

**Law on Amending and Revising the Customs Law**  
**4 July 2002**  
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Article 1

In the Customs Law (Official Gazette of the Republic of Macedonia, Nos 21/98, 26/98, 63/98, 86/99, 25/2000, 109/2000, 31/2001 and 4/2002) in Article 3 item 4 subparagraph 2 is amended and reads:

“- import fees and charges arising from the agricultural policy or fees and charges arising from specific agreements regarding certain goods which are results of agricultural products’ processing.”

Article 2

After Article 11 a new Article 11-a is added and reads:

“Article 11-a

(1) Customs officers in uniform are persons authorised to enforce the provisions referred to in Article 10 paragraph 1 and items 1, 3 and 6 of Article 2 of this Law.

(2) Customs officers with special mandate and authorization are uniformed persons in charge of the enforcement of the provisions of Article 10 paragraph 1 and subparagraphs 2, 4, 5, 7, 8, 9, 10 and 11 of paragraph 2 of this Law.

(3) When conducting their duties, the persons with special mandate and authorization shall wear their uniforms, and if necessary they may also wear civilian clothes.

(4) The Act on Customs Administration Rules on job description specifically establishes the job description of uniformed persons and persons with special mandate and authorization.”

Article 3

Article 17 is amended and reads:

“Binding tariff information and binding origin information

- (1) The customs authority shall issue binding tariff information or binding origin information on the basis of written request of the applicant, acting in accordance with the procedure prescribed by the Minister of Finance.
- (2) Binding tariff information or binding origin information shall be binding on the customs authority as against the holder of the information only in respect of the tariff classification or determination of the origin of goods. Binding tariff

information or binding origin information shall be binding on the customs authority only in respect of goods on which customs formalities are completed after the date on which the information was supplied by them. In matters of origin, the formalities in question shall be those relating to the application of Articles 25 and 27-(c) of this Law.

(3) The holder of such information must be able to prove, on request by the customs authority, that:

- for tariff purposes: the goods declared correspond in every respect to those described in the information,
- for origin purposes: the goods concerned and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the information.

(4) Binding tariff information and binding origin information shall be valid for a period of three years from the date of issue. By way of derogation, it shall be annulled ex officio where it is based on inaccurate or incomplete information supplied by the applicant. The holder of binding information must be notified of its annulment.

(5) Binding information shall cease to be valid:

(a) in the case of tariff information:

1. where a regulation is adopted or changed and the information no longer conforms to the applicable regulations;
2. where the information is no longer in compliance with the interpretation of one of the nomenclatures referred to in Article 24 (6) of this law:
  - at a national or community level, by reason of amendments and revisions in the explanatory notes to the customs tariffs nomenclature or by reason of decision passed by the Court having jurisdiction;
  - at an international level, by reason of a classification opinion or an amendments and revisions in the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the World Customs Organization established in 1952 under the name “the Customs Cooperation Council”;
3. where the information is revoked or amended in accordance with Article 15 of this Law, provided that the revocation or amendment of the information is notified to the holder.

The date on which a binding information ceases to be valid for the cases cited in items 1 and 2 of this paragraph shall be the date of the official publication of the measures concerned;

(b) in the case of origin information:

1. where a regulation has been adopted or changed or an agreement has been concluded by the Republic of Macedonia and the information is no longer in compliance with the applicable legislation;
2. where the information is no longer in compliance with:
  - at a national level, the explanatory notes and opinions adopted for the purposes of interpreting the rules or with a decision by the Court having jurisdiction;
  - at an international level, with the Agreement on Rules of Origin established by the World Trade Organization (WTO) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement;
3. where the information is revoked or amended in accordance with Article 15 of this Law, provided that the revocation or amendment is notified to the holder.

The date on which binding information ceases to be valid for the cases referred to in items 1 and 2 of this paragraph shall be the date indicated when such measures are officially published.

(6) The holder of a binding information which ceases to be valid pursuant to paragraph 5 of this Article: items 2 and 3 under (a) or items 2 and 3 under (b) may still use such information for a period of six months from the date of its official publication or notification, provided that the holder has concluded a binding contracts for the purchase or sale of the goods in question on the basis of the binding information before the measure with which such binding information ceased to be valid was adopted. However, in the case of products for which an import or export certificate has been submitted, and customs formalities have been completed, the period of six months shall be replaced by the period of the validity of the certificate.

