

## **The Draft Customs Code of Ukraine**

SECTION 1 .....	19
General Concepts.....	19
CHAPTER 1. The Foundations of Customs Practice.....	19
Article 1. Definition of basic terms and concepts that are used in this Code.....	19
Article 2. Customs policy .....	23
Article 3. Customs practice .....	23
Article 4. Principles of customs regulation .....	24
Article 5. Customs territory of Ukraine.....	24
Article 6. The customs border of Ukraine .....	24
Article 7. Ukrainian customs legislation .....	24
Article 8. The flag and the symbol of the Customs Service of Ukraine.....	25
Article 9. The order of implementation of laws and other normative-legal acts on customs practice .....	25
Article 10. Operation of the customs legislation in time .....	25
CHAPTER 2. The Structure and Organization of Activities of the customs system of Ukraine .....	26
Article 11. Specially empowered central authority of the executive branch of the government in the area of customs practice .....	26
Article 12. Direct implementation of customs practice .....	26
Article 13. The customs system of Ukraine. ....	27
Article 14. The State Customs Service of Ukraine.....	27
Article 15. Regional customs departments. ....	27
Article 16. Customs units. ....	28
Article 18. Specialized customs bodies and organizations.....	29
Article 19. Customs laboratories. ....	29
Article 20. The customs guard.....	29
Article 21. Property, financing and material-technical support for customs authorities, and specialized customs bodies and organizations.....	29
Article 22. Land plots, official and service quarters, equipment and communication devices of customs authorities, specialized customs bodies and organizations .....	30
CHAPTER 3. Relations of Customs Authorities, Specialized Customs Bodies and Organizations and their Official Personnel with Other Authorities, Enterprises, and Citizens.....	30
Article 23. Relations of customs authorities, specialized customs bodies and organizations and their official personnel with other authorities, enterprises and citizens.....	30
Article 24. Collaboration between the customs authorities and other law enforcement bodies and Border Troops. ....	31
Article 25. The relationship between the customs authorities and other authorities implementing control during the entry of goods into the customs border of Ukraine.....	31
Article 26. Collaboration between the customs authorities, the National Bank of Ukraine and financial institutions of Ukraine.....	31
Article 27. The relationship between customs authorities, specialized customs bodies and organizations with local state administrations and local self-government bodies.....	32
CHAPTER 4. Information and Consulting. ....	32
Article 28. Information as to the rules for transporting goods and vehicles through the customs border of Ukraine. ....	32
Article 29. Information on normative-legal acts. ....	32
Article 30. Provision of texts of normative-legal acts and consultations on customs practice. ....	32
Article 31. Responsibility for inaccurate information. ....	32

CHAPTER 5. International Cooperation on Matters of Customs Practice .....	33
Article 32. Ukraine's participation in international cooperation on matters of customs practice. ....	33
Article 33. Principles of international activities of the State Customs Service of Ukraine .....	33
Article 34. The main tasks of the State Customs Service of Ukraine in international activity. ....	33
Article 35. Relations of the State Customs Service of Ukraine with international customs organizations .....	34
Article 36. Collaboration in the area of customs practice. ....	34
Article 37. Ensuring of operative communication between the customs authorities of Ukraine and customs authorities of foreign neighbor countries.....	34
Article 38. Collaboration of customs authorities of Ukraine with customs and other authorities of foreign states, as well as international organizations. ....	34
SECTION 2. ....	35
Customs Control.....	35
CHAPTER 6. Customs Control Procedure. ....	35
Article 39. Implementation of customs control. ....	35
Article 40. Types of customs control.....	35
Article 41. Differentiated approach in customs control. ....	35
Article 42. Duration of customs control. ....	36
Article 43. The terms of presentation of goods and vehicles crossing the customs border to the customs authority. ....	36
Article 44. Documents and information required for implementation of customs control.....	36
Article 45. Access of customs officials to the territories or constructions of enterprises for the purposes of implementing customs control, as well as for planned and random examination of financial and economic activity.....	37
Article 46. Joint customs control on the customs border of Ukraine. ....	37
CHAPTER 7. Zones of Customs Control.....	37
Article 47. Location of zones of customs control.....	37
Article 48. Procedures for establishing zones of customs control.....	37
Article 49. Building of constructions and other objects in zones of customs control. ....	38
Article 50. Regimes in the zones of customs control. Ensuring legality and order in zones of customs control .....	38
Article 51. Economic activity in the zone of customs control. Movement of citizens, goods and vehicles through the zone of customs control .....	38
CHAPTER 8. Implementation of Customs Control. ....	38
Article 52. Rights of customs authorities in implementing customs control. ....	38
Article 53. Submission of documents and information required for the implementation of customs control. ....	39
Article 54. Survey and re-examination of goods and vehicles. ....	39
Article 55. Survey and re-examination of hand baggage and luggage. ....	39
Article 56. Personal inspection.....	40
Article 57. Record of goods and vehicles moving through the customs border of Ukraine. ....	40
Article 58. Verbal questioning of a citizen or an enterprise manager. ....	41
Article 59. Review of the reporting system for goods crossing the customs border of Ukraine. ....	41
Article 60. Review of financial and economic activity of enterprises involved in foreign economic activity. ....	41

Article 61. Examination of the territories and premises of temporary warehouses, licensed customs warehouses, free customs zones, duty-free shops and other places of location of goods and vehicles subject to customs control, or where activities controlled by the customs authorities are carried out. ....	42
Article 62. Use of technical and special instruments for implementation of customs control. ....	42
Article 63. Operations with goods and vehicles which were not cleared through the customs. ....	42
Article 64. Identification of goods, vehicles, premises and other places during the customs control implementation. ....	43
Article 65. Involvement of specialists and experts in the process of customs control implementation. ....	43
CHAPTER 9. Special procedures of customs control. ....	44
Article 66. Exemption from certain types of customs control. ....	44
Article 67. Exemption from customs inspection. ....	44
Article 68. Simplified customs control. ....	44
Article 69. Customs control following the completion of customs clearance of goods and vehicles. ....	44
SECTION 3. ....	45
Customs Clearance. ....	45
CHAPTER 10. General Concepts. ....	45
Article 70. The purposes of customs clearance. ....	45
Article 71. Place and time of customs clearance implementation. ....	45
Article 72. Beginning of customs clearance. ....	46
Article 73. Presence of declarants during the customs clearance. ....	46
Article 74. Customs clearance of military vehicles and military hardware. ....	46
Article 75. Drawing of probes and samples of goods. ....	47
Article 76. Submission of protocols prepared by the enterprises to customs authorities. ....	47
Article 77. The language of documents submitted for the customs control and customs clearance implementation. ....	48
Article 78. Duration of customs clearance. ....	48
Article 79. Simplified procedure for customs clearance of certain types of goods. ....	48
Article 80. Obligation of customs authorities to explain the requirements of customs clearance. ....	48
CHAPTER 11. Declaration ....	48
Article 81. Process of declaring. ....	48
Article 82. Temporary and incomplete declarations. ....	49
Article 83. Periodic customs declaration. ....	49
Article 84. Place of declaring. ....	49
Article 85. Terms of declaring. ....	49
Article 86. Acceptance of a customs declaration. ....	50
Article 87. Declarants. ....	50
Article 88. Obligations of a declarant. ....	50
Article 89. Preliminary customs declaration and preliminary notification. ....	51
Article 90. Changes, amendments to and exclusions from the customs declaration. ....	51
SECTION IV. ....	51
Movement and Admission of Goods and Vehicles ....	51
Through the Customs Border of Ukraine. ....	51
CHAPTER 12. Crossing of Goods and Vehicles Across the Customs Border of Ukraine. ....	51

Article 91. Customs border crossing points of Ukraine, where goods and vehicles may cross.....	51
Article 92. Goods prohibited for crossing the customs border of Ukraine.....	52
Article 93. Limitations on the movement of certain goods across the customs border of Ukraine.....	52
Article 94. Authority of customs bodies in regulating the movement of cultural values across the customs border of Ukraine.....	53
CHAPTER 13. Preliminary Operations.....	53
Article 95. Preliminary operations.....	53
Article 96. Submission of documents to the customs authorities at the customs border crossing points of Ukraine.....	53
Article 97. Notification of customs authorities as to one's intent to import goods into the customs territory of Ukraine and to export goods from the customs territory of Ukraine.....	53
Article 98. Delivery of goods and documents to a location designated by the customs authorities.....	54
CHAPTER 14. Preliminary Rulings.....	54
Article 99. Reaching a preliminary ruling.....	54
Article 100. Queries regarding the preliminary rulings.....	54
Article 101. Legal consequences of a preliminary ruling.....	54
Article 102. Cancellation or modification of a preliminary ruling.....	55
CHAPTER 15. Temporary Storage.....	55
Article 103. Temporary storage warehouses.....	55
Article 104. Permission for use of facilities as a temporary storage warehouse.....	56
Article 105. Types of temporary storage warehouses.....	56
Article 106. Relations between the owner of a temporary storage warehouse and persons placing goods and vehicles in storage at said warehouses.....	56
Article 107. Documents required for placing of goods and vehicles at temporary storage warehouses.....	56
Article 108. Obligations of the owner of a temporary storage warehouse.....	56
Article 109. Supplemental rights of customs authorities regarding temporary storage warehouses.....	57
Article 110. Limitations on placement of goods at temporary storage warehouses....	57
Article 111. Persons responsible for securing goods and vehicles placed at temporary storage warehouses.....	57
Article 112. Duration of temporary storage of goods by enterprises.....	58
Article 113. Operations with goods at temporary storage warehouses.....	58
SECTION V.....	58
Customs Procedures at Delivery of Goods across the Customs Border of Ukraine with Different Means of Transportation.....	58
CHAPTER 16. General provisions.....	58
Article 114. Means and ways of delivery of goods.....	58
Article 115. Customs procedures at transportation.....	59
Article 116. Interaction in certification of international transportation of goods.....	59
Article 117. Assistance to the customs officers in enforcement of customs procedures.....	59
Article 118. Premises of the customs service in ports, international airports and cross border railway stations.....	59
Article 119. Customs procedures pertaining to stocks and consumption.....	60
Article 121. Passage of spare parts and equipment for maintenance of vehicles.....	60
Article 122. Restrictions on passage of alcohol or tobacco carried on board of means of transportation.....	60

