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Pursuant to Article 172 paragraph 4 of the Customs Law (Official Gazette of the Republic of Macedonia no.s 21/98, 26/98, 63/98, 86/99 and 25/2000) the Government of the Republic of Macedonia adopted the following

## **REGULATION**

### **on the procedure and instruments for securing payment of customs liabilities**

#### **I. GENERAL PROVISIONS**

##### **Article 1**

##### **(Contents of the Regulation)**

This Regulation hereby prescribes the procedure and instruments for securing payment of customs liabilities (hereinafter: security instrument).

##### **Article 2**

##### **(Liabilities that May Be Secured)**

Security instruments for payment of customs liability shall guarantee:

1. payment of already existent customs liability;
2. payment of potential customs liability;
3. payment of interest, incurred or likely to be incurred, on a secured customs liability.

##### **Article 3**

##### **(Use of Security Instruments for Other Purposes)**

Payment of other duties payable upon import and export of goods may be guaranteed by security instruments under this Regulation, unless otherwise provided by regulations governing payment of said duties.

#### **Article 4**

##### **(Limited Use of Security in the Event of Outstanding Liabilities)**

1. Should a customs obligor fail to pay mature customs liabilities, customs authorities shall not release goods for trade even if the customs declarant submits a security instrument pursuant to this Regulation.

2. As exception to paragraph 1 of this Article, when a customs obligor has submitted a security instrument, customs authorities may release live animals, perishable goods and spare parts for urgent and current maintenance of equipment in use.

## **II. SECURITY INSTRUMENTS**

### **A. General Part**

#### **Article 5**

##### **(Types of Security Instruments)**

Payment of customs liability pursuant to Article 172 of the Customs Law shall be guaranteed by the following security instruments:

1. bank guaranty
2. cash deposit.

#### **Article 6**

##### **(Required Number of Security Instruments)**

For securing payment of customs liability, customs authorities may require only one security instrument.

#### **Article 7**

##### **(Single Security Instruments and General Security Instruments)**

A customs obligor or a person likely to become a customs obligor (hereinafter: customs obligor) may submit a customs liability security instrument for a single customs

transaction (hereinafter: single security instrument) or for all customs liabilities incurred or likely to be incurred in a particular time period or customs procedure (hereinafter: general security instrument).

## **Article 8**

### **(Use of Security Instruments)**

Each and every security instrument mentioned in Article 5 of this Regulation may be used as a single or general security instrument.

## **Article 9**

### **(Submitting Security Instruments)**

1. Customs obligors shall file single security instruments with customs authorities, and customs authorities shall decide on releasing goods for trade prior to their release from customs custody.

2. Customs obligors shall file general security instruments with the Customs Administration.

## **Article 10**

### **(Validity of General Security Instrument)**

1. Customs Administration shall decide on the acceptance of security instruments.
2. Customs Administration shall immediately inform customs authorities of accepted security instruments.
3. In a customs procedure, a customs obligor may invoke a general security instrument on the second day following the date when the Customs Administration accepts the submitted security instrument as suitable.

## **Article 11**

### **(Secured Payments Pursuant to the Customs Law)**

1. Secured payments shall be deemed in compliance with the provisions of the Customs Law if:

1. the value of the security instrument equals the amount of the customs liability or liabilities, provided that the said amount can, with certainty, be calculated at the moment when customs authorities request the security to be submitted, or
2. in other events, if the value of the security instrument corresponds to the maximum amount of the existing or potential customs liability.

2. When assessing the adequacy of a general security instrument, customs authorities shall take into consideration the scope and manner of past customs procedures, as well as the punctuality of the customs obligor concerning the payment of the customs liability.

3. When determining the frequency of past customs procedures in which the customs obligor participated, the monthly average of calculated customs liabilities for six months prior to submitting the security instrument shall be taken into consideration.

4. If the amount of a customs liability secured with a general security instrument varies in the period for which the security is valid, the security instrument shall be replaced by a new one that will cover the entire customs liability incurred in the period in question.

