a vehicle is likely to depart for a destination outside Kosovo before clearance outwards is given, he may give such instructions and take such steps by way of detention or otherwise as appear to him necessary in order to prevent the departure.

66.2 Any person who contravenes any instructions given under section 66.1 shall be liable to an administrative penalty of between €500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the contravention continues, and the aircraft or vehicle in respect of which the instruction was given shall be liable to detention and seizure.

66.3 If an aircraft or vehicle departs in contravention of any instruction given under section 66.1, the owner and the commander or driver thereof shall, without prejudice to the liability of any other person under section 66.2, each be liable to an administrative penalty of between €500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the contravention continues, unless he proves that the departure took place without his consent or connivance.

### Section 67

#### Powers to Refuse or Cancel Clearance of Aircraft and Vehicles

67.1 For the purpose of the detention thereof in pursuance of any power or duty conferred or imposed by or under any enactment relating to the importation or exportation of goods:

- (a) any officer may at any time refuse clearance of any aircraft or vehicle; and
- (b) where clearance has been granted to an aircraft or vehicle, any officer may at any time demand that the clearance shall be returned to him.

67.2 Any demand under section 67.1 may be made either orally or in writing to the owner or commander of the aircraft, or owner or driver of the vehicle, and if made in writing may be served:

- (a) by delivering it to him personally;
- (b) by leaving it at his last known place of abode or business; or
- (c) by leaving it on board the aircraft or vehicle with the person appearing to be in command or charge thereof.

67.3 Where a demand for the return of a clearance is made under section 67.1:

- (a) the clearance shall forthwith become void; and

(b) if the demand is not complied with, the commander of the aircraft or the driver of the vehicle shall be liable to an administrative penalty of between €500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the contravention continues, and the aircraft or vehicle to which the demand relates shall be liable to detention and seizure.

Section 68  
Powers to Require Information

68.1 Every person who is concerned in the importation or exportation of goods for which an entry is required shall, if so required by any officer, produce or cause to be produced for inspection by that officer:

(a) at the principal place of business of the person upon whom the demand is made or at such other place as the officer may reasonably require; and

(b) at such time as the officer may reasonably require,

any documents relating to the goods or to the importation or exportation.

68.2 Where, by virtue of section 68.1, any officer has the power to require the production of any documents from any such person as is referred to in that section, he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but where any such other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

68.3 Any officer may take copies of, or make extracts from, any document produced under sections 68.1 or 68.2.

68.4 If it appears to him to be necessary to do so, an officer may, at a reasonable time and for a reasonable period, remove any document produced under sections 68.1 or 68.2 and shall, on request, provide a receipt for any document so removed; and where a lien is claimed on a document produced under section 68.2, the removal of the document under this subsection shall not be regarded as breaking that lien.

68.5 Where a document removed by an officer under section 68.4 is reasonably required for the proper conduct of a business, the officer shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

68.6 Any document removed by an officer under section 68.4 shall be returned as soon as reasonably practicable, and must be returned immediately when a reason for its retention no longer exists.

68.7 Where any documents removed under the powers conferred by this section are lost or damaged, the Director General shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

68.8 If any person fails to comply with a requirement under this section, he shall be liable to an administrative penalty of between €500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the contravention continues.

### Section 69

#### Powers to Require Information or Production of Documents Relating to Origin of Goods Exported

69.1 Where on the exportation of any goods from Kosovo there has been furnished any certificate or other evidence as to the origin of those goods, or as to payments made or relief from duty allowed in any country or territory, then, for the purpose of verifying or investigating that certificate or evidence, any officer may require the exporter, or any other person appearing to the officer to have been concerned in any way with the goods, or with any goods from which, directly or indirectly, they have been produced or manufactured, or to have been concerned with the obtaining or furnishing of the certificate or evidence:

- (a) to furnish such information, in such form and within such time, as the officer may specify in the requirement; or
- (b) to produce for inspection, and to allow the taking of copies or extracts from, such invoices, bills of lading, books or documents as may be so specified.