Article 123. Temporary permit for the passage of means of transportation through the customs territory of Ukraine.....	61
Article 124. Goods that enter the customs territory of Ukraine by mistake.....	61
CHAPTER 17. Customs Procedures for Sea and River Transportation. ....	61
Article 125. Locations for conduct of customs procedures .....	61
Article 126. Customs control areas at sea and river ports .....	61
Article 127. Timeframe for customs control .....	61
Article 128. Timeframe for customs clearance of vessels that conduct international transportation.....	62
Article 129. Location of customs control at waterborne transportation.....	62
Article 130. Emergency customs control .....	62
Article 131. Customs control over unloading at waterborne transportation.....	62
Article 132. Customs control for the vessels that enter the water border of Ukraine for a short term .....	62
Article 133. Customs control of coasting vessels.....	62
Article 134. Customs clearance of Ukrainian vessels manufactured or purchased abroad or sold abroad .....	63
Article 135. Customs permit for departure of the vessel that conducts international transportation.....	63
Article 136. Customs control over goods transferred by foreign men-of-war .....	63
CHAPTER 18. Customs Procedures for Airborne Transport. ....	63
Article 137. International airport.....	63
Article 138. Documents for control of the aircraft .....	63
Article 139. Emergency landing.....	64
Article 140. Passage of goods carried by transit passengers of aircrafts.....	64
Article 141. Preferential regime of customs control of the aircraft.....	64
CHAPTER 19. Customs Procedure for Railway Transportation. ....	64
Article 142. Customs procedures at customs border check points at railway border crossing.....	64
Article 143. Timeframe for conduct of customs control at railway transportation .....	64
Article 144. Documents necessary for conduct of customs control at railway transportation.....	64
Article 145. Responsibility to bring goods to the customs check point at destination .....	65
Article 146. Location for conduct of customs procedures for international railway transportation.....	65
Article 147. Passage of goods carried at dining cars of international trains .....	65
CHAPTER 20. Customs Procedures at Motor Transportation.....	66
Article 148. Documents necessary for customs control of means of motor transportation.....	66
Article 149. Obligations of operators that conduct motor transportation of goods subject to customs control. ....	66
Article 150. Procedures for the customs clearance of vehicles transporting the goods across the customs border of Ukraine.....	66
CHAPTER 21. Customs Procedures for the Pipeline and Power Lines.....	66
Article 151. Customs control procedures for goods transported by pipelines and power lines.....	66
Article 152. Documents for the purposes of customs clearance of goods transferred by the pipelines.....	67
Article 153. Documents for the customs clearance of the transfer of electricity. ....	67
CHAPTER 22. Transfer of Goods through the Customs Border of Ukraine by Mail. ...	67
Article 154. Transfer of international mail through the customs border of Ukraine...	67

Article 155. Procedures and conditions for customs control of goods transferred by the international postal consignment. ....	68
SECTION VI. Disposition of Goods, which are under Customs Control. ....	68
CHAPTER 23. Transfer of Goods and Vehicles Between the Customs Authorities.	
Transit Shipments. ....	68
Article 156. Rights and duties of the shipping company. ....	68
Article 158. Conditions for transiting the goods and vehicles. ....	68
Article 159. Itineraries for the transit shipments. ....	69
Article 160. Time period for the customs transit. ....	69
Article 161. Measures applied in case of an accident or in case of Force Majeure ....	69
Article 162. Liability for non-compliance with the established procedure for the transit shipment of goods. ....	69
CHAPTER 24. Measures for Providing Guarantee of Delivering Goods and Vehicles under the Customs Control. ....	70
Article 163. Measures for providing guarantee of delivering. ....	70
Article 164. Financial guarantees. ....	70
Article 165. Provision of security protection and guarding of the goods and vehicles by customs authorities. ....	70
Article 166. Shipment of goods by the customs shipping company. ....	70
Article 167. Conditions for applying measures of guaranteeing of the shipment of goods. ....	70
CHAPTER 25. Storage of Goods and Vehicles at the Customs Warehouses. ....	71
Article 168. Goods stored exclusively by the customs authority. ....	71
Article 169. Customs warehouses. ....	71
Article 170. Goods and vehicles, which are stored at the customs warehouses. ....	72
Article 171. Time period for storage of goods and vehicles at the customs warehouses. ....	72
Article 172. Transactions with the goods, which are stored at the customs warehouses by the enterprises. ....	73
Article 173. Release of goods from the customs warehouses. ....	73
CHAPTER 26. Disposition of Goods, Vehicles and Money. ....	73
Article 174. Disposition of goods and vehicles. ....	73
Article 175. Organizations of customs auctions. ....	74
Article 176. Disposal of money, received from the sale of goods and vehicles. ....	74
CHAPTER 27. Disposal of Money, Received by the Customs Authority in Accordance with this Code. ....	75
Article 177. Disposal of customs fees. ....	75
Article 178. Disposal of other money, received by the customs authorities. ....	75
Article 179. Disposal of money allocated by the legal entities and physical persons into the bank accounts of the customs authorities or transferred to the customs authorities for storage purposes. ....	75
CHAPTER 28. Customs Broker. ....	75
Article 180. Customs broker. ....	75
Article 181. Procedure for customs broking activity. ....	76
Article 182. License for engaging into the customs broking activity. ....	76
Article 183. Rights and duties of the customs broker. ....	76
Article 184. State register of the customs brokers. ....	77
Article 185. Declaration expert. ....	77
Article 186. Customs duty charges for the license to engage in customs broking activity and for the qualification ID of a declaration expert. ....	77
CHAPTER 29. Customs Shipment Company. ....	77
Article 187. Customs shipment company. ....	77

Article 188. License to engage into the customs shipment company activity.....	78
Article 189. State Register of the customs shipment companies.....	78
SECTION VIII.....	79
Customs Regime for Goods and Vehicles which are Moving Through the Customs Border of Ukraine.....	79
CHAPTER 30. Basic Concepts.....	79
Article 190. Types of customs regime.....	79
Article 191. Choice and change of the customs regime.....	79
Article 192. Regulation of issues on the application of customs regimes.....	79
CHAPTER 31. Import.....	79
Article 193. The notion “import”.....	79
Article 194. Conditions for importing goods.....	80
CHAPTER 32. Re-import.....	80
Article 195. The notion of “re-import”.....	80
Article 196. Conditions for re-importing goods.....	80
Article 197. Documentation processing during the re-importation of goods.....	80
Article 198. Reimbursement of exit (export) duty and other fees during re-import of goods.....	80
CHAPTER 33. Export.....	81
Article 199. The notion “export regime”.....	81
Article 200. Conditions for exporting goods.....	81
CHAPTER 34. Re-export.....	81
Article 201. The notion “re-export”.....	81
Article 202. Conditions for the re-export of goods.....	81
Article 203. Tax exemption of the re-exported goods.....	82
CHAPTER 35. Transit.....	82
Article 205. The notion “transit”.....	82
Article 206. Conditions for the transit of the goods and vehicles.....	82
Article 207. Guarantees for the transit of goods and vehicles.....	83
Article 208. Permission of goods and vehicles for transit.....	83
CHAPTER 36. Temporary Importation (Exportation).....	83
Article 209. The notion “temporary importation (exportation)”.....	83
Article 210. Conditions for transferring of goods in the temporary importation (exportation) regime.....	83
Article 211. Types of goods that may be permitted for the temporary importation with the conditional full exemption from taxation.....	83
Article 212. Permission of goods for temporary importation (exportation) regime....	84
Article 213. Time limits for temporary importation (exportation) of goods.....	84
Article 214. Exemption from tax payments during the temporary importation (exportation) of goods.....	84
Article 215. Disposition of goods after the expiration of the temporary importation (exportation) time period.....	85
Article 216. Guarantees regarding the temporary imported (exported) goods.....	85
CHAPTER 37. Customs Warehouse.....	85
Article 217. The notion “customs warehouse”.....	85
Article 218. Conditions for the transfer of goods in a customs warehouse regime.....	85
Article 219. Time period for the storage of goods in the customs warehouse regime.....	85
Article 220. Transactions with goods in the customs warehouse regime.....	86
Article 221. Customs licensed warehouses and the types of such warehouses.....	86
Article 222. Owners of the licensed customs warehouses.....	86
Article 223. License to open and operate the licensed customs warehouse.....	86
Article 224. Requests to the licensed customs warehouses.....	87

Article 226. Liquidation of the licensed customs warehouse.....	88
Article 227. Special incidents of storage goods at the licensed customs warehouse.....	89
CHAPTER 38. free customs zone.....	89
Article 228. The notion “free customs zone as a customs regime”.....	89
Article 229. Free customs zones.....	89
Article 230. Conditions for taxation and transferring of goods across the border of the free customs zone.....	90
Article 231. Requirements to free customs zones.....	91
Article 232. Customs authority measures for purposes of customs control in free customs zones.....	91
Article 233. Transactions, which are allowed in the free customs zones.....	91
Article 234. Time periods for keeping goods in the free customs zones.....	92
Article 235. Accounting of goods in the free customs zones.....	92
Article 236. Application of the non-tariff regulations measures during the movement of goods through the borders of the free customs zones.....	92
Article 237. Liquidation of the free customs zone.....	92
CHAPTER 39. Duty Free Shop.....	93
Article 238. The notion “duty free shop”.....	93
Article 239. Conditions for sale of goods in the duty free shop regime.....	93
Article 240. License to open and operate the duty free shop.....	93
Article 241. Requirements to the owners of the duty free shops.....	94
Article 242. Liquidation of the duty free shop.....	95
CHAPTER 40. Processing at the Customs Territory of Ukraine.....	95
Article 243. The customs regime of processing at the customs territory of Ukraine.....	95
Article 244. Permit to process goods at the customs territory of Ukraine.....	95
Article 245. Transactions with respect to the processing of goods.....	96
Article 246. Time periods for processing of the goods within the customs territory of Ukraine.....	96
Article 247. Audit of the customs authority of compliance with the processing regime within the customs territory of Ukraine.....	96
Article 248. The amount of processed products.....	97
Article 249. Payment of taxes and reimbursement of taxes.....	97
Article 250. Tax exemption of the processed products.....	97
Article 251. Procedure for customs clearance of the processed products.....	97
Article 252. Conditions for the sale of the processed products within the customs territory of Ukraine.....	97
CHAPTER 41. Processing outside the Customs Territory of Ukraine.....	98
Article 253. “Processing outside the customs territory of Ukraine” as a customs regime.....	98
Article 254. Transactions with respect to processing of goods outside the customs territory of Ukraine.....	98
Article 255. Permit to export goods for processing outside the customs territory of Ukraine.....	98
Article 256. Time period for processing of goods outside the customs territory of Ukraine.....	98
Article 257. The amount of processed products.....	98
Article 258. Procedure for the customs clearance and payment of taxes.....	99
Article 260. Payment of customs duty in case of exportation of the goods for processing.....	99
CHAPTER 42. Destroying or Extermination.....	99
Article 261. Destroying or extermination as a customs regime.....	99
Article 262. Expenses for extermination of goods.....	99