## **Article 12**

### **(Minimal Value of a General Security Instrument)**

1. The value of a general security instrument may not be lower than five million denars.
2. As an exception to paragraph 1 of this Article, Customs Administration may accept as general security instrument an instrument with value lower than five million denars, provided that a written request is submitted confirming that the following requirements are met:

1. the customs obligor has, in a period of six months prior to filling the request, performed all obligations under the customs procedures and as required by law.
2. legal proceedings against the customs obligor for a misdemeanour or a crime committed in the performance of his business activity are not underway at the moment of filing the request.
3. the amount of the secured instrument submitted by the customs obligor corresponds to the monthly average of the customs liability incurred in the year preceding the year in which the request was filed.

### **Article 13**

#### **(Submission of an Additional, i.e. Supplementary Security Instrument)**

Customs authorities shall request submission of a new security instrument should an already accepted security instrument cease to meet the requirements of Articles 11 and 12 of this Regulation.

### **Article 14**

#### **(Rejecting Security Instruments)**

1. Customs authorities shall reject security instruments if they fail to meet the requirements set forth in Articles 11 and 12 of this Regulation or fail to provide information as required in Article 19 of this Regulation.
2. Customs authorities shall reject security instruments and request new security instruments if they are issued by an entity that fails to perform or irregularly performs all obligations created in relation to previously submitted security instruments.

### **Article 15**

#### **(Security Instrument Applicability Verification)**

Customs administration shall verify the appropriate application submitted for general security instruments and take steps to eliminate any irregularities in the application.

## **6. Bank Guaranty**

### **Article 16**

#### **(Applicable Bank Guaranties)**

Customs authorities may accept a bank guaranty issued by a bank registered in the Republic of Macedonia as a security instrument.

### **Article 17**

#### **(Validity and Collection of Bank Guaranties)**

1. By issuing a bank guaranty, the bank –guarantor guarantees that the customs obligor shall pay the customs liability incurred or likely to be incurred at the moment of the guaranty's validity, or otherwise settle the debt on behalf of the obligor.
  
2. The term of validity of a bank guaranty securing a potential customs liability may not be less than 3 months, i.e. than the time limit in which it may be created extended for 30 days. Customs authorities may collect against a bank guaranty within the term of its validity, as well as within the extended term for collection, which may not be shorter than 60 days following the expiration of the bank guaranty's validity.

### **Article 18**

#### **(Contents of a Bank Guaranty)**

1. A bank guaranty intended to secure a customs liability must include the following information:
  1. guaranty number
  2. secured amount
  3. validity
  4. terms of payment
  5. "first call" and "without objection" guaranty clause
  6. information about the bank –guarantor (name, tax number, head office, giro account, organization in charge of administering the guarantor's giro account)

7. information about the customs obligor (name, head office, personal identification and tax numbers)
8. date and place of issue
9. detailed description of customs operations under the bank guaranty
10. signature of the authorized person and the guarantor's seal.

2. Guarantor shall issue the guaranty of paragraph 1 of this Article on a "CG customs guaranty with prescribed form" form, enclosed to this Regulation as Annex 1 and a constituent part thereof.

3. Customs obligors shall submit issued guaranties to the Payment Transactions Office in two copies; one copy certified by the Payment Transactions Office shall be submitted to the customs authorities, i.e. the Customs Administration.

### **c. Cash Deposit**

## **Article 19**

### **(Cash Payment Terms)**

1. A customs obligor may make a cash payment as a single instrument for securing customs liability by depositing funds in a separate deposit account of the customs authorities requesting security for the customs liability.
2. When a customs obligor intends to use a cash payment as a general security instrument, funds should be deposited in a separate deposit account of the Customs Administration.
3. Should, in a customs procedure, a customs obligor invoke cash payment as a general security instrument, the customs obligor shall provide the customs authorities in charge of releasing goods with a deposit receipt for the account mentioned in paragraph 2 of this Article.

**Article 20**  
**(Deposit Receipt)**

1. The deposit receipt mentioned in paragraph 3 of Article 19 of this Regulation must include the following:

1. receipt number
2. time frame in which funds were deposited in the account; it shall be stated if funds were deposited for an undetermined time period
3. amount of deposited funds
4. information about the customs obligor (name, head office, personal identification and tax numbers)
5. date when funds were deposited in the account
6. detailed description of customs operations covered by the payment
7. list of customs authorities that accept cash payment as a general security instrument for the payment of a customs liability
8. signature of the authorized person.