In the cases referred to in paragraph 5 of this Article, in items 1 (a) and 1 (b), the period within which the first sentence of this paragraph shall apply may be established in the legislation or in an agreement.

7. The classification or determination of origin in binding information may be applied under the conditions laid down in paragraph 6 of this Article, solely for the purposes of:

- determination of import or export duties;
- computation of export subsidies or other amounts allocated for imports and exports as part of agricultural policy;
- using import or export certificates submitted following the completion of the formalities resulting in the acceptance of a customs declaration, for the goods in question, provided that such certificates be issued on the basis of the information concerned.

8. In exceptional cases where the agricultural policy is threatened, the Government of the Republic of Macedonia may prescribe the conditions in which the provisions of paragraph 6 of this Article shall not apply.

9. The manner in which the information referred to in paragraph 1 of this Article are issued and used shall be prescribed by the Minister of Finance.”

#### Article 4

In Chapter III, the title of subsection 1 is amended and reads:

“Customs Tariff and Tariff Classification of Goods”.

#### Article 5

Article 24 is amended and reads:

##### “Customs tariff rules

(1) Duties legally owed where a customs debt is incurred shall be determined on the basis of the Customs Law Tariff of the Republic of Macedonia.

(2) The other measures prescribed under the provisions of the regulations governing specific areas related to trade in goods shall be adequately applied according to the tariff classification of such goods.

(3) The Customs Tariff of the Republic of Macedonia shall comprise:

- (a) A nomenclature of goods based on the Harmonized System and Combined nomenclature of the European Union, prescribed with separate law;
- (b) A nomenclature wholly or partly based on the nomenclature referred to in subparagraph (a) to which any subdivisions are added, and which is established under the provisions of the regulations governing specific areas with regard to the application of tariff measures relating to trade in goods;
- (c) Rates and other charges normally applicable to goods covered by the nomenclature referred to in the subparagraph (a) regarding:
  - customs duties; and
  - import charges arising under the agricultural policy or fees and charges under the specific arrangements on certain goods which are products of agricultural products processing;
- (d) preferential tariff measures under the agreements concluded by the Republic of Macedonia with certain countries or a group of countries, and which provide for the granting of preferential tariff treatment;
- (e) preferential tariff measures adopted unilaterally by the Republic of Macedonia in respect of certain countries, groups of countries or territories;

- (f) autonomous suspensive measures to reduce or eliminate import duties charged on certain goods;
- (g) other tariff measures provided for by other legislation.

(4) The measures referred to in paragraph 3 (d), (e) and (f) of this Article shall be applied, on the declarant's request, instead of those provided for in paragraph 3 (c) where the goods concerned fulfill the prescribed conditions. The request for the application of the measures referred to in paragraph 3 (d), (e), (f) shall be subject to provision of evidence that the relevant conditions have been fulfilled.

(5) Where application of the measures referred to in paragraph 3 (d), (e) and (f) is restricted to a certain volume of imports, such application shall not be accepted in the cases of:

- (a) tariff quotas, as soon as the stipulated limit on the volume of imports is reached;
- (b) tariff ceilings (restriction), according to a decision passed by the Government of the Republic of Macedonia.

(6) The tariff classification of goods shall be determined according to the applicable rules for:

- (a) the subheading of the nomenclature referred to in paragraph 3 (a) of this Article, or the subheading of the nomenclature referred to in paragraph 3 (b) of this Article; or
- (b) the subheading of any other nomenclature which is wholly or partly based on the combined nomenclature or to which any subdivisions is added, and which is established under the legislation of the Republic of Macedonia governing specific areas with regard to the application of measures other than tariff measures relating to trade in goods."

## Article 6

Article 24-a is amended and reads:

### "Preferential tariff treatment

(1) The conditions and the criteria under which favourable tariff treatment can be granted to certain goods shall be prescribed by the Government of the Republic of Macedonia upon proposal by the Minister of Economy and prior opinion by the Minister of Finance and the Minister of Agriculture, Forestry and Water Economy. Where an authorization for the favourable tariff treatment is required, the provisions set forth in Article 79 and paragraphs 1 and 2 of Article 80 of this Law shall apply.

(2) For the purposes of paragraph 1 of this Article, favourable tariff treatment shall be interpreted to be the reduction or withdrawal of the import duties referred to in item 4 of Article 3 of this Law, even within the framework of a tariff quota."

## Article 7

In Section III, the title of the subsection 2, “Non-preferential origin of goods” is amended and reads “Origin of Goods” and a new subsection 2.1 is added and reads: “2.1 Non-preferential origin”.