Article 263. The waste (residues) resulting from extermination or destroying of the goods.....	99
CHAPTER 43. Refusal for the Benefit of the State. ....	100
Article 264. Refusal for the benefit of the State as a customs regime.....	100
PART IX.....	100
Specific Features of the Movement and Taxation of Goods .....	100
Moved Through the Customs Border of Ukraine by the Citizens.....	100
CHAPTER 44. General Concepts. ....	100
Article 265. Procedure for the transportation of goods across the customs border of Ukraine by the citizens .....	100
Article 266. Conditions for mailing goods by the citizens in the international postal consignment.....	100
Article 267. Calculation of the value of goods mailed by the citizens across the customs border of Ukraine for purposes of accruing of the customs duties.....	100
CHAPTER 45. Clearance and Taxation of Goods that are being taken by the Citizens outside the Customs Territory of Ukraine. ....	101
Article 268. Requirements concerning the importation of goods outside the customs territory of Ukraine by the citizens.....	101
CHAPTER 46. Passage and Taxation of Goods that are Brought by the Citizens into the Customs Territory of Ukraine. ....	101
Article 269. Requirements regarding the citizen's bringing of goods into the customs territory of Ukraine.....	101
Article 270. Exempting from taxation of alcoholic beverages and tobacco products that are being shipped into the customs territory of Ukraine by citizens. ....	102
Article 271. Terms of temporary importation of goods by citizens into the customs territory of Ukraine under a pledge to take the goods back outside the country, including transit. ....	103
SECTION X. ....	103
Border Enforcement Measures Related to Goods Containing the Intellectual Property Objects.....	103
CHAPTER 47. Movement through the customs border of Ukraine of goods that contain intellectual property objects.....	103
Article 272. Procedures for customs control and customs clearance of goods that contain intellectual property objects.....	103
Article 273. Customs bodies' measures regarding the control of movement across the customs border of Ukraine of goods that are the intellectual property objects. ....	103
Article 274. Suspension of the customs clearance of goods containing intellectual property objects. ....	104
Article 275. Cooperation of customs bodies with other government agencies in the area of intellectual property rights protection.....	104
SECTION XI. ....	105
Administering Customs Duty Imposed on the Goods that Move Across the Customs Border of Ukraine.....	105
The Customs Tariff of Ukraine. ....	105
CHAPTER 48. Customs Duty. Customs Tariffs of Ukraine. Customs Duty Rates, their Types and Procedures for Imposing Customs Duties.....	105
Article 276. Customs duty.....	105
Article 277. Types of customs duty rates. ....	105
Article 278. The Customs Tariff of Ukraine. ....	105
Article 279. Procedure for establishing the custom duty rates.....	105
Article 280. The Commodity Nomenclature of the Customs Tariffs of Ukraine.....	106
CHAPTER 49. The Customs-Tariff Council of Ukraine. ....	106

Article 281. Responsibilities of the Customs-Tariff Council of Ukraine.....	106
CHAPTER 50. Types of Customs Duties. ....	106
Article 282. Types of customs duties that are applied in Ukraine.....	106
Article 283. Entrance (import) duty. ....	106
Article 284. Export duty. ....	107
Article 285. Seasonal duty.....	107
Article 286. Special types of duties.....	107
Article 287. Special duty. ....	108
Article 288. Anti-dumping duty. ....	108
Article 289. Countervailing duty.....	108
Article 290. Procedure for application of special types of customs duties.....	108
SECTION XII.....	109
Customs Value of Goods.....	109
Methods of Determination of the Customs Value of Goods. ....	109
CHAPTER 51. General Provisions. ....	109
Article 291. Customs value of goods.....	109
Article 292. Determining of the customs value of goods and customs valuation of goods that move through the customs border of Ukraine.....	109
Article 293. Utilization of information on the customs value of goods. ....	109
Article 294. Declaring of the customs value of goods. ....	109
Article 295. Ensurance of confidentiality of information.....	109
Article 296. Rights and duties of a Declarant who declares the customs value of goods.....	110
Article 297. Rights and obligations of a customs authority in controlling the customs valuation of goods. ....	110
CHAPTER 52. Methods of Determination of the Customs Value of Goods, which are Imported into Ukraine, and Procedure for Application thereof.....	111
Article 298. Methods of determination of the customs value of goods that are imported into Ukraine.....	111
Article 299. The valuation method based on the transaction value of the imported goods.....	111
Article 300. Methods of valuation based on the transaction value of identical goods. ....	113
Article 301. Method of evaluation based on the transaction value of similar (analogous) goods.....	114
Article 302. Admonition in application of the methods of determination of the customs value of goods according to the transaction value of similar (analogous) products. ....	114
Article 303. Methods of valuation based on the deduction of the value. ....	114
Article 304. Method of valuation based on the adding of value.....	115
Article 305. Reserve method. ....	115
CHAPTER 53. Customs Value of Goods that are being Exported from Ukraine.....	116
Article 306. Determination of the customs value of goods that are being taken (exported) from Ukraine.....	116
Article 307. Declaring the customs value.....	116
SECTION XIII. ....	117
Country of Origin of the Goods.....	117
CHAPTER 54. Country of Origin of the Goods and Criteria of Determining a Country of Origin of the Goods. Certificates of Origin of Goods.....	117
Article 308. Purpose of determining the country of origin of the goods.....	117
Article 309. Determining the country of origin of goods. ....	117
Article 310. Goods wholly obtained in one country.....	118

Article 311. Criteria of substantial transformation of goods. ....	118
Article 312. Additional provisions for establishing the criterion of substantial transformation of the goods. ....	119
Article 313. Determining the country of origin of the goods, provided that such goods are shipped in shipments. ....	119
Article 314. Verifying the origin of the goods. ....	119
Article 315. Certificate of origin of the goods. ....	120
Article 316. Grounds for refusal to release the goods. ....	120
Article 317. Additional provisions regarding the determination of the country of origin. ....	121
SECTION XIII .....	121
Customs Privileges .....	121
CHAPTER 55. Customs Privileges for Missions of Foreign Governments, International Organizations, Representative Offices of Foreign Companies and for Foreign Officials in Ukraine. Customs Privileges for Ukrainian Diplomatic Missions Abroad. ....	121
Article 318. Customs privileges for diplomatic missions of foreign governments. ...	121
Article 319. Customs privileges for heads of diplomatic missions of foreign governments and diplomatic personnel of such missions. ....	121
Article 320. Customs privileges for administrative and technical personnel of diplomatic missions of foreign governments. ....	122
Article 321. Application of customs privileges for diplomatic personnel of diplomatic missions of foreign governments to administrative and technical personnel and operating staff. ....	122
Article 322. Application of customs privileges to consular missions of foreign governments and personnel thereof. ....	122
Article 323. Movement of diplomatic pouch and consular valise across the customs border of Ukraine. ....	122
Article 324. Customs privileges for foreign diplomatic and consular couriers. ....	123
Article 325. Customs privileges for the representatives and members of delegations of foreign governments. ....	123
Article 326. Customs privileges for International organizations, missions of foreign states to such organization and personnel thereof. ....	123
Article 327. Granting of customs privileges to officials of missions of foreign governments and International organizations in Ukraine. ....	123
Article 328. Termination of customs privileges for officials of missions of foreign governments and International organizations in Ukraine. ....	124
Article 329. Declaration of items of missions of foreign governments and International organizations. ....	124
Article 330. Declaration of items of missions of foreign companies. ....	124
Article 331. Declaration of items belonging to officials of missions of foreign states and representative offices of foreign companies .....	124
Article 332. The procedure for movement of goods belonging to the diplomatic missions of Ukraine abroad across the customs border of Ukraine .....	124
Article 333. Declaration of articles of diplomatic missions of Ukraine abroad .....	124
CHAPTER 56. Tariff Privileges (Tariff Preferences) .....	125
Article 334. Definition of tariff privileges (tariff preferences) .....	125
Article 335. Definition of tariff preferences. ....	125
Article 336. Preferences within customs unions or free trade zones. ....	125
Article 337. National system of preferences. ....	125
Article 338. Implementation of the national system of preferences. ....	126
Article 339. Exemption from duties. ....	126
Article 340. Use of Goods Eligible for Customs Taxation Privileges. ....	127

SECTION XV. ....	127
Calculation and Payment of Duties and Fees for Export or Import of Goods. The Control by Customs Authorities of Payment of Duties and Fees. ....	127
CHAPTER 57. General Provision.....	127
Article 342. Customs payments.....	127
Article 342. Calculation of duty .....	128
Article 343. Value added tax .....	128
Article 344. The excise duty.....	128
Article 345. Customs fees.....	128
Article 346. Customs fee for customs clearance .....	129
Article 347. Exemption from customs fees for customs clearance .....	129
Article 348. Procedure for the calculating of customs fees for keeping goods under customs control.....	129
Article 349. Time not Included in the period of keeping products under the customs control.....	130
Article 350. Exemption from payment of and reduction of the sums payable to the customs for damaged, destroyed or lost products. ....	131
Article 351. Exemption from customs fee for keeping products under the customs control.....	131
CHAPTER 58. Calculation and Collection of Customs Fees. ....	132
Article 352. Determination of the amount of customs charges. ....	132
Article 353. Payers of customs fees and terms for payment thereof.....	132
Article 354. The procedure for the payment of customs fees.....	132
Article 355. The currency for payment of customs fees.....	132
Article 356. Postponement of deadline for and restructurization of customs payments. .....	132
Article 357. Institutions authorized to issue written guarantees.....	133
CHAPTER 59. Control of Due Payment of Customs Charges .....	133
Article 358. Control of adding the collected sums to the Budget.....	133
Article 359. Retrieval of customs fees not paid on time .....	133
Article 360. Repayment of excessively paid or exacted customs fees at the request of the applicant or its duly authorized representative. ....	134
Article 361. Repayment of excessively paid or exacted customs fees on the basis of a court or Arbitration Court decision .....	134
SECTION XVI. ....	134
Customs Statistics.....	134
Chapter 60. Customs Statistics .....	135
Article 362. Objectives of the Customs Statistics .....	135
Article 363. The system of customs statistics.....	135
Article 364. Customs Statistics of Foreign Trade .....	135
Article 365. Special customs statistics. ....	136
Article 366. Documents and information used to compile the customs statistics .....	136
Article 367. Use of information supplied to the customs authorities by State bodies and officials .....	136
Article 368. Using Customs Statistics of Foreign Trade.....	136
Article 369. Departmental Classifiers .....	137
SECTION XVI. Ukrainian Commodity Nomenclature of Foreign Economic Activity ...	137
CHAPTER 61. Keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity .....	137
Article 370. The structure and application of the Ukrainian Commodity Nomenclature of Foreign Economic Activity .....	137