69.2 Any person who, without reasonable cause, fails to comply with a requirement imposed on him under section 69.1 shall be liable to an administrative penalty of between €500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the failure continues.

### Section 70

#### Powers in Relation to the Duty of Revenue Traders And Others to Furnish Information and Produce Documents

70.1 The Director General, after consultation with the Government, may by Administrative Instruction require any revenue trader to:

- (a) furnish to the Customs Service, within such time and in such form as required by the Instruction, such information relating to:
  - (i) any goods or services supplied by or to him in the course of a business;
  - (ii) any goods in the importation or exportation of which he is concerned in the course of a business; or
  - (iii) any transaction or activity effected or taking place in the course of a business; and
- (b) upon demand made by any officer, produce or cause to be produced for inspection by that officer:

- (i) at the principal place of business of the revenue trader or at such other place as the officer may reasonably require; and
  - (ii) at such time as the officer may reasonably require;
- any document relating to the goods or services or to the supply, importation or exportation or to the transaction or activity.

70.2 Where, by virtue of section 70.1, an officer has a power to require the production of any documents from a revenue trader:

- (a) he shall have the like power to require production of the documents concerned from any other person who appears to the officer to be in possession of them; but
- (b) if that other person claims a lien on any document produced by him, the production shall be without prejudice to the lien.

70.3 For the purposes of this section, the documents relating to the supply of goods or services, or the importation or exportation of goods, in the course of any business, or to any transaction or activity effected or taking place in the course of any business, shall be taken to include:

- (a) any profit and loss account and balance sheet; and
- (b) any records required to be kept by virtue of any other enactment;

relating to that business.

70.4 An officer may take copies of, or make extracts from, any document produced under sections 70.1 or 70.2.

70.5 If it appears to an officer to be necessary to do so, he may, at a reasonable time and for a reasonable period, remove any document produced under sections 70.1 or 70.2 and shall, on request, provide a receipt for any document so removed.

70.6 Where a lien is claimed on a document produced under section 70.2, the removal of the document under section 70.5 above shall not be regarded as breaking the lien.

70.7 Where a document removed by an officer under section 70.5 is reasonably required for the proper conduct of a business he shall, as soon as practicable, provide a copy of the document, free of charge, to the person by whom it was produced or caused to be produced.

70.8 Any document removed by an officer under section 70.5 shall be returned as soon as reasonably practicable, and must be returned immediately when a reason for its retention no longer exists.

70.9 Where any documents removed under the powers conferred by this section are lost or damaged, the Director General shall be liable to compensate their owner for any expenses reasonably incurred by him in replacing or repairing the documents.

70.10 Any person who, without reasonable cause, fails to comply with a requirement imposed on him under section 70.1 shall be liable to an administrative penalty of between

€500 and €10,000 and, in addition, to a further administrative penalty of €50 for each day that the contravention continues.

### Section 71

#### Powers to Obtain Warrants for Access to Recorded information, etc.

71.1 Where a Judge is satisfied on an application by any officer that there are reasonable grounds for believing:

- (a) that any criminal offence under Chapter 26 is being, has been or is about to be committed; and
- (b) that any recorded information which may be required as evidence for the purpose of any proceedings in respect of such an offence is in the possession of any person;

he may make an order under this section.

71.2 An order under this section is an order that the person who appears to the Judge to be in possession of the recorded information to which the application relates shall, not later than the end of the period of seven days beginning with the date of the order, or the end of such longer period as the order may specify:

- (a) give an officer access to it; and
- (b) permit an officer to remove and take away any of it which he reasonably considers necessary.

71.3 The reference in section 71.2(a) to giving an officer access to the recorded information to which the application relates includes a reference to permitting the officer to take copies of it or to make extracts from it.

71.4 Where the recorded information consists of information contained in a computer, an order under this section shall have effect as an order to produce the information in a form in which it is visible and legible and, if the officer wishes to remove it, in a form in which it can be removed.