## Article 8

Article 25 is amended and reads:

### “Definition of non-preferential origin of goods

(1) Articles 26, 27, 27-a and 27-b of this Law define the non-preferential origin of goods for the purposes of:

- (a) application of the Customs Tariff with the exception of the measures referred to in Article 24 (3) (d) and (e);
- (b) application of measures other than tariff measures, established under the provisions governing specific areas relating to trade in goods;
- (c) preparation and issuance of certificates of origin.

(2) The Government of the Republic of Macedonia prescribes the criteria on the determination of the manner and procedures for demonstrating the origin of goods.”

## Article 9

Article 26 is amended and reads:

### “Wholly obtained or produced goods

(1) Goods originating in a country shall be the goods wholly obtained or produced in that country.

(2) Goods wholly obtained in a country shall be understood to be:

- (a) mineral products extracted within that country;
- (b) vegetable products harvested therein;
- (c) live animals born and raised therein;
- (d) products of live animals raised therein;
- (e) products of hunting or fishing carried out therein;
- (f) products of sea-fishing and other products taken from the sea outside a country’s territorial sea by vessels registered or recorded in the country concerned and sailing under the flag of that country;
- (g) goods obtained or produced on board factory ships from the products referred to in subparagraph (f) of this Article, originating in that country, provided that such

factory ships are registered or recorded in that country and sail under such country's flag;

- (h) products taken from the seabed or subsoil beneath the seabed outside the territorial sea, provided that that country has exclusive rights to exploit that seabed or subsoil;
- (i) waste and scrap products derived from manufacturing operations and used articles, if they were collected therein and are fit only for raw materials recovery;
- (j) goods produced therein exclusively from the goods referred to in subparagraphs (a) to (i) or from products made of such goods, at any stage of production.

- (3) For the purposes of paragraph 2 of this Article, the term "country" includes also that country's territorial sea."

## Article 10

Article 27 is amended and reads:

"Last substantial processing or transformation

Goods the production of which involves more than one country shall be deemed to originate in the country of their last, substantial, economically justified processing or transformation in facilities equipped for that purpose, resulting in the manufacture of a new product or representing an important stage in the process of production."

## Article 11

After Article 27 two new Articles 27-a and 27-b are added and read:

"Article 27-a

Insufficient processing or transformation

Any processing or transformation in respect of which it is established, or in respect of which the facts as ascertained justify the presumption that its sole objective has been to circumvent the provisions applicable in the Republic of Macedonia to goods from specific countries, shall under no circumstances be deemed to confer on the goods thus produced the origin of the country where such processing or transformation have been carried out in the meaning of Article 27 of this Law.

## Article 27-b

Proof of origin of goods

- (1) Customs legislation or other legislation of Republic of Macedonia governing specific areas may provide for mandatory submission of a document proving the origin of goods.

(2) Notwithstanding the submission of such document, customs authorities may, in cases of serious grounds for suspicion, require additional proofs to ensure that the origin indicated truly complies with the relevant legislation of the Republic of Macedonia.”

#### Article 12

In Section III, subsection 3 becomes subsection 2.2.

#### Article 13

Article 27-c is amended and reads:

“Article 27-c

#### Preferential origin of goods

(1) The rules on preferential origin shall set forth the conditions for acquisition of origin which the goods must meet in order to realize the benefits referred to in Article 24 (3) (d) and (e) of this Law.

(2) These rules shall be set forth:

- (a) in the agreements referred to in Article 24 (3) (d) of this Law, in the case of goods covered by such agreements;
- (b) in a national legislation of the Republic of Macedonia, in the case of goods benefiting from the preferential tariff measures referred to in Article 24 (3) (e) of this Law.”

#### Article 14

In Section III the title of subsection 4 is amended and reads: “Value of Goods for Customs Purposes.”

#### Article 15

Article 28 is amended and reads:

“Application of customs value

The provisions of Articles 28 to 39 of this Law shall govern the determination of the customs value of the goods which is the basis for the application of the Customs Tariff, and for the application of other trade policy measures, as provided for under other provisions.”