Article 371. The procedure for keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity .....	137
Article 372. Classification of goods .....	138
Article 373. Submission of product samples in the process of classification of goods .....	138
SECTION XVIII. ....	138
Verification of Certificates of Origin of Goods in Ukraine.....	138
CHAPTER 62. Verification of Certificates of Origin of Goods in Ukraine .....	138
Article 374. Verification of certificates of origin.....	138
Article 375. Supply of documents in the process of verification of certificates of origin of goods in Ukraine.....	139
SECTION XIX. ....	139
Smuggling. Investigation and Search Activity of Customs Authorities.....	139
CHAPTER 63. Smuggling as a Crime. ....	139
Article 376. Smuggling .....	139
CHAPTER 64. Inquest in Customs Bodies. ....	139
Article 377. Customs authorities as subjects of inquest.....	139
Article 378. Inquest in cases of smuggling.....	139
Article 379. Powers of Head of the customs authority as a subject of inquest .....	140
Article 380. Appeal of actions and resolutions of customs authorities as subjects of inquest.....	140
CHAPTER 65. Operative and Search Activity of Custom Authorities.....	140
Article 381. Operative and search function of customs authorities.....	140
Article 382. Rights of departments of customs authorities carrying out operative search activities .....	140
Article 383. Controlled deliveries of narcotic substances, psychotropic substances and precursors .....	140
Article 384. Controlled movement of goods. ....	141
SECTION XX. ....	141
Violations of Customs Rules and Responsibility Therefor. Responsibility of Persons Participating in Cases on Violations of Customs Rules. ....	141
CHAPTER 66. General Provisions. ....	141
Article 385. Definition of violation of customs rules.....	141
Article 386. Responsibility for Violation of Customs Rules.....	141
Article 387. Special responsibility for violation of certain customs rules.....	142
Article 388. Applying sanctions less severe than those envisaged in this Code and relieve from administrative responsibility.....	142
Article 389. Penalties for violation of customs rules. ....	142
Article 390. Main and additional penalties.....	142
Article 391. Warning.....	142
Article 392. Fine.....	143
Article 393. Confiscation.....	143
Article 394. Legitimacy of penalties for violations of customs rules.....	143
Article 395. Time limits for imposing penalties for violations of the customs rules. ....	143
CHAPTER 67. Types of Violations of Customs Rules. Responsibility for the Violations. ....	144
Article 396. Violation of the regime of the customs control zone. ....	144
Article 397. Failure to submit the documents necessary for the customs control to the customs authority.....	144
Article 398. Release of goods and vehicles without permission of the customs authority or loss thereof.....	144

Article 399. Failure to deliver goods, vehicles and documents to the customs authority.....	144
Article 400. Failure to stop a vehicle.....	144
Article 401. Dispatch of vehicle without permission of the customs authority. ....	145
Article 402. Mooring to ships retained under the customs control. ....	145
Article 403. Improper operations with goods and vehicles retained under the customs control, changing of their state, use and disposal of them.....	145
Article 404. Loading and other operations carried out without permission of the customs authority.....	145
Article 405. Damage to customs instruments or loss thereof.....	145
Article 406. Violations of the procedure of the customs control in simplified customs control areas ("Green Corridors").....	146
Article 407. Failure to declare goods or vehicles. ....	146
Article 408. Sending goods and items, transfer of which through the customs border of Ukraine is prohibited, in International mail .....	146
Article 409. Preventing the access of customs officials to items and documents . ...	146
Article 410. Failure to submit to the customs authority a report concerning the items retained under the customs control.....	146
Article 411. Failure to submit documents and product samples for examination (analysis, expertise) .....	147
Article 412. Transfer of goods infringing intellectual property rights across the border. ....	147
Article 413. Violation of the procedure of storing goods at customs licensed warehouses and the procedure for operations with such goods.....	147
Article 414. Violation of the procedure of destruction of goods.....	147
Article 415. Violation of the obligation to re-export or re-import goods.....	147
Article 416. Violation of the obligation on transit.....	148
Article 417. Violation of the prescribed route for movement of goods. ....	148
Article 418. Movement of goods and vehicles through the customs border of Ukraine out of the customs control. ....	148
Article 419. Transfer of goods through the customs border of Ukraine concealed from the customs control.....	148
Article 420. Storage, carriage or purchase of goods and vehicles brought in the customs territory of Ukraine out of the customs control or concealed from the customs control.....	149
Article 421. Use of goods subject to privileges on customs charges for purposes other than the purpose of such privilege.....	149
Article 422. Activities directed at illegal exemption from customs fees or taken to understate their amounts due. ....	149
CHAPTER 68. Responsibility of Persons Participating in Proceedings on Violation of Customs Rules.....	149
Article 423. Responsibility of an expert and interpreter for refusal or evasion from participation in cases on violations of customs rules. ....	149
Article 424. Refusal or evasion from explanation or knowingly false testimony. ....	149
SECTION XXI.....	150
PROCEEDINGS ON VIOLATIONS OF CUSTOMS RULES.....	150
CHAPTER 69. The Proceedings on Violation of Customs Rules.....	150
Article 425. Definition of proceeding on violations of customs rules.....	150
Article 426. Legal rules for proceedings on violation of customs rules.....	150
Article 427. Initiation of a case on violation of customs rules.....	150
Article 428. Officials authorized to sign protocols on violation of customs rules. ...	150
Article 429. Reasons and grounds to bring a case on violation of customs rules. ....	150

Article 430. Language of Proceedings in Cases on Violation of Customs Rules .....	151
Article 431. Customs Officials Conducting Proceedings in Cases on Violations of Customs Rules .....	151
Article 432. Protocol on Violation of Customs Rules .....	151
Article 433. Proceedings in Cases on Violations of Customs Rules on the Basis of Materials Obtained from other Law-Enforcing Authorities .....	152
Article 434. Persons Participating in Cases on Violations of Customs Rules .....	152
Article 435. Rights of Persons Made Liable for Violations of Customs Rules .....	152
Article 436. Representatives of Persons Made Liable for Violations of Customs Rules .....	153
Article 437. Expert .....	154
Article 438. Interpreter .....	154
Article 439. Witness in case on violation of customs rules .....	154
Article 440. Witnesses in cases on violation of customs rules .....	155
Article 441. Circumstances precluding custom officials from conducting proceedings on violation of customs rules .....	155
CHAPTER 70. Administrative Detention .....	155
Article 442. The purpose of and procedure of administrative detention .....	155
CHAPTER 71. Procedural Actions in Cases on Violations of Customs Rules and Procedure Therefor .....	156
Article 443. The objective of procedural actions .....	156
Article 444. Summons for interrogation .....	157
Article 445. The procedure for interrogation in cases on violation of customs rules .....	157
Article 446. Requirements to the protocol of interrogation .....	158
Article 447. Registration of refusal to sign the protocol or unfeasibility of signature of the protocol .....	158
Article 448. Requisition of documents necessary for proceedings in case on violation of customs rules .....	159
Article 449. Seizure of goods, vehicles and documents .....	159
Article 450. The procedure for seizure of goods, vehicles and documents .....	159
Article 451. Customs examination and the procedure therefor .....	160
Article 452. Customs survey and the procedure therefor .....	161
Article 453. Presentation of goods, vehicles and documents for identification .....	162
Article 454. Requisition of information necessary for proceedings in case on violation of customs rules .....	162
Article 455. Revisions, inspections and stock taking in cases on violation of customs rules .....	163
Article 456. Conclusion by an expert .....	163
Article 457. The Procedure for carrying out an expertise .....	164
Article 458. Taking samples for expertise to be carried out .....	164
Article 459. Instruction to perform certain procedural actions .....	164
Article 460. Expenses in cases on violation of customs rules .....	164
Article 461. Reimbursement of expenses in cases on violation of customs rules .....	165
Article 462. The bodies authorized to consider cases on violation of customs rules .....	165
Article 463. Powers of customs officials in considering cases on violations of customs rules .....	165
Article 464. Situations where cases are handed over from one customs authority to another .....	165
Article 465. The time limits for considering the case on violation of customs rules .....	166

Article 466. Attending by the person made liable for violation of the customs rules or a representative thereof of hearing of the case .....	166
Article 467. Types of resolutions (decisions) in cases of violation of customs rules. ....	166
Article 468. Special rules for courts to consider cases on violation of customs rules. ....	166
CHAPTER 72. Appeals to Resolutions and Decisions of Customs Authorities in Cases on Violation of Customs Rules.....	167
Article 469. Appeals of resolutions and decision of customs authorities.....	167
Article 470. Verification of legal and factual grounds for a resolution of the customs authority.....	168
Article 471. Grounds for abolishment or amendment of a resolution on the imposition of a penalty for violation of customs rules. ....	169
Article 472. The time limits for considering by superior customs authorities of an appeal or of a Procurator's protest to a resolution of a customs authority.....	169
Article 473. Consequences of submission of appeal or protest.....	169
CHAPTER 73. Execution of Resolutions of Customs Authorities and Decisions of Judges in Cases on Violations of Customs Rules.....	170
Article 474. Binding nature of resolutions of customs authorities and court decisions on imposition of penalties in cases on violations of customs rules. ....	170
Article 475. General provisions on the procedure for implementation of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules. ....	170
Article 476. Limitation period for execution of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules. ....	170
Article 477. Control of execution of a resolution of a customs authority or court decision on imposition of a penalty for violation of customs rules.....	170
Article 478. The procedure for execution of a resolution of a customs authority or a court decision on warning.....	170
Article 479. The procedure for execution of a resolution of a customs authority or a court decision on imposition of a fine .....	171
Article 480. Compulsory execution of a resolution of a customs authority or a court decision on the imposition of a fine.....	171
Article 481. The procedure for execution of a court decision on confiscation .....	171
Article 482. Execution of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules to persons residing or staying outside the territory of Ukraine .....	172
Section XXII. Officers of Customs Authorities, Specialized Customs Bodies and Organizations of Ukraine .....	172
CHAPTER 74. Officers and Officials of the Customs Service of Ukraine.....	172
Article 483. Officers of the Customs Service of Ukraine.....	172
Article 484. Officials of the Customs Service of Ukraine.....	172
Article 485. Legal Status of the Customs Officials of Ukraine.....	173
Article 486. Binding nature of the lawful orders and requirements by the customs officers of Ukraine.....	173
Article 487. Service and special ranks of the customs officers of Ukraine.....	173
Article 488. Business hours of the customs officers of Ukraine .....	174
Article 489. Recruitment for the service in customs authorities, specialized customs institutions and organizations of Ukraine.....	174
Article 490. Oath and solemn commitment by customs officers of Ukraine .....	175
Article 491. Prohibition of membership of Ukrainian customs officers in political parties .....	175