### Section 72

#### Powers of Entry and Inspection of Premises

72.1 For the purpose of exercising any power in or under this Regulation an officer acting within the scope of his powers and duties and in accordance with section 4.4, may at any time enter any premises which are open and are being used in connection with the carrying on of a business.

72.2 Where an officer acting within the scope of his powers and duties and in accordance with section 4.4 has reasonable cause to believe that any premises are used in connection with the supply, importation or exportation of goods of a class or description chargeable with any duty and that any such goods are on those premises, he may at any

time when those premises are open enter and inspect them and inspect any goods found on them.

Section 73  
Powers of Entry upon Premises, etc. of Revenue Traders

73.1 Any officer acting within the scope of his powers and duties and in accordance with section 4.4 may at any time enter upon any premises owned or used by a revenue trader for the purposes of his trade and may inspect the premises and search for, examine and take account of any machinery, vehicle, vessel, utensils, goods or materials belonging to or in any way connected with that trade.

73.2 Where any officer has a power to inspect premises under section 73.1, then if, after having demanded admission into those premises and declared his name and business at the entrance thereof, he is not immediately admitted, he may break open any door or window of the premises or break through any wall thereof for the purpose of obtaining admission.

73.3 Section 73.1 shall apply to any aircraft or vehicle or structure in or from which tobacco products or dutiable alcoholic liquors are sold by retail or dealt in as it applies to premises.

Section 74  
Powers to Obtain Warrants to Search Premises

74.1 Where a Judge is satisfied on an application by any officer that there are reasonable grounds for suspecting that:

- (a) any criminal offence under Chapter 26, which appears to be of a serious nature is being, has been or is about to be committed on any premises, or that evidence of the commission of such an offence is to be found there; or

(b) anything liable to detention and seizure is kept or concealed on any premises, he may issue a warrant in writing authorising, subject to sections 74.3 and 74.4, any officer to enter those premises, if necessary by force, at any time within the period of one month beginning with the date of the issue of the warrant, and search them.

74.2 Any officer who enters premises under the authority of a warrant issued under section 74.1 may:

- (a) take with him such other persons as appear to him to be necessary;
- (b) seize and remove any thing found on the premises which he has reasonable cause to believe may be liable to detention and seizure;
- (c) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be required as evidence of any criminal offence under Chapter 26 which appears to him to be of a serious nature;

(d) seize and remove any documents or other things whatsoever found on the premises which he has reasonable cause to believe may be evidence of any thing being liable to detention and seizure; and

(e) search or cause to be searched any person found on the premises whom he has reasonable cause to believe to be in possession of any such documents or other things, provided that no person shall be searched by virtue of this subsection except by another person of the same gender.

74.3 The powers conferred by a warrant under this section shall not be exercisable:

- (a) by more than such number of officers as may be specified in the warrant; nor
- (b) outside such times as may be so specified.

74.4 An officer seeking to exercise the powers conferred by a warrant issued under section 74.1 or, if there is more than one such officer, that one of them who is in charge of the search shall provide a copy of the warrant endorsed with his name as follows:

- (a) if the occupier of the premises concerned is present at the time the search is to begin, the copy shall be supplied to the occupier;
- (b) if at the time the occupier is not present but a person who appears to the officer to be in charge of the premises is present, the copy shall be supplied to that person; and
- (c) if neither section 74.4(a) nor section 74.4(b) applies, the copy shall be left in a prominent place on the premises.

74.5 Where, for any reason at any time of day or night, it is not possible to speak with a Judge to obtain a warrant under this section, the Director General or any Director of the Customs Service may, in writing, authorise any officer who has reasonable grounds for suspecting that any of the matters set out in sections 74.1(a) or 74.1(b) are satisfied, to enter the premises concerned, if necessary by force, and search for, detain, seize or remove any thing liable to detention and seizure, or that is evidence of a criminal offence under Chapter 26 which appears to be of a serious nature, or to prevent the commission of such an offence.