2. The deposit receipt mentioned in paragraph 1 of this Article is issued by the Customs Administration on a “Cash Payment Receipt” form enclosed to this Regulation as Annex 2 and a constituent part thereof.

**Article 21**  
**(Cash Payment and Interest Currency)**

1. Customs obligors shall deposit cash payments in domestic currency.
2. Interest shall not run on cash deposits.

**d. Refund of Security Instruments**

**Article 22**  
**(Refund of Security Instruments Prior to Expiration)**



1. Pursuant to a written request from the customs obligor, customs authorities, that is Customs Administration, may approve a refund of a bank guaranty prior to the expiration of its validity provided it has been previously confirmed that the customs obligor has settled all secured customs liabilities the payment of which is sought, or provided that it is established that a secured potential customs liability, the payment of which is sought, cannot be created any more.

2. Pursuant to a written request from the customs obligor, customs authorities, that is Customs Administration, may refund a bank guaranty prior to the expiration of its validity even when the customs obligor, concurrently with the request for a refund of the security instrument, has submitted to the customs authorities, i.e. Customs Administration, and customs authorities, i.e. Customs Administration, have accepted another suitable security instrument which allows collection of a customs liability incurred or likely to be incurred, the payment of which is sought during the security instrument's validity.

### **Article 23**

#### **(Refund of Cash Deposit)**

1. Pursuant to a written request from the customs obligor, customs authorities may refund a cash deposit made on a separate deposit account in compliance with Article 20 of this Regulation. Customs authorities shall refund the cash deposit should it be confirmed that the customs obligor has settled all customs liabilities secured by the cash deposit, or that potential customs liabilities secured by the cash deposit cannot be created any more.

2. Pursuant to a written request, customs authorities may also refund a portion of the cash deposit. Customs authorities shall refund the sought portion provided it has been confirmed that the remaining funds of the cash deposit are sufficient to pay customs liabilities that can be charged against the cash deposit.

3. Customs authorities may also refund deposited funds when, in place of a cash deposit, the customs obligor has deposited a bank guaranty.

4. Customs authorities shall repay cash deposits in compliance with the provisions of this Article within 30 days following the filing of the request.

5. A customs obligor may not continue to use a cash deposit as a security instrument as of the date of filing a refund request. A customs obligor who has filed a request for partial refund may, after the filing date, continue to use the cash deposit as a security instrument for a properly reduced amount.

## **Article 24**

### **(Refund of Cash Deposits in Special Events)**

1. A customs obligor who has made a cash deposit to secure the payment of a customs liability in a transit customs procedure may seek refund of paid funds after having presented the goods for inspection to the customs authorities in charge.

2. Customs authorities shall refund the deposit mentioned in paragraph 1 of this Article provided that the transit procedure is administered in compliance with law and the potentially created customs liability is settled.

3. A customs obligor who has made a cash deposit to secure the payment of a customs liability in a temporary import customs procedure may seek refund of the paid funds upon completion of the said procedure.

4. Customs authorities shall refund the deposit mentioned in paragraph 3 of this Article if the temporary import customs procedure is completed in compliance with the law and the potentially created customs liability is settled.

## **III. CASES WHEN SUBMISSION OF SECURITY INSTRUMENTS IS NOT REQUIRED**

### **Article 25**

**(Release from Submission of Security Instruments under Special Regulations)**

Customs authorities and Customs Administration may release a customs obligor from the obligation to submit a security instrument provided that it is so required by the Customs Law and the regulations enacted pursuant to the Law or this Regulation.

**Article 26**

**(General Criteria for Postponing Submission of Security Instruments)**

Should customs authorities release a customs obligor from submission of a security instrument, even though detailed criteria are not defined in separate regulations, their decision shall be based on the previous conduct of the customs obligor in the customs procedure.

**Article 27**

**(Security in Cases of Temporary Storage of Goods)**

In cases of temporary storage of goods, customs authorities may not release a customs obligor from submission of a security instrument, if:

1. tobacco, tobacco products, alcohol, alcohol drinks, coffee, oil and oil derivatives are subject to temporary storage;
2. it is allowed to temporary store goods in rooms where other domestic goods are kept that could endanger the customs custody.