Article 492. Restrictions on outside employment and business activity. ....	175
Article 493. Restrictions on activity connected with control of work of close relatives. .....	176
CHAPTER 75. Training, Retraining and Executive Development Courses for the Employees of the Customs System of Ukraine .....	176
Article 494. The system of training, retraining and executive development courses	176
Article 495. Customs educational institution. ....	176
Article 496. Faculty members, heads and specialists of educational institutions.....	177
Article 497. Cadets (students) and auditors of customs educational institutions and other higher educational establishments, which prepare specialists for the customs system of Ukraine.....	177
Article 498. Financing of training, retraining of and executive development courses for employees of the customs service of Ukraine and provision of customs educational institutions with funds and equipment .....	177
CHAPTER 76. Legal Protection of the Customs Employees.....	178
Article 499. Guarantees of protection of life, health and property of the customs officers of Ukraine.....	178
Article 500. Interference with the customs officers' job. ....	178
Article 501. Failure to obey a lawful order or demand of the customs officers.....	178
Article 502. Insult of a customs officer of Ukraine.....	178
Article 503. Threat against a customs officer of Ukraine.....	178
Article 504. Proceedings in cases involving misdemeanors committed against officers of the customs service of Ukraine. ....	178
CHAPTER 77. Application of Physical Force, Special Devices and Weapons by Offices of the Customs Service of Ukraine.....	179
Article 505. General provisions as to the application of physical force, special devices and weapons by the customs officers of Ukraine.....	179
Article 506. Application of physical force. ....	179
Article 507. Application of special equipment.....	179
Article 508. Keeping, carrying and use of firearms by officers of the customs service of Ukraine .....	180
CHAPTER 78. Social Protection of Employees of Customs Authorities, specialized customs institutions and Organizations. ....	180
Article 509. Social guarantees for officers of the customs service of Ukraine. ....	180
Article 510. Guarantees of labor remuneration, financial and household support and social protection of officers of the customs service of Ukraine .....	181
Article 511. Wages of officers of the customs service of Ukraine.....	181
Article 512. Vacations of the customs officers of Ukraine. ....	181
Article 513. Provision of housing to the customs officers. ....	181
Article 514. Pensions of employees of customs authorities, specialized customs bodies and organizations.....	182
Article 515. Payments and compensation in case of crippling injury and disease, compensation of damages.....	183
Article 516. Payments and compensation in the event of death of an employee of the customs authority, a specialized customs institution or organization .....	183
SECTION XXIII .....	183
Liability of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof, Procedures for Appealing their Decisions, Actions or Inaction.....	183
Chapter 79. Liability of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof, Procedures for Appealing their Decisions, Actions or Inaction.....	184
Article 517. The scope of application of this Chapter.....	184

Article 518. Liability of customs authorities, specialized customs institutions and organizations and officers thereof .....	184
Article 519. Right to appeal.....	184
Article 520. Appeal of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof at administrative bodies.....	184
Article 521. Appeal of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof in the court. ....	185
Article 522. Specifics of Satisfying Complaints against Decisions, Actions or Inaction of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof.....	185
CHAPTER 80. Review of Legality and Validity of Decisions, Actions or Inaction of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof under a Protest filed by the Prosecutor and under Supervisory Procedures.....	185
Article 523. Review of legality and validity of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof under a protest filed by the prosecutor. ....	185
Article 524. Review of legality and validity of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof under supervisory procedures.....	186
SECTION XXIV. Final Provisions. ....	186

## **The Customs Code of Ukraine**

The Customs Code of Ukraine defines the organizational foundations of customs practice in Ukraine. It regulates the economic, organizational, legal, personnel and social aspects of the activities of the customs system of Ukraine. The Code aims to secure the protection of Ukraine's economic interests, to create favorable conditions for the development of its economy, to defend the rights and interests of businesses and citizens, as well as to ensure adherence of Ukrainian customs-related legislation.

### **SECTION 1 General Concepts**

#### **CHAPTER 1. The Foundations of Customs Practice**

##### **Article 1. Definition of basic terms and concepts that are used in this Code**

The terms and concepts listed below are used in this Code in the following meaning:

1) **Currency values:**

**Currency of Ukraine** - monetary instruments in the form of bank notes, treasury notes, coins and other forms, which are in circulation and are lawful means of payment on the territory of Ukraine, as well as those removed from circulation or those, which are being removed from circulation, but which shall be exchanged for monetary instruments, which are in circulation;

payment documents and other securities (share certificates, bonds, bond coupons, bills of exchange, promissory notes, letters of credit, checks, bank drafts, certificates of deposit, other financial and bank documents), denominated in the currency of Ukraine;

**Foreign currency** - foreign monetary instruments in the form of bank notes, treasury notes and coins, which are in circulation and are lawful means of payment on the territory of the respective foreign state, as well as those removed from circulation or those, which are being removed from circulation, but which shall be exchanged for monetary instruments, which are in circulation;

payment documents and other securities (share certificates, bonds, bond coupons, bills of exchange, promissory notes, letters of credit, checks, bank drafts, certificates of deposit, other financial or bank documents), denominated in foreign currency or bank metals;

**Banking metals** - gold, silver, platinum, metals of the platinum group, refined to the highest grades in accordance with world standards, in ingots and powder, which possess certificates of quality, as well as coins, manufactured of precious metals.

2) **Importation of goods and vehicles into the customs territory of Ukraine; exportation of goods and vehicles from the customs territory of Ukraine** - the totality of actions connected with the movement of goods and vehicles through the customs border of Ukraine in a particular direction;

3) **Free circulation** – free from customs control disposal of goods that have been permitted to cross the customs border of Ukraine;

- 4) **Citizens** – natural persons: citizens of Ukraine, foreign citizens, persons without citizenship;
- 5) **Declarant** - a legal entity or a natural person, who declares goods or vehicles which are crossing the customs border of Ukraine;
- 6) **Declaration of customs value** - a statement from a person to a customs authority in an established form, giving information as to the customs value of goods, which are crossing the customs border of Ukraine or with regard to which the customs regime is subject to change;
- 7) **Zone of customs control** – a place established by the customs authorities and located at the point of crossing the customs border of Ukraine or other locations on the customs territory of Ukraine, within which customs procedures are carried out by the customs authorities;
- 8) **Zone of simplified customs control** – a part of a zone of customs control equipped with the necessary technical and informational means for simplified customs control procedures;
- 9) **Intellectual property** - rights, related to:
- literary, artistic and scientific works;
  - the performing activities of artists, sound recording, radio and television broadcasting;
  - inventions in all branches of human activities: scientific discoveries, industrial designs, trademarks and service marks, brand names and commercial indications;
  - protection from unfair competition;
- as well as all other rights related to intellectual activity in manufacture, scientific research, literary and artistic areas.
- 10) **Pirated goods** - goods containing objects of intellectual property, whose importation into the customs territory of Ukraine leads to the violation of the owner's rights protected by Ukrainian acting legislation and international treaties of Ukraine, adherence to which was recognized as mandatory by the Supreme Rada of Ukraine;
- 11) **Cultural values** - objects of material or spiritual culture possessing artistic, historical, ethnographic or scientific meaning and subject to preservation, restoration and protection in accordance with Ukrainian legislation;
- 12) **License** - a State standard form document issued by the State Customs Service of Ukraine permitting the conduct of business activity indicated therein during a definite period of time on conditions established by this Code;
- 13) **Customs declaration** - a written statement of a standard form submitted to a customs authority and containing information necessary for the customs clearance or change of regime for goods and vehicles, which are crossing the customs border of Ukraine;
- 14) **Customs instruments** - seals, stamps, holographic signs and other identification marks used by the customs authorities to indicate and confirm the results of customs clearance and customs procedures;

15) **Customs clearance** - the conduct by customs authorities of certain actions (procedures), related to the confirmation of results of customs control of goods and vehicles, which are crossing the customs border of Ukraine, and having juridical force for the further utilization of these goods and motor vehicles;

16) **Customs control** - the totality of measures taken by customs authorities with the aim of ensuring the compliance with norms of this Code, other legal and normative acts dealing with customs practice, and international treaties of Ukraine, compliance with which has been delegated to the customs authorities;

17) **Customs authorities** - law enforcement authorities directly responsible for the conduct of customs practice, in accordance with this Code and other legislative acts of Ukraine;

18) **Customs regime** - the totality of norms, established by the laws of Ukraine on customs practice, which, depending upon the declared aim of movement of goods and vehicles through the customs border of Ukraine, determine the procedure for such movement and the extent of customs procedures conducted therewith;

19) **Customs procedures** - transactions connected with the implementation of customs control over the movement of goods and vehicles through the customs border of Ukraine, the customs clearance of these goods and vehicles, as well as collection of customs payments prescribed by the law;

20) **Non-residents** - citizens who permanently reside abroad in Ukraine, including those who temporarily reside on the territory of Ukraine; legal entities, business agents without the status of a legal entity (branches, representative offices, et alia) and based outside Ukraine, which were established and act in accordance with the legislation of a foreign state, including legal entities and other businesses with the participation of Ukrainian legal entities and businesses; foreign diplomatic, consular, trade and other official representatives of international organizations and their affiliates, which enjoy immunity and diplomatic privileges, as well as representative offices of other organizations and companies, which do not conduct entrepreneurial activity on the basis of the laws of Ukraine;

21) **Persons** - legal entities and natural persons;

22) **Carrier** - a person, registered as a business agent, who in a legally established order and by his own or hired means of transportation is bringing the goods across the customs border of Ukraine or transports the goods under customs control amid the customs authorities of Ukraine; this person is also responsible for such movement (transportation);

23) **Movement of goods through the customs border of Ukraine in cargo shipments** - movement of goods through the customs border of Ukraine in the course of export-import operations, as well as other operations, connected with the importation of goods into the customs territory of Ukraine, the exportation of goods outside the customs territory of Ukraine or the movement of such through the customs territory of Ukraine (transit). A customs cargo declaration must be presented for each shipment of goods at the time of entry to the customs territory of Ukraine;

**24) Movement of goods through the customs border of Ukraine in international postal consignments** - movement of goods through the customs border of Ukraine in the form of letters, banderoles, special bags marked "M", small packages, parcel post, shipments of express mail marked "EMS" arriving, departing or transiting Ukraine via postal service enterprises and packed in accordance with the requirements of the World Postal Union and the Rules on Utilization of Postal Services.