74.6 Any officer exercising any power under this section shall apply *mutatis mutandis* the provisions of the applicable criminal procedure on search and temporary confiscation, to the extent that they are not inconsistent with the provisions of this section.

### Section 75

#### Powers to Examine and Take Account of Goods

75.1 Without prejudice to any other power conferred by this Regulation, any officer may examine and take account of any goods:

- (a) which are imported;
- (b) which are in a free warehouse or Customs warehouse;
- (c) which are in a free zone;
- (d) which have been loaded into any aircraft;



- (d) which are entered for exportation or for use as stores;
- (e) which are brought to any place in Kosovo for exportation or as stores; or
- (f) where any claim under the drawback system, or for any allowance, rebate, remission or repayment of duty is or has been made;

and may for that purpose require any container to be opened or unpacked.

75.2 The examination of goods by an officer shall be made at such place as the Director General, after consultation with the Government, shall by Administrative Instruction appoint for the purpose.

75.3 Where the Director General has, by an Administrative Instruction under section 75.2, directed that certain goods may be subject to certain forms of treatment in certain Customs areas, an officer may permit goods to be bulked, sorted, lotted, packed or repacked before an account is taken of them.

75.4 Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, lotting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for the purposes of, or incidental to, the examination by an officer, removal or warehousing thereof shall be done, and any facilities or assistance required for any such examination shall be provided by or at the expense of the owner of the goods.

75.5 If any imported goods which an officer has power under this Regulation to examine are without the authority of an officer removed from customs charge before they have been examined, those goods shall be liable to detention and seizure.

#### Section 76 Powers to Take Samples

76.1 Any officer may, at any time, take samples of any goods:

- (a) which he is empowered by this Regulation to examine;
- (b) which are on premises where goods chargeable with any duty are manufactured, prepared or subjected to any process; or
- (c) which, being dutiable goods, are held by any person as stock for his business or as materials for manufacture or processing.

76.2 Where an officer takes from any vessel, pipe or utensil on the premises of any revenue trader a sample of any product of, or of any materials for, the manufacture by that trader:

- (a) the trader may, if he wishes, stir up and mix together the contents of that vessel, pipe or utensil before the sample is taken; and
- (b) the sample taken by the officer shall be deemed to be representative of the whole contents of that vessel, pipe or utensil.

76.3 Any sample taken under section 76.1 shall be disposed of and accounted for in such manner as the Director General, after consultation with the Government, may by Administrative Instruction direct.

76.4 Where any sample is taken under section 76.1 from any goods chargeable with a duty of customs after that duty has been paid, other than:

- (a) a sample taken when goods are first entered on importation; or
- (b) a sample taken from goods in respect of which any claim under the drawback system, or for any allowance, rebate, remission or repayment of that duty is being made;

and the sample so taken is not to be returned, the officer taking it shall, if so required by the person in possession of the goods, pay for the sample on behalf of the Director General such sum as reasonably represents the wholesale value of that sample.

#### Section 77

##### Powers to Enter Land for or in Connection with Access to Pipe-lines

Where any thing conveyed by a pipe-line is chargeable with a duty of customs which has not been paid, any officer may enter any land adjacent to the pipe-line in order to get to the pipe-line for the purpose of exercising in relation to that thing any power conferred by or under this Regulation or to get from the pipe-line after an exercise of any such power.

#### Section 78

##### Powers to Search for Concealed Pipes, etc.

78.1 If any officer has reasonable grounds to suspect that any secret pipe or other means of conveyance, cock, vessel or utensil is kept or used by a revenue trader, that officer may, at any time, break open any part of the premises of that trader and forcibly enter thereon and so far as is reasonably necessary break up the ground in, or adjoining those premises or any wall thereof to search for that pipe or other means of conveyance, cock, vessel or utensil.