**Article 28**

**(Release from Submission of a Security Instrument in a Transitory Procedure)**

Pursuant to Article 8 of the Customs Law, submission of a security instrument to the customs authorities at the entry is not required in the event of a transit procedure administered in compliance with international agreements ratified by the Republic of Macedonia (TIR and ATA carnets).

**Article 29**

**(Other Cases of Release from Submission of Security Instruments)**

Customs authorities shall not seek submission of security instruments when:

1. the customs obligor is a state body
2. the amount of the customs liability to be secured is lower than 10.000,00 denars.

#### **IV. COLLECTION OF CUSTOMS LIABILITY AGAINST SECURITY INSTRUMENTS**

##### **Article 30**

##### **(Computation and Payment of Customs Liability)**

1. Having calculated the amount of the customs liability, Customs Administration shall fill out a money transfer order (general transfer order) and submit it to the customs obligor together with the calculation.
2. The date put on the delivery note shall be deemed as the date of calculation mentioned in paragraph 1 of this Article.
3. A customs obligor who has detected a computed or mathematical error in the calculation of the customs liability when revising it, may request correction thereof within 3 days following its receipt.
4. The customs obligor must pay the calculated customs liability into an account of the Customs Administration within 8 days following the receipt of the calculation, i.e. the correction of the calculation.
5. As exception to the provisions of this Article, if a simple procedure is applied in the event when the customs declarant is released from the obligation to present goods for inspection pursuant to Article 27 paragraph 1 item 3 of the Customs Law, customs authorities may allow that the customs obligor himself to calculate customs liabilities incurred in a particular time period. In such cases, the customs obligor must pay the customs liability not later than the date of submission of the additional customs declaration.

6. The date when funds from the customs obligor's account were transferred to the relevant account of the Customs Administration shall be deemed the date of payment of the customs liability.

### **Article 31**

#### **(Reminder)**

1. When a customs obligor fails to pay the calculated customs liability in the prescribed time limit, Customs Administration shall send to the customs obligor a reminder for the outstanding liabilities together with a warning that should the customs obligor fail to pay the liability within 3 working days following the date of the reminder's delivery, collection shall be effected against the submitted security instrument.

2. When a customs obligor has secured the payment of the customs liability with a guaranty, the reminder mentioned in paragraph 1 of this Article shall also be delivered to the bank issuing the guaranty and to the Payment Operations Office.

### **Article 32**

#### **(Collection against Security Instruments)**

The security instrument mentioned in item 1 of Article 5 of this Regulation shall be charged in cash pursuant to the regulations governing collection of "first call" and "without objection" bank guaranties.

### **Article 33**

#### **(Collection against Cash Deposits)**

1. Customs liability shall be collected against a cash deposit by transferring the calculated amount of the customs liability from the deposit account to the account of the customs authorities to which such customs liability is due.

2. Customs authorities shall notify the customs obligor of reductions in the cash deposit due to payments made and shall instruct the customs obligor to replenish the reduction or submit a new security instrument.

## **V. Records And Notification Requirements**

### **Article 34**

#### **(Records Kept by Customs Authorities)**

1. Customs Administration shall keep records of submitted general security instruments.
2. Customs authorities shall keep records of submitted single security instruments.

### **Article 35**

#### **(Customs Obligors List)**

1. Customs Administration shall, at least once a month, prepare a list of customs obligors who have failed to settle customs liabilities in a prescribed time frame.
2. Customs Administration shall prepare a list of guarantors whose security instruments may not be accepted and shall inform thereof the Payment Operations Office and the National Bank of the Republic of Macedonia.

### **Article 36**

#### **(Requirement for Notifying Data Modification)**

1. Customs obligor shall regularly notify Customs Administration, that is customs authorities, of all modifications that may influence the acceptance and validity of submitted security instruments and the realization of the right to be released from submission of a security instrument.
2. Guarantors issuing security instruments in compliance with the provisions of this Regulation shall notify Customs Administration, i.e. customs authorities, of all modifications that may influence the regularity and validity of submitted security instruments on which they are listed as guarantors.

## **VI. TRANSITORY AND CONCLUDING PROVISIONS**

### **Article 37**

#### **(Termination of Regulations' Validity)**

As of the date of entry into force of this Regulation, the Decision on the terms for releasing goods from customs custody following a customs examination and prior to payment of duties and other import charges and on the collection procedures (Official Gazette of RM no. 17/94 and 49/95) shall become invalid.