**25) Movement of goods through the customs border of Ukraine in unaccompanied luggage** - movement of goods in possession of citizens through the customs border of Ukraine, separately from these citizens or from persons authorized by the citizens, with luggage documents being filed;

**26) Movement of goods through the customs border of Ukraine in hand luggage** - movement of goods in possession of citizens through the customs border of Ukraine in the passenger sectors of vehicles (saloons), which transport the citizens or persons authorized by the citizens, without filing of luggage documents;

**27) Movement of goods through the customs border of Ukraine in accompanying luggage** - movement of goods in possession of citizens through the customs border of Ukraine in the baggage compartments of vehicles transporting the citizens or persons authorized by the citizens, with luggage documents being filed;

**28) Company** - any legal entity, as well as a citizen, engaged in business activity without establishing a legal entity;

**29) Company officials** – managerial staff and executive personnel of the company, who in the course of fulfillment their job duties bear responsibility for the implementation of this Code's requirements and requirements of Ukrainian legislation and International treaties of Ukraine on customs issues;

**30) Employees of representative offices of foreign states and international organizations** - accredited in Ukraine: heads of diplomatic missions and diplomatic personnel, consular officials, representatives of foreign states at international organizations, officials of international organizations;

**31) Right holder** - the owner of rights to an intellectual property object or a person, who possess the right to utilize an intellectual property object in accordance with Ukrainian legislation;

**32) Representation of a foreign company** - a person duly accredited in Ukraine and empowered to represent the interests of a non-resident legal entity in Ukraine;

**33) Release of goods and vehicles from the customs border of Ukraine** - permission from customs authorities for the movement of goods and vehicles through the customs border of Ukraine with consideration of the declared aim of such movement;

**34) Residents** - citizens permanently residing in Ukraine, including those who are temporarily abroad; legal entities and businesses without the status of a legal entity (affiliates, representative office et alia) located on the territory of Ukraine; diplomatic, consular, trade missions and other official representative offices of Ukraine abroad, which enjoy immunity and diplomatic privileges, as well as affiliates and

representative offices of residents abroad, which do not engage in entrepreneurial activity;

35) **Specially prepared (secret) hiding-place** - a hiding-place prepared with the aim of unlawful moving of goods through the customs border of Ukraine, as well as objects equipped or modified for this purpose previously disassembled or mounted etc.;

36) **Goods** - any movable property (including currency values, cultural values), electrical, heat and other energy, as well as vehicles, except the vehicles used exclusively for the purpose of transportation of citizens and goods through the customs border of Ukraine;

37) **Goods containing the objects of intellectual property** - copies of scientific, literary and artistic works, including computer programs, databases, copies of phonograms, goods marked with trademarks, service marks, geographical indications, and other goods, which may be registered as such by the State Customs Service of Ukraine;

38) **Vehicles** - any aircraft, vessel, railroad or motor vehicle used exclusively for the movement of citizens and goods through the customs border of Ukraine and subject to customs control and customs clearance;

39) **Authorized person** - a person, who, on the basis of an agreement or appropriately prepared power of attorney, issued by the owner of goods and vehicles, is authorized to represent the goods and vehicles to customs authorities for customs control and customs clearance during their movement through the customs border of Ukraine, or who is authorized to dispose of the goods and vehicles in another manner.

## **Article 2. Customs policy**

Ukraine formulates and implements a single customs policy aimed at: speeding up the goods turnover, stimulating the development of the national economy and protection of the internal market and domestic producer, development of customs practice correspondent with international norms.

The Supreme Rada of Ukraine determines: the orientation in Ukrainian customs policy; the structure of state customs authorities; the rates of duties and the terms of imposition of duties; free customs zones and customs regimes on the territory of Ukraine; list of goods prohibited for export, import and transit in Ukraine.

## **Article 3. Customs practice**

Customs practice includes: the procedure for movement of goods and vehicles through the customs border of Ukraine; customs regulations connected with the assessment and collection of customs payments; procedures for customs control and customs clearance; prevention of contraband and violation of customs rules; other measures aimed at the implementation of the state customs policy of Ukraine.

Customs practice is an integral part of Ukraine's foreign policy and foreign economic activity. Ukraine in its customs practice adheres to: the internationally recognized systems of classification and coding of goods; customs information; a single form for declaring export and import of goods; and to other international norms and standards.

Only Ukrainian laws determine the principles for customs practice.

The Cabinet of Ministers of Ukraine: ensures the adherence to this Code and the laws of Ukraine in conducting customs practice; establishes the customs duty rates; coordinates the activities of the State Customs Service of Ukraine and other state authorities in resolving the issues relating to customs practice; and submits proposals to the Supreme Rada of Ukraine on the customs system of Ukraine.

The State Customs Service of Ukraine is empowered with direct coordination of customs practice.

#### **Article 4. Principles of customs regulation**

The principles for customs regulation:

- 1) Exclusive jurisdiction of Ukraine on its customs territory;
- 2) Exclusive competence Ukrainian customs authorities in the implementation of customs practice;
- 3) Legality;
- 4) A single order of movement of goods and vehicles through the customs border of Ukraine;
- 5) Observance of rights and legally protected interests of natural persons and legal entities;
- 6) Openness and transparency.

#### **Article 5. Customs territory of Ukraine**

The territory of Ukraine comprising the land, territorial sea, internal waters and airspace, as well as artificial islands, buildings and constructions established within the special sea economic zone of Ukraine and regulated by the exclusive jurisdiction, constitute the single customs territory of Ukraine.

The territories of free zones located in Ukraine, are considered to be located beyond the borders of the customs territory of Ukraine, except those cases, which are defined by this Code or other laws of Ukraine.

#### **Article 6. The customs border of Ukraine**

The bounds of the customs territory of Ukraine are the customs border of Ukraine. The customs border of Ukraine corresponds to the state border of Ukraine, except the free zones' borders. Borders of the free zones constitute the customs border of Ukraine.

#### **Article 7. Ukrainian customs legislation**

The legislation of Ukraine on customs practice is comprised in the Constitution of Ukraine, this Code, and laws and other normative acts on customs practice, which have been published on the basis of and for the implementation of the Constitution of Ukraine, this Code and the laws of Ukraine.

## **Article 8. The flag and the symbol of the Customs Service of Ukraine**

The customs authorities, specialized customs institutions and organizations, the sea and river boats in their service - possess their own flag. Transport vehicles and aircraft, which are in the service of the customs authorities and specialized customs institutions and organizations, possess their own symbol.

The description of the said flag and the symbol is approved by the Supreme Rada of Ukraine.

## **Article 9. The order of implementation of laws and other normative-legal acts on customs practice**

The laws of Ukraine on customs practice enter into force ten days after their official presentation, unless otherwise is provided by such laws, but not earlier than the day of their publication.

Other normative-legal acts on customs practice enter into force forty-five days after their official publication, unless otherwise is provided by such acts, but not earlier their official publication. Should such official normative-legal acts not be officially published, they shall not enter into force.

Official publication of a law and other normative-legal act on customs practice is the publication thereof in one of the official periodical publications established by Ukrainian legislation. The date of official publication of a normative-legal act is considered to be the date of issue of the relevant edition of that official publication, in which the said act was published earlier than in other official publications.

The implementation period of laws or normative-legal acts on customs practice, begins at 00:00 hours of the day following their official publication, and expires at 24:00 hours of the final day of the said period.

If the implementation period of a law or other normative-legal act on customs practice is defined by a specified day of their official publication, the law or act is considered to have entered into force from 24:00 hours of the day specified.

If the implementation period of a law or other normative-legal act on customs practice is defined by a specified date, the law or act is considered to have entered into force at 00:00 hours on the date specified.

## **Article 10. Operation of the customs legislation in time.**

Only those normative-legal acts, which are in force on the day of acceptance of customs declaration by the customs authorities of Ukraine, regulate customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine.

In cases, where valid legislation permits the conduct of customs procedures without submitting a declaration, the procedure is regulated by legislation effective on the day of conducting the procedure.

A person, who violated the customs rules or committed another violation enumerated in this Code, is liable according to the norms effective at the time and in the place where such violation occurred.

Laws, which reduce or cancel responsibility for the violation of customs rules and other violations enumerated in this Code, are *ex pre facto*, that is they also apply to violations committed prior to the adoption of these laws. Laws, which establish or increase the responsibility for such violations, are not *ex post facto*, that is they do not apply to violations committed prior to the adoption of these laws.

The customs violations enforcement is regulated by the legislation effective at the time and in the place where violation occurred.

## **CHAPTER 2. The Structure and Organization of Activities of the customs system of Ukraine**

### **Article 11. Specially empowered central authority of the executive branch of the government in the area of customs practice**

The specially empowered central authority of the executive branch of the Government in the area of customs practice is the State Customs Service of Ukraine.

### **Article 12. Direct implementation of customs practice**

The direct implementation of customs practice is delegated to the customs authorities, which are the law enforcement bodies of Ukraine

In implementing the customs policy of Ukraine the customs authorities fulfill the following basic tasks:

- 1) ensure the implementation of and compliance with the legislation of Ukraine on customs;
- 2) secure Ukraine's economic interests;
- 3) help to implement obligations prescribed by international agreements on customs practice to which Ukraine is a party;
- 4) encourage the defense of intellectual property rights of people involved in foreign economic activity, and other legal entities and natural persons;
- 5) apply, in accordance with the law, tariff and non-tariff regulatory measures upon movement of goods through the customs border of Ukraine;
- 6) implement customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine, and improve the means and forms of such implementation;
- 7) implement, in cooperation with other authorized state bodies, the complex control of currency operations in foreign economic activity;
- 8) implement, in cooperation with other authorized state bodies, the measures aimed at securing the interest of consumers, and at ensuring that participants in foreign economic relations adhere to the state interests on the external market;
- 9) create favorable conditions for speeding up the goods turnover and flow of passengers through the customs border of Ukraine;
- 10) combat the contraband activities and violations of customs rules;
- 11) develop international cooperation in the area of customs practice;
- 12) compile customs statistics;
- 13) assemble a Ukrainian Foreign Economic Activity Commodity Nomenclature;
- 14) verify (ascertain the authenticity of) certificates of origin of goods from Ukraine.