78.2 If any officer finds any pipe or other form of conveyance leading to or from a revenue trader's premises, he may enter any other premises from or into which it leads, and so far as is reasonably necessary break up any part of those other premises to trace its course, and may cut it away and turn any cock thereon, and examine whether it conveys or conceals any goods chargeable with a duty, or any materials used in the manufacture of such goods.

78.3 Every pipe or other means of conveyance, cock, vessel or utensil found as a result of a search under sections 78.1 or 78.2, and all goods chargeable with a duty or materials for the manufacture of such goods found therein, shall be liable to detention and seizure.

78.4 If any damage is done in any such search as aforesaid and the search is unsuccessful, the Director General shall make good the damage.

#### Section 79

##### Powers to Search Boats, Aircraft and Vehicles, etc.

79.1 Any officer may stop and board:

- (a) any boat that is on water which connects to an area outside Kosovo;
- (b) any aircraft that is at an airport; and
- (c) any vehicle

and may remain therein and search any part thereof.

79.2 Where any boat, aircraft or vehicle is stopped and searched under this section, the officer shall show the person in charge of the boat, aircraft or vehicle his identification card.

79.3 If, when so required by any such officer, the person in charge of any boat, aircraft or vehicle refuses to stop or to permit it to be searched, he shall be liable to an administrative penalty of between €500 and €10,000 and the boat, aircraft or vehicle shall be liable to detention and seizure.

79.4 Any prohibited or restricted goods or any goods chargeable with any duty or tax which has not been paid, which are found concealed on board any boat, aircraft or vehicle as a result of any search, shall be liable to detention and seizure.

79.5 Any boat, aircraft or vehicle found, as a result of any search, to have been adapted for the concealment of prohibited or restricted goods, or goods chargeable with any duty or tax which has not been paid, shall be liable to detention and seizure.

#### Section 80

##### Powers to Search Articles

80.1 Without prejudice to any other power conferred by this Regulation, where there are reasonable grounds to suspect that a person has with him, or at the place where he is, any goods to which this section applies, any officer may:

- (a) require him to permit a search of any article that he has with him or at that place; and
- (b) if he is not under arrest, detain him and any such article for so long as may be necessary to carry out the search.

80.2 The goods to which this section applies are:

- (a) any goods chargeable with any duty of customs; and
- (b) any goods liable to detention and seizure.

Section 81  
Powers to Search Persons

81.1 Where there are reasonable grounds to suspect that a person is carrying any article:

- (a) which is chargeable with any duty which has not been paid or secured; or
- (b) with respect to the importation or exportation of which any prohibition or restriction is for the time being in force under or by virtue of any enactment or the applicable law;

the officer may detain him for so long as may be necessary and may require that person, subject to sections 81.2 and 81.3, to submit to such searches of his person, whether rub-down, strip or intimate as the officer may consider necessary or expedient; but no such requirement may be imposed without the officer informing the person of his rights under sections 81.2 or 81.3.

81.2 If the person is required to submit to a rub-down search he may require, and shall not be refused, to be taken before a superior of the officer concerned and the superior shall consider the grounds for suspicion and direct accordingly whether the person is to be required to submit to the search.

81.3 If the person is required to submit to a strip or intimate search he may require, and shall not be refused, to be taken before a Judge or a superior of the officer concerned; and the Judge or superior shall consider the grounds for suspicion and direct accordingly whether the person is to be required to submit to the search.

81.4 A rub-down or strip search of a person shall not be carried out except by a person of the same gender; and an intimate search shall not be carried out except by a suitably qualified person.

81.5 In this section:

“intimate search” means any search which involves a physical examination (that is, an examination which is more than simply a visual examination) of a person’s body orifices;

“rub-down search” means any search which is neither an intimate search nor a strip search;

“strip search” means any search which is not an intimate search but which involves the removal of an article of clothing which:

- (a) is being worn (wholly or partly) on the trunk; and
- (b) is being so worn either next to the skin or next to an article of underwear;

“suitably qualified person” means a certified medical practitioner or a certified nurse.