#### Article 16



Article 29 is amended and reads:

“Definition of Customs Value -Transaction Value Method

- (1) The customs value of imported goods shall be the transaction value, that is the price actually paid or payable on goods when sold for export to the customs territory of the Republic of Macedonia adjusted, where necessary, in accordance with the provisions of Article 36 and 37 of this Law, provided that:
  - a) the buyer is subject to no restriction as to the disposition or use of the goods other than the restrictions which :
    - are imposed or required by law or other regulations of the Republic of Macedonia;
    - limit the geographical area in which the goods may be resold; or
    - do not substantially affect the value of the goods;
  - b) the sale or the price is not subject to any conditions or liabilities the value of which 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 adequate adjustment can be made in accordance with the provisions of Article 36 of this Law; and
  - d) the buyer and the seller are not related, or where the buyer and the seller are related, the transaction value is acceptable for customs purposes under the provisions of paragraph 2 of this Article.
- (2)
  - a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be deemed to be sufficient reason to consider the transaction value unacceptable. In such case the circumstances of the sale shall be examined and the transaction value shall be accepted if that relationship did not influence the price. If, based the information provided by the declarant or otherwise, the Customs authority has reasons to believe that such relationship influenced the price, it shall notify the declarant of its reasons and provide an opportunity for the declarant to respond. If the declarant so requests, the notification of such reasons shall be in writing.
  - b) In a sale between related persons, the transaction value shall be deemed acceptable and the goods shall be valued in accordance with the provisions of paragraph 1 of this Article whenever the declarant demonstrates that such value closely approximates one of the following values occurring at or about the same period:
    1. the transaction value in sales between unrelated sellers and buyers of identical or similar goods for export to the Republic of Macedonia;
    2. the customs value of identical or similar goods as determined in accordance with the provisions of Article 33 of this Law;

3. the customs value of identical or similar goods as determined in accordance with the provisions of Article 34 of this Law;

In applying the above criteria (test values), due account shall be taken of demonstrated differences in commercial levels, quantity levels, elements listed in Article 36 of this Law and costs incurred by the seller in sales in which the seller and the buyer are not related, and which are not incurred in sales in which the seller and the buyer are related.

- c) The criteria set forth in paragraph 2 (b) of this Article shall be applied on request by the declarant and only for comparison purposes. Substitution of values is not provided for under the said paragraph.
- (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 for the sale of the imported goods by the buyer to the seller or by the buyer to a third party as a means of covering an obligation of the seller. The payment need not necessarily take the form of a transfer of money. Payment may be made by means of letters of credit or negotiable instruments 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 Article 36 of this Law, are not considered to be an indirect payment to the seller, even when they might be regarded as benefiting the seller or when undertaken under an agreement with the seller, and these costs for the goods shall not be added to the price actually paid or payable in determining the customs value of the imported goods.

#### Article 17

Article 30 is amended and reads:

##### “Identical value method

- (1)
  - a) If the customs value of the imported goods cannot be determined under the provisions of Article 29 of this Law, the customs value shall be the transaction value of identical goods sold for export to the Republic of Macedonia and exported at or about the same time as the goods being valued.
  - b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities, adjusted to take account of the differences attributable to the commercial level and/or 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.

- (2) Where the costs and charges referred to in Article 36 (1) e) of this Law 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 goods in question arising from differences in distances and modes of transport.
- (3) If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.”

#### Article 18

Article 31 is amended and reads:

“Similar value method

- (1) a) If the customs value of the imported goods cannot be determined under the provisions of Articles 29 and 30 of this Law, the customs value shall be the transaction value of similar goods sold for export to the Republic of Macedonia and exported at or about the same time as the goods being valued.
- b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of 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.
- (2) Where the costs and charges referred to in Article 36 (1) e) of this Law 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 similar goods in question, arising from differences in distances and modes of transport.
- (3) If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.”

#### Article 19

Article 32 is amended and reads:

“Possibility of reversing the order of application of Articles 33 and 34

If the customs value of the imported goods cannot be determined under the provisions of Articles 29, 30 and 31 of this Law, the customs value shall be determined under the provisions of Article 33 of this Law. If, the customs value cannot be determined under Article 33 of this Law, the customs value shall be determined under the

provisions of Article 34 of this Law except that, at the request of the declarant, the order of application of Articles 33 and 34 of this Law shall be reversed.”