The state authorities, which are not empowered by the laws of Ukraine to supervise customs practice generally, local self-government bodies, businesses, their managers, as well as citizens do not possess the right to make decisions, which are in the purview of the customs authorities of Ukraine, nor may they interfere in any other manner with the work of the customs authorities.

### **Article 13. The customs system of Ukraine.**

The customs system of Ukraine consists of the customs authorities and specialized customs bodies and organizations.

The customs authorities of Ukraine are the State Customs Service of Ukraine, regional customs departments, and customs units.

### **Article 14. The State Customs Service of Ukraine.**

The State Customs Service of Ukraine is a central body of the executive branch of the government with special status, and the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine.

The State Customs Service of Ukraine directs, coordinates, and controls the activities of customs bodies, specialized customs bodies and organizations in implementing the laws of Ukraine on customs practice, and within its authority issues orders, and organizes and ensures compliance therewith.

The State Customs Service of Ukraine is a legal entity. It acts in accordance with the laws of Ukraine and the Regulation on the State Customs Service of Ukraine approved by the President of Ukraine.

All businesses and citizens are obliged to implement the normative legal acts of the State Customs Service of Ukraine dealing directly with the implementation of customs practice, the organization and regulation of customs control, the combating of contraband and violations of customs rules, issued on the basis of and for ensuring the compliance with the current legislation and are within the scope of the State Customs Service of Ukraine.

Normative legal acts of the State Customs Service of Ukraine are subject to state registration in accordance with the current legislation of Ukraine.

The following bodies are subordinated to the State Customs Service of Ukraine: regional customs departments, customs units, specialized customs bodies and organizations, as well as other organizations and bodies within the customs system (consulting, healthcare, sports, construction, logistical and other bodies).

The State Customs Service of Ukraine is headed by a Chairman, who is appointed and relieved of his appointment by the President of Ukraine at the request of the Prime Minister of Ukraine.

### **Article 15. Regional customs departments.**

A regional customs department is a customs body with a fixed territory (region), upon which the department conducts customs practice and ensures comprehensive compliance

with the laws of Ukraine on customs practice, and supervises and coordinates the activities of customs posts and special customs organizations and bodies subordinated to it.

A regional customs department is a legal entity and conducts its activities in accordance with the laws of Ukraine and the Regulations approved by the order of the State Customs Service of Ukraine.

The regional customs departments are established, reorganized and liquidated by the State Customs Service of Ukraine.

The head of a regional customs department is appointed and removed by the Chairman of the State Customs Service of Ukraine.

#### **Article 16. Customs units.**

Customs units are the customs body directly responsible for implementing legislation on issues of customs practice, assessment of customs payments and implementation of other assignments given to the customs service of Ukraine.

A customs unit is a legal entity and conducts its activities in accordance with the laws of Ukraine and the Regulations approved by the order of the State Customs Service of Ukraine.

Customs units are subordinated to the regional customs departments and the State Customs Service of Ukraine or the State Customs Service of Ukraine directly.

Customs units are established, reorganized and liquidated by the State Customs Service of Ukraine.

Every customs unit works within the territory of operation (region), which is determined by the State Customs Service of Ukraine.

Customs posts may be formed as the structural sub-units of customs units at the customs border crossing points of Ukraine and at other locations and territories with extensive foreign economic transactions.

The chief of a customs unit is appointed and removed by the Chairman of the State Customs Service of Ukraine.

#### **Article 17. Customs posts.**

Customs posts may be established for the purpose of assuring the implementation of tasks by regional customs departments and customs units, as required by this Code and other legislative acts of Ukraine.

A customs post is a structural sub-unit of the regional customs department or customs unit which is directly in charge of customs control and clearance of goods and vehicles entering the customs border of Ukraine.

Customs posts are established as necessary in populated areas, at railway stations, in airports, sea and river ports and other sites located in the zone of operations of a regional customs department or customs unit.

A form regulation on customs posts is approved by the order of the State Customs Service of Ukraine.

The customs posts are established, reorganized and liquidated by the State Customs Service of Ukraine at the request of a regional customs department or customs unit.

The commander of a customs post is appointed and removed by the Chairman of the State Customs Service of Ukraine.

#### **Article 18. Specialized customs bodies and organizations.**

With the aim of supporting the tasks delegated to the customs bodies, the following types of bodies and organizations may be created within the customs system of Ukraine: logistical, construction, supply, repair, service, automobile transport, information-analytical, consulting, cinematic, healthcare, educational and other specialized customs bodies and organizations, including those of a social-housing orientation. They are legal entities and conduct their activities in accordance with the laws of Ukraine and Regulations confirmed by the order of the State Customs Service of Ukraine.

The specialized customs bodies and organizations are established, reorganized and liquidated by the State Customs Service of Ukraine.

#### **Article 19. Customs laboratories.**

Within the customs system of Ukraine a Central Customs Laboratory is created, with the status of a specialized customs body, and customs laboratories, as structural sub-units of regional customs departments and customs units.

The Central Customs Laboratory is in charge of scientific and methodological activities of the customs laboratories.

The Central Customs Laboratory and customs laboratories are granted the right to conduct forensic analysis activities.

The creation, reorganization and liquidation of the Central Customs Laboratory and customs laboratories is conducted by the State Customs Service of Ukraine. The Regulation on the Central Customs Laboratory and the Regulation on Customs Laboratories are confirmed by the order of the State Customs Service of Ukraine.

#### **Article 20. The customs guard.**

The customs guard is a special unit of the State Customs Service of Ukraine, assigned with: combating contraband and violations of customs rules; ensuring the security of territories, buildings, objects and sites of the customs authorities; protecting and accompanying goods and vehicles, securing regime in the zone of customs control; and carrying out other assignments.

#### **Article 21. Property, financing and material-technical support for customs authorities, and specialized customs bodies and organizations.**

The property of customs authorities and specialized customs bodies and organizations is the state property of Ukraine. This property is managed by the State Customs Service of Ukraine in accordance with the law. The property of customs authorities and specialized customs bodies and organizations is not subject to privatization.

If such property cannot be separated from an object, which is being privatized, then such property is handed over to customs authorities or specialized customs bodies or organizations for use free of charge in perpetuity. The owner of such property does not have the right to change the order and conditions of use of such property by the customs authorities, or specialized customs bodies or organizations without their agreement.

Financing, material-technical support and development of the infrastructure of the customs system of Ukraine is provided by the state budget of Ukraine, including a special fund formed from customs collections.

Customs authorities and specialized customs bodies and organizations are exempt from paying customs duties for goods imported into the customs territory of Ukraine for official use by customs and for the development of the customs system infrastructure of Ukraine.

Customs authorities and specialized customs bodies and organizations are exempt from paying the state duty while filing complaints in courts and arbitration courts.

## **Article 22. Land plots, official and service quarters, equipment and communication devices of customs authorities, specialized customs bodies and organizations**

Land plots for official use, including those necessary for the creation of zones of customs control, are given to customs authorities, and specialized customs bodies and organizations in perpetuity free of charge. Customs authorities, specialized customs bodies and organizations are exempt from paying land tax. The state budget of Ukraine reimburses owners and users of land for damages incurred by the use of their land by customs authorities. The method of calculation of such damage and methods of reimbursement for such damages are determined by the Cabinet of Ministers of Ukraine.

If the customs clearance of goods and vehicles is conducted by customs authorities directly at or on the territory of enterprises, these enterprises, regardless of their form of ownership and subordination, must provide the customs authorities with the appropriate official and service quarters, as well as necessary equipment and communications devices free of charge.

## **CHAPTER 3. Relations of Customs Authorities, Specialized Customs Bodies and Organizations and their Official Personnel with Other Authorities, Enterprises, and Citizens.**

### **Article 23. Relations of customs authorities, specialized customs bodies and organizations and their official personnel with other authorities, enterprises and citizens.**

Customs authorities, specialized customs bodies and organizations and their official personnel, when conducting official duties, collaborate with other authorities, as well as enterprises and citizens.

Customs brokers, acting on the basis of the relevant agreement concluded with an enterprise, or a notarized power of attorney from an individual, may represent that enterprise or individual at the customs authorities. Furthermore, citizens acting on the basis of a notarized power of attorney may represent the interests of other citizens at the customs authorities.

While representing the interests of other persons at customs authorities, representatives enjoy the same rights, have the same obligations and bear the same responsibility as those persons, whose interests they represent.

#### **Article 24. Collaboration between the customs authorities and other law enforcement bodies and Border Troops.**

Customs authorities collaborate with other law enforcement bodies of Ukraine and Border Troops in an order determined by Ukrainian legislation.

If in the course of customs procedures or investigations the customs authorities discover evidence of crimes, the investigation of which falls outside the mandate of the customs authorities, the head of the customs authority or the individual substituting for him, notifies other law enforcement authorities or Border Troops as necessary, of the situation. The Border Troops and other law enforcement authorities likewise notify customs authorities about violations of customs rules or contraband.

#### **Article 25. The relationship between the customs authorities and other authorities implementing control during the entry of goods into the customs border of Ukraine.**

Goods entering the customs border of Ukraine may undergo, in addition to customs control, the following types of control: sanitary-quarantine, veterinary, phytosanitary, radiological and ecological control. Customs authorities collaborate with other authorities, which carry out these types of control.

Customs clearance of goods entering the customs border of Ukraine is conducted only after these goods undergo the types of control mentioned in part one of this article.

#### **Article 26. Collaboration between the customs authorities, the National Bank of Ukraine and financial institutions of Ukraine.**

Customs authorities collaborate with the National Bank of Ukraine, the Accounting Chamber, the Ministry of Finance, as well as the State Tax Administration of Ukraine, the State Treasury, the Main Control and Audit Department and their local branches. Customs authorities report to the Ministry of Finance on matters of revenue collection to the State Budget of Ukraine.

Customs authorities, the National Bank of Ukraine and financial institutions of Ukraine coordinate their activities and exchange information on the revenue collection to the State Budget of Ukraine.