Section 82Procedure when Articles, Documents, etc. are Removed

82.1 Any officer who, in the exercise of any power conferred by this Regulation, removes any item shall provide:

- (a) the occupier of premises from which it was removed; or
- (b) where that person is not available, the person who had custody or control of it immediately before it was removed;

with a record of the items removed.

82.2 The officer shall provide the record referred to in section 82.1 within a reasonable time from the removal of the item.

82.3 Subject to section 82.7, if a request for permission to be granted access to anything which:

- (a) has been removed by an officer; and
- (b) is retained by the Customs Service for the purposes of investigating a criminal offence under Chapter 26;

is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed or by someone acting on behalf of such a person, the officer shall allow the person who made the request access to it under the supervision of an officer.

82.4 Subject to section 82.7, if a request for a photograph or copy of any such thing is made to the officer in overall charge of the investigation by a person who had custody or control of the thing immediately before it was so removed, or by someone acting on behalf of such a person, the officer shall:

- (a) allow the person who made the request access to it under the supervision of an officer for the purpose of photographing it or copying it; or
- (b) photograph or copy it, or cause it to be photographed or copied.

82.5 Where anything is photographed or copied under section 82.4(b), the photograph or copy shall be supplied to the person who made the request.

82.6 The photograph or copy shall be supplied within a reasonable time from the making of the request.

82.7 There is no duty under this section to grant access to, or to supply a photograph or copy of, anything if the officer in overall charge of the investigation for the purposes of which it was removed has reasonable grounds for believing that to do so would prejudice:

- (a) that investigation;
- (b) the investigation of an offence other than the offence for the purposes of the investigation of which the thing was removed; or
- (c) any criminal proceedings which may be brought as a result of:
  - (i) the investigation of which he is in charge; or

(ii) any such investigation as is mentioned in section 82.7(b) above.

82.8 Any reference in this section to the officer in overall charge of the investigation is a reference to the person whose name and address are endorsed on any warrant or order concerned as being the officer so in charge.

82.9 Where, on an application made as mentioned in section 82.10, a Judge is satisfied that an officer has failed to comply with a requirement imposed by this section, he may order that officer to comply with the requirement within such time and in such manner as may be specified in the Judge's order.

82.10 An application under section 82.9 above shall be made:

- (a) in the case of a failure to comply with any of the requirements imposed by sections 82.1 and 82.2, by the occupier of the premises from which the thing in question was removed or by the person who had custody or control of it immediately before it was so removed; and
- (b) in any other case, by the person who has such custody or control.

## **Chapter 25**

### **Administrative Penalties**

#### Section 83

#### Breach of Condition of Administrative Instruction

If any person fails to comply with any condition imposed by the Director General under any Administrative Instruction issued under this or any Regulation relating to excise, he shall be liable to an administrative penalty of between €500 and €10,000, and any goods in relation to which the condition was imposed shall be liable to detention and seizure.

#### Section 84

#### Incorrect Declarations

If any person:

- (a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to an officer, any declaration, notice, certificate or other document; or
- (b) makes any statement in answer to any question put to him by an officer;

being a document or statement produced or made for a Customs purpose, which is untrue in any material particular, he shall be liable to an administrative penalty of between €500 and €10,000, and any goods in relation to which the document or statement was made shall be liable to detention and seizure.

## **Chapter 26**

### **Criminal Offences**

#### Section 85

#### Unlawful Assumption of Character of an Officer, etc.

If any person who is not an officer, falsely assumes the name, designation or character of an officer, he shall be punished by a fine or by imprisonment of up to one year.

#### Section 86

#### Bribery and Corruption of an Officer

86.1 If any officer:

(a) directly or indirectly asks for or takes in connection with any of his duties any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, not being a payment or reward which he is lawfully entitled to claim or receive, for him to act or refrain from acting in any way in the exercise of any of his powers or duties; or

(b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Customs Service is or may be defrauded or which is otherwise unlawful;

he shall be punished by imprisonment of six months to five years.