## Article 20

Article 33 is amended and reads:

### “Deductive value method

- (1) a) If the imported goods or identical or similar imported goods are sold in the Republic of Macedonia in the same condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods, in such condition, in the greatest aggregate quantity, are sold to persons not related to the persons from whom they buy such goods, at or about the same time of the importation of the goods being valued, subject to deductions for the following:
  - 1. the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses (including direct and indirect costs of marketing of the goods in question) in connection with the sales in the Republic of Macedonia of imported goods of the same class or kind;
  - 2. the usual costs of transport and insurance and other associated costs incurred within the Republic of Macedonia;
  - 3. where appropriate, the costs and charges referred to in Article 36 (1) e) of this Law; and
  - 4. the import duties and other charges payable in the Republic of Macedonia upon import or sale of 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 customs value shall, subject otherwise to the provisions of paragraph 1 (a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Republic of Macedonia 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.
- (2) If neither the imported goods nor identical nor similar imported goods are sold in the Republic of Macedonia in the condition as imported, then, if the importer so requests, the customs 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 the Republic of Macedonia 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 paragraph 1 a) of this Article.

## Article 21

Article 34 is amended and reads:

### “Computed value method

- (1) The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of :
  - (a) the value of the materials and costs for the fabrication or other processing employed in producing the imported goods;
  - (b) the 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 the Republic of Macedonia;
  - (c) the cost or value of all other expenses referred to in Article 36 (1) e) of this Law.
- (2) A person not resident on the territory of the Republic of Macedonia shall not be required or compelled to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under this Article may be verified in another country by the customs authority, subject to prior consent of the producer and provided that customs authority give sufficient advance notice to the authorities of the country in question and that the latter do not object to the verification.”

## Article 22

Article 35 is amended and reads:

### “Fall-back value method

- (1) Where the customs value of imported goods cannot be determined under Articles 29, 30, 31, 32, 33 and 34 of this Law, it shall be determined, on the basis of the data available in the Republic of Macedonia, using reasonable means consistent with the principles and general provisions of:
  - the Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade of 1994
  - Article VII of the General Agreement on Tariffs and Trade of 1994
  - the provisions of Articles 28 to 38-h inclusive of this Law.
- (2) No customs value shall be determined under the provisions of this Article on the basis of :
  - a) the selling price in the Republic of Macedonia of goods produced in the Republic of Macedonia;
  - b) a system which provides for the acceptance, for customs purposes, of the higher of two alternative values;
  - c) the price of the goods on the domestic market of the country of exportation;

- d) the costs of production, other than the computed values determined for identical or similar goods in accordance with the provisions of Article 34 of this Law;
  - e) the price of the goods for export to a country other than Republic of Macedonia;
  - f) minimum customs values; or
  - g) arbitrary or fictitious values.
- (3) If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.”

## Article 23

Article 36 is amended and reads:

### “Adjustment of price - elements included in customs value

- (1) In determining the customs value under Article 29 of this Law, to the price actually paid or payable for the imported goods shall be added:
- a) the following, to the extent in which they are borne by the buyer but are not included in the price actually paid or payable for the goods:
    - 1. commissions and brokerage, except buying commissions,
    - 2. the cost of containers which are treated as being one, for customs purposes, with the goods in question,
    - 3. the cost of packing, whether for labour or materials;
  - b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced costs 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:
    - 1. materials, components, parts and similar items incorporated in the imported goods,
    - 2. tools, dies, moulds and similar items used in the production of the imported goods,
    - 3. materials consumed in the production of the imported goods,
    - 4. engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Republic of Macedonia and necessary for the production of the imported goods;
  - c) royalties and licence fees related to the goods being valued that the buyer must pay, directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
  - d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
  - e) 1. the cost of transport and insurance of the imported goods to the place of introduction into the customs territory of the Republic of Macedonia, and

2. loading, unloading and handling charges associated with the transport of the imported goods to the point of entrance into the customs territory of the Republic of Macedonia.
- (2) The additions to the price actually paid or payable shall be established pursuant to this Article and only on basis of objective and quantifiable data.
- (3) No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.
- (4) For the purposes of this subsection, the term 'buying commissions' means fees paid by an importer to his agent for the service of representation abroad in the purchase of the goods being valued.
- (5) Notwithstanding paragraph 1 c) of this Article:
  - a) charges for the right to reproduce the imported goods in the Republic of Macedonia shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
  - b) 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 the Republic of Macedonia of the goods."

#### Article 24

Article 37 is amended and reads:

"Adjustment of price - elements not included in customs value

- (1) Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:
  - a) charges for the transport of goods after their arrival at the point of entrance into the customs territory of the Republic of Macedonia;
  - 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 concluded 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:
    - such goods are actually sold at the price declared as the price actually paid or payable, and
    - the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
  - d) charges for the right to reproduce imported goods in the Republic of Macedonia;
  - e) buying commissions;

- f) import duties or other charges payable in the Republic of Macedonia by reason of the importation or sale of the goods.”