### **Article 38**

#### **(Use of Security Instruments Accepted Earlier)**

Security instruments accepted by Customs Administration prior to the effect of this Regulation may be used as security for customs liabilities until the expiration of their validity.

### **Article 39**

#### **(Application)**

This Regulation shall come into force as of the date of publication in the "Official Gazette of the Republic of Macedonia" and shall become effective upon effectiveness of the Customs Law.

## **ANNEX 1**

### **CG – customs guaranty**

Upon request from \_\_\_\_\_ from  
\_\_\_\_\_ for securing the payment of a customs liability in compliance with  
the Regulation on the procedure and instruments for securing payment of customs  
liabilities (Official Gazette of RM no. \_\_\_\_/2000, the bank \_\_\_\_\_  
\_\_\_\_\_ from \_\_\_\_\_ issues

**GUARANTY NO. \_\_\_\_\_**  
**for securing payment of customs liability**

This guaranty serves to secure a customs liability in amount up to \_\_\_\_\_ denars.  
The guaranty is valid from \_\_\_\_\_ to \_\_\_\_\_.  
Time limit for collection against the guaranty is \_\_\_\_\_.

#### **INFORMATION ABOUT THE BANK – GUARANTOR**

Tax number: \_\_\_\_\_  
Name of the bank-guarantor: \_\_\_\_\_  
  
Head office: \_\_\_\_\_  
Postal number: \_\_\_\_\_ Place \_\_\_\_\_  
Giro account: \_\_\_\_\_  
administered by: \_\_\_\_\_

#### **INFORMATION ABOUT THE CUSTOMS OBLIGOR**

Tax number: \_\_\_\_\_  
Name of the bank-guarantor: \_\_\_\_\_



Head office: \_\_\_\_\_  
Postal number: \_\_\_\_\_ Place \_\_\_\_\_  
Giro account: \_\_\_\_\_  
administered by: \_\_\_\_\_

The guarantor shall, at first call and without objection, pay the customs liability mentioned in Article 2 of the Regulation on the procedure and instruments for securing payment of customs liabilities due for payment during the validity of this guaranty and resulting from the following customs operations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The guarantor shall, upon request of the customs authorities, i.e. Customs Administration and pursuant to the Regulation on the procedure and instruments for securing payment of customs liabilities (Official Gazette of RM no. \_\_\_\_/2000) authorize the Payment Transactions Office to pay customs and other outstanding charges from the funds of the guarantor.

The Payment Transactions Office shall charge the money order against the funds of the guarantor.

This guaranty shall be reduced with each payment made thereunder, until the full amount is spent.

This guaranty is made in three identical copies.

\_\_\_\_\_  
place and date

M.P.

\_\_\_\_\_  
signature of the authorized person



## ANNEX 2

### Cash Deposit Receipt

Pursuant to Article 21 of the Regulation on the procedure and instruments for securing payment of customs liabilities (Official Gazette of RM no. \_\_\_\_/2000), the Customs Administration of the Republic of Macedonia issues

#### CASH DEPOSIT RECEIPT no. \_\_\_\_

1. The customs obligor \_\_\_\_\_ from \_\_\_\_\_ submitted to the Customs Administration a cash deposit for securing the payment of a customs liability in amount up to \_\_\_\_\_ denars.
2. The cash deposit applies to securing the payment of a customs liability for goods for which the customs procedure has been initiated on \_\_\_\_\_ and will continue until \_\_\_\_\_.
3. Information about the customs obligor – authorized person:

Personal identification number: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Postal number: \_\_\_\_\_ Place \_\_\_\_\_

4. The customs obligor may use the cash deposit to secure payment of the liabilities listed in Article 2 of the Regulation on the procedure and instruments for securing payment of customs liabilities resulting from the following customs operations:

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5. The customs obligor may use this receipt to secure payment of customs liabilities with the following customs authorities:

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6. The cash deposit shall be reduced with each payment made thereunder, until the full amount is spent.

7. This receipt is made in \_\_\_\_\_ identical copies.

\_\_\_\_\_  
place and date

M.P.

\_\_\_\_\_  
signature of the authorized person