86.2 If any person:

(a) directly or indirectly offers or gives to any officer any payment or other reward whatsoever, whether pecuniary or other, or any promise or security for any such payment or reward, for the officer to act or refrain from acting in any way in the exercise of any of that officer's powers or duties; or

(b) proposes or enters into any agreement with any officer, in order to induce him to do, abstain from doing, permit, conceal or connive at any act or thing whereby the Customs Service is or may be defrauded or which is otherwise unlawful, or otherwise to take any course contrary to his duty;

he shall be punished by imprisonment of three months to three years.

#### Section 87

#### Obstruction of Officers, etc.

If any person:

(a) obstructs, hinders, molests or assaults any officer engaged in the performance of his duty or in the exercise of any customs power; or

(b) prevents the arrest of any person by an officer engaged in the performance of his duty or rescues any person so arrested;

or who attempts to do any of the aforementioned things, he shall be punished by imprisonment of three months to three years.

Section 88  
Offences in Relation to Goods Detained, etc.

If any person:

(a) does anything which impedes or is calculated to impede the carrying out of any search for any thing liable to detention, seizure or removal; or

(b) rescues, damages or destroys any thing so detained, seized or removed;

or who attempts to do any of the aforementioned things, he shall be punished by a fine or by imprisonment of up to six months.

Section 89  
Carrying Away Officers, etc.

If any boat or aircraft departs from any place in Kosovo, or any vehicle crosses into any area outside Kosovo, carrying on board without his consent any officer, the person in charge of that boat, aircraft or vehicle shall be punished by a fine or by imprisonment of up to six months.

Section 90  
Interfering with Customs Vehicles, etc.

If any person, except for sufficient cause, interferes in any way with any vehicle, boat or aircraft, which is used by officers in the performance of their duty, he shall be punished by a fine or by imprisonment of up to six months.

Section 91  
Making An Untrue Declaration, etc.

If any person either knowingly or recklessly:

(a) makes or signs, or causes to be made or signed, or delivers or causes to be delivered to an officer, any declaration, notice, certificate or other document; or

(b) makes any statement in answer to any question put to him by an officer;

being a document or statement produced or made for a Customs purpose, which is untrue in any material particular, he shall be punished by a fine or by imprisonment of up to one year; and any goods in relation to which the document or statement was made shall be liable to detention and seizure.



Section 92  
Fraudulent Evasion of Duty, etc

If any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion of any duty chargeable on the goods, he shall be punished by:

- (a) where the amount of duty involved does not exceed €15,000, by a fine and imprisonment of three months to three years; and
- (b) where the amount of duty involved exceeds €15,000, by a fine and imprisonment of six months to five years;

and the goods in respect of which the offence was committed shall be liable to detention and seizure.

Section 93  
Fraudulent Evasion of Prohibitions and Restrictions, etc.

If any person is, in relation to any goods, in any way knowingly concerned in any fraudulent evasion of any prohibition or restriction for the time being in force with respect to the goods, he shall be punished by a fine or by imprisonment of three months to three years; and the goods in respect of which the offence was committed shall be liable to detention and seizure.

**TITLE IX**  
**APPEALS**

**Chapter 27**  
**Appeal System**

Section 94  
Appeals

- 94.1 Where a person receives a decision from an officer that:
- (a) affects any amount of any duty or tax that he has to pay, either directly or indirectly;
  - (b) is a decision to impose on him any administrative penalty;
  - (c) is a decision to seize any thing belonging to him that has been detained, or to extend a time limit for a decision to be made on that seizure; or
  - (d) is a condition for the return of any thing detained or seized;

he may request the Director General to review that decision. Any request for a review by the Director General shall be made within 60 days of the decision by a notice in writing, supported by such documentary evidence as the person may wish to present. The Director General may extend the time in which a request to review is required to be made under this subsection as he thinks fit.

94.2 The Director General shall notify in writing the person who requested a review under section 94.1, within 60 days of his receipt of the request, of his decision on the review. Where the Director General fails to notify the person as required, the Director General shall be regarded as having confirmed the decision.