#### Article 25

Article 38 is amended and reads:

#### “Reduction of prices

All reductions in price agreed prior to the import of the goods and effectuated in agreed delay, shall not be included in customs value, in accordance to Article 29 of this Law.”

#### Article 26

After Article 38, eight new Articles 38-a, 38-b, 38-c, 38-d, 38-e, 38-f, 38-g and 38-i are added and read:

#### “Article 38-a

#### Customs value of free consignments

The customs value of goods imported free of charge shall be determined under the provisions of Article 30 to 35 of this Law.

#### Article 38-b

#### Valuation of certain carrier media for use in ADP equipment

- (1) Notwithstanding Articles 29 to 38-h of this Law, in determining the customs 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 customs 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.
- (2) For the purposes of this Article:
- a) the expression ‘carrier medium’ shall not be taken to include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices;
  - b) the expression ‘data or instructions’ shall not be taken to include sound, cinematographic or video recordings.

#### Article 38c

#### Obligation of the importer under Article 36



- (1) In the case of import of goods for which obligation under Article 36 (1) b), c) and d) of this Law is agreed, the importer is obliged to specify that in the customs declaration;
- (2) The importer is obliged to declare to the customs authority the resale, disposal or use of the imported goods, from which a payment of particular amount to the seller has accrued in accordance with Article 36 (1) (d) of this Law, not later than 30 days following the payment.

#### Article 38-d Apportion of costs

- (1) Where the consignment consists of more kinds of goods and more different rates of customs duty apply, buying costs for the goods expressed in total amount for the whole consignment, as well as the transport costs, insurance costs and delivery costs, shall be computed by the proportion of the value of each kind of goods.
- (2) By derogation of paragraph (1) of this Article, customs authority may, at request of the declarant, add the costs referred to in paragraph (1) of this Article, concerning more kinds of goods being part of one consignment, to the value of the goods on which the highest customs rate is applied.

#### Article 38-e Procedure in the case of doubt with regard to the value declared

- (1) The customs authority may, in the course of conducting the customs procedure, request from the declarant any documents and other evidence considered necessary to determine the customs value in accordance to Articles 29 to 37 of this Law.
- (2) No provision of Articles 28 to 38-h shall be construed as restricting or calling into question the right of customs authority to satisfy themselves as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.
- (3) If due to justified reasons the invoice is not presented, or the customs authority has reasonable doubt that the value of the goods referred to in the invoice does not correspond to the provisions on the transaction value of this Law, the customs value shall be determined in accordance with Articles 30 to 35 of this Law.
- (4) Upon written request, the importer shall have the right to an explanation in writing from the customs authority of the country of importation as to how the customs value of the importer's goods was determined.

#### Article 38f Currency conversion

Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that determined on the date when

customs debt has incurred, in accordance to the regulations governing foreign currency transactions.

#### Article 38-g

##### Withdrawal of goods before customs value determination

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the declarant shall nevertheless be able to withdraw them from customs, provided that payment of a customs debt is ensured, in accordance to Article 172 of this Law, in an amount covering the ultimate payment of customs duties for which the goods may be liable.

#### Article 38-h

##### Exclusion of application of provisions on customs value

The provisions of Articles 28 to 38-g of this Law shall be without prejudice to the other provisions of this Law or the regulations enacted under this Law providing for the determination of the value for customs purposes of goods which were subject to other kinds of customs-approved use or treatment prior to their release for free circulation.”

#### Article 27

Article 39 is amended and reads:

##### “Regulations

The Government of the Republic of Macedonia shall promulgate the regulations on the application of the provisions of Articles 28 to 38-h of this Law.”

#### Article 28

After Article 79 in paragraph (1) after item 2, a new item 3 is added and reads:

“— the customs authority shall be enabled to control and supervise the procedure without introducing administrative procedures incommensurate to the economic needs.”

#### Article 29

In Article 96 paragraph (1) is amended and reads:

“Duty free shops are facilities located at international airports after the customs control points, offering for sale goods free of duty and other customs charges to passengers departing from the territory of the Republic of Macedonia.”

#### Article 30

The amendments in Article 24-a of the Customs Law contained in Article 6 of this Law shall be applied from the date of the accession of the Republic of Macedonia to the World Trade Organization.

#### Article 31

This Law shall enter into force on the fifteenth day following its publication in the Official Gazette of the Republic of Macedonia.