94.3 Within 60 days of the Director General having either notified his decision on a request for a review, or being regarded as having confirmed his decision, the person who requested the review may appeal to the Independent Review Board (hereinafter called "the Board") established by the Special Representative of the Secretary-General under section 7(6) of UNMIK Regulation 2000/20, as amended, on Tax Administration and Procedures. The appeal to the Board shall be made in writing, supported by such documentary evidence as the person (hereinafter called "the Appellant") wishes to present. The Director General shall, within 30 days of his being notified of the appeal, reply in writing to it.

94.4 The Board shall conduct a hearing of the appeal within 60 days of the date the appeal was submitted. The Appellant may give oral and written evidence to the Board during the hearing of the appeal. Where this occurs, the Director General shall also be given the opportunity to present oral and written evidence. The Board shall notify the parties of its decision, together with written reasons for the decision, within 30 days of the date of conclusion of the hearing.

94.5 The Appellant or the Director General may apply to a court of competent jurisdiction for the review of a decision made by the Board.

94.6 The burden of proving that the decision of the Director General is erroneous shall be on the Appellant.

94.7 A request for review by the Director General made pursuant to section 94.1, an appeal to the Board under section 94.3 or an application to the court for a review under section 94.5 shall not suspend any obligation to pay any duty or tax in dispute, except that the Director General, the Board or the Court may, on application, order that the obligation to pay shall be suspended until they have given their decision.

94.8 Where the dispute is ultimately resolved in favour of:

- (a) the Director General, the taxpayer shall pay outstanding tax, penalties and interest accrued until the matter was resolved; and
- (b) the Appellant, the Director General shall:
  - (i) refund any excess tax paid together with interest thereon accrued until the matter was resolved; and

- (ii) where any thing has been returned to its owner, sold or destroyed:
  - (A) an amount equal to any sum paid by its owner for the thing's return;
  - (B) where the thing has been sold, an amount equal to the proceeds of sale; or
  - (C) where the thing has been destroyed, an amount equal to the market value of the thing at the time of its seizure.

**TITLE X**  
**APPLICABLE LAW AND ENTRY INTO FORCE**

**Chapter 28**  
**Amendments, Applicable Law and Entry into Force**

Section 95  
Application to the Applicable Law

95.1 Any officer of the Customs Service who is undertaking an investigation or proceedings in relation to a criminal offence under Chapter 26 shall be considered to be a "law enforcement agency" for the purposes of:

- (a) section 2 of UNMIK Regulation No. 2001/17 of 23 March 2000 On the Admissibility of Certain Witness Statements in Preliminary Investigations;
- (b) section 1 of UNMIK Regulation No. 2001/28 of 11 October 2001 On the Rights of Persons Arrested by Law Enforcement Authorities;
- (c) section 1 of UNMIK Regulation No. 2002/6 of 18 March 2002 On Covert and Technical Measures of Surveillance and Investigation; and
- (d) section 1 of UNMIK Regulation No. 2002/7 of 28 March On the Use in Criminal Proceedings of Written Records of Interviews Conducted by Law Enforcement Authorities.

95.2 On the entry into force of the Provisional Criminal Procedure Code (UNMIK Regulation No. 2003/26 of 6 July 2003), an officer who is investigating a criminal offence under chapter 26 shall be considered an officer of the "police" for the purposes of Chapters XIX, XX, XXIII and XXIV of the Provisional Criminal Procedure Code, and an officer of the "judicial police" for the purposes of Chapter XXIX of the Provisional Criminal Procedure Code.

Section 96  
Implementation

The Special Representative of the Secretary-General may issue Administrative Directions for the implementation of the present Regulation.

Section 97  
Applicable Law

The present Regulation shall supersede any provision in the applicable law which is inconsistent with the present Regulation.

Section 98  
Entry into force

The present Regulation shall enter into force on 1 March 2004.

Harri Holkeri  
Special Representative of the Secretary-General