This Code and other legislative acts of Ukraine delegate authorities and functional responsibility among the bodies of the State Customs Service of Ukraine and the financial authorities of Ukraine in collecting taxes and other payments.

**Article 27. The relationship between customs authorities, specialized customs bodies and organizations with local state administrations and local self-government bodies.**

Local state administrations and local self-government bodies support the activities of customs authorities, and specialized customs bodies and organizations, and create appropriate conditions for their operation.

**CHAPTER 4. Information and Consulting.**

**Article 28. Information as to the rules for transporting goods and vehicles through the customs border of Ukraine.**

Customs authorities, as well as transport enterprises, which carry out international transportation, are required to inform interested persons about customs rules, norms and conditions for transporting goods and vehicles through the customs border of Ukraine.

**Article 29. Information on normative-legal acts.**

Customs authorities may provide, at the request of interested persons, information on normative-legal acts on customs practice (the name of the act, its main provisions, information about its publication).

Short notes on the main principles of Ukrainian customs-related legislation and other laws of Ukraine, whose enforcement lies within the responsibility of customs authorities, shall be placed for general survey in the sites of customs bodies' location.

**Article 30. Provision of texts of normative-legal acts and consultations on customs practice.**

Customs authorities, specialized customs bodies and organizations may provide interested persons with consultations, on a pay basis also, on customs practice issues, as well as with the texts of published normative-legal acts on such issues.

**Article 31. Responsibility for inaccurate information.**

Customs authorities, and specialized customs bodies and organizations provide information in accordance with provisions of this chapter. If this information appears to be inaccurate, they bear full responsibility, as determined by the legislation.

Customs authorities, specialized customs bodies and organizations do not bear responsibility for losses resulting from inaccurate reproduction of the texts of normative-legal acts, published without their knowledge and beyond their control, as well as for losses, caused by the giving of consultations by unqualified persons, who are not employees of the customs authorities, specialized customs bodies or organizations, except where such persons were authorized by the said authorities, bodies or organizations to provide consultations on customs practice.

## **CHAPTER 5. International Cooperation on Matters of Customs Practice**

### **Article 32. Ukraine's participation in international cooperation on matters of customs practice.**

Ukraine participates in international cooperation on matter of customs practice.

In customs practice Ukraine adheres to generally accepted (in international practice) systems of classification and coding of goods, conditions on application of customs regimes, methodology of compiling and updating customs statistics, and other generally accepted international norms and standards on matters of customs practice. Ukraine also ensures the implementation of international agreements on matters of customs practice, to which it is a signatory.

### **Article 33. Principles of international activities of the State Customs Service of Ukraine**

The international activity of the State Customs Service of Ukraine is an integral component of Ukraine's foreign policy and foreign economic activity.

International activity on matters of customs practice, negotiations and work of experts, related to the preparation of inter-state, inter-governmental, and inter-agency agreements on matters of customs practice, are conducted by the State Customs Service of Ukraine in cooperation with the Ministry of Foreign Affairs of Ukraine and other concerned central executive authorities of Ukraine.

### **Article 34. The main tasks of the State Customs Service of Ukraine in international activity.**

The main tasks of the State Customs Service of Ukraine in international activity are:

- 1) Supporting of development of foreign economic relations of Ukraine;
- 2) Supporting of adherence to obligations arising out of international agreements on matters of customs practice to which Ukraine is a signatory;
- 3) Using the customs regulation with the aim of creating favorable conditions for Ukraine's participation in international economic collaboration;
- 4) In cooperation with other relevant authorities – implementation of measures on protecting the interests of national producers and consumers of goods, and ensuring the adherence to national interests on external market by the participants of foreign economic relations;
- 5) Establishment and maintenance, in accordance with international agreements and the laws of Ukraine, of cooperation with customs and other authorities of foreign states and international customs organizations;
- 6) Preparing together or in cooperation with the Ministry of Foreign Affairs of Ukraine and submitting to the Cabinet of Ministers of Ukraine of proposals for entering into or renouncing of international agreements of Ukraine on matters of customs practice;
- 7) Acceding to inter-agency international agreements on collaboration in the area of customs practice, as well as the suspending or renouncing of participation in such agreements;

8) Collaborating with customs and other authorities of foreign states, and where necessary with international and regional customs and other organizations in combating the contraband, including drug smuggling, and prevention of customs rules violations.

### **Article 35. Relations of the State Customs Service of Ukraine with international customs organizations**

The State Customs Service of Ukraine represents Ukraine in the World Customs Organizations and other customs organizations.

International collaboration in the area of customs practice is conducted by the State Customs Service of Ukraine in coordination with the Ministry of Foreign Affairs of Ukraine.

### **Article 36. Collaboration in the area of customs practice.**

In accordance with international agreements to which Ukraine is a party the following may be conducted:

- 1) creation of the joint crossing points at the customs border of Ukraine;
- 2) conduct of joint control at crossing points at the customs border of Ukraine;
- 3) coordinated application of customs control procedures and customs clearance, mutual recognition of documents used by customs authorities in customs procedures;
- 4) conduct of joint activities aimed at prevention, identification and termination of contraband and violations of customs rules;
- 5) conduct of other joint one-time or permanent activities on matters, which in accordance with this Code and other legislative acts of Ukraine are within the purview of the customs authorities of Ukraine.

### **Article 37. Ensuring of operative communication between the customs authorities of Ukraine and customs authorities of foreign neighbor countries.**

With a view of resolving the urgent issues related to the entry of goods and vehicles, identification and termination of contraband and violations of customs rules, and ensuring the adherence to the law and maintenance of order at Ukraine's custom border crossing points, the chief executives of the regional customs departments and customs units and their deputies are permitted to conduct working meetings with representatives of customs authorities of the foreign neighbor countries.

The head of the said customs authority or his deputy must inform the commander of the relevant Border Troops of Ukraine unit as to the time, circumstances and the goal of such meetings.

The procedure for conducting such meetings is determined in accordance with the Regulations approved by the Chairman of the State Customs Service of Ukraine in coordination with the Ministry of Foreign Affairs of Ukraine and the State Committee on Protection of the State Border of Ukraine.

### **Article 38. Collaboration of customs authorities of Ukraine with customs and other authorities of foreign states, as well as international organizations.**

Collaboration of the customs authorities of Ukraine with customs and other competent authorities of foreign states, as well as international organizations on matters related to contraband and violations of customs rules, is implemented by the customs authorities of Ukraine in accordance with international agreements to which Ukraine is a party.

## **SECTION 2. Customs Control**

### **CHAPTER 6. Customs Control Procedure.**

#### **Article 39. Implementation of customs control.**

All goods and vehicles crossing the customs border of Ukraine are subject to customs control.

Customs control includes the minimum number of customs procedures implemented by customs authorities, which are necessary to ensure the compliance with customs legislation of Ukraine. The number and the order of procedures is determined in accordance with this Code, other legislative acts of Ukraine, as well as international agreements to which Ukraine is a party.

#### **Article 40. Types of customs control.**

Customs control is implemented directly by customs officials in the following way:

- 1) checking of documents and information required for such control;
- 2) customs survey (survey and re-examinations of goods and vehicles, personal inspection of citizens);
- 3) numerical tracking of goods and vehicles, which are crossing the customs border of Ukraine;
- 4) oral questioning of citizens and company officials;
- 5) review of reporting and tracking documents for goods crossing the customs border of Ukraine;
- 6) examination of financial and operational activity of enterprises involved in foreign economic activity;
- 7) inspection of territories and sites of temporary warehouses, licensed customs warehouses, free customs zones, duty-free stores and other places, where goods and vehicles subject to customs control may be placed, or where activities subject to control by customs authorities are taking place;
- 8) in other ways determined by this Code and other laws of Ukraine on customs practice.

The procedure for customs control is determined by the State Customs Service of Ukraine in accordance with this Code.

#### **Article 41. Differentiated approach in customs control.**

Customs authorities themselves determine the types and extent of customs control which is deemed to be sufficient to ensure the compliance with Ukrainian customs legislation, as well as other normative legal acts of Ukraine and international agreements of Ukraine, compliance with which is controlled by the customs authorities.

## **Article 42. Duration of customs control.**

Goods and vehicles remain under customs control from its beginning till it is finished, as determined by the applied customs regime.

In case of importation of goods and vehicles into Ukraine, customs control begins at the moment of crossing of the customs border of Ukraine.

In case of exportation beyond the customs territory of Ukraine, customs control begins at the moment when the goods and vehicles are presented for customs clearance and are declared in an established order.

The goods and vehicles remain on the territory of customs control zone at a point of entry/exit of the customs border of Ukraine for a period of time determined by the technical scheme of letting the persons, good and vehicles through the customs border.

Customs control concludes:

in case of importation into the customs territory of Ukraine --- after the customs clearance of goods vehicles entering the customs border of Ukraine is fully accomplished.

in case of exportation beyond the customs territory of Ukraine --- after the customs clearance of goods and vehicles is accomplished, and they crossed the customs border of Ukraine, except the cases when such customs regime is applied, which requires a presence under customs control during all time of customs regime application.

## **Article 43. The terms of presentation of goods and vehicles crossing the customs border to the customs authority.**

Goods, which are crossing the customs border of Ukraine, as well as their package and labels/markings, means of transportation of these goods across the customs border, as well as documents for these goods and means of transportation, are presented for control by customs authorities in an unaltered condition at the border crossing points of Ukraine and in other places designated by the customs authorities for implementation of customs control and clearance, no later than three hours after arrival of such goods and means of transportation to the entry point or other place.

The term set out in the first part of this article may be prolonged in order and under conditions determined by the State Customs Service of Ukraine.

## **Article 44. Documents and information required for implementation of customs control.**

Persons transporting goods and vehicles across the customs border of Ukraine or who conduct activities, which are controlled by the customs authorities, are obliged to provide these authorities with documents and information required for customs control implementation.

The list of documents and information required for customs control implementation and the order of submission thereof are determined by the State Customs Service of Ukraine in accordance with this Code and other legislative acts of Ukraine.

In order to implement customs control, customs authorities have the right to receive information from banks and other financial institutions as to financial transactions and the accounts of persons, who are transporting goods and vehicles through the customs border of Ukraine, as well as persons, who conduct activities controlled by the customs authorities.

Other law enforcement bodies of Ukraine, financial institutions, tax agencies and other supervisory bodies of Ukraine provide the customs authorities, at the latter's request, with available information required for customs control implementation.

**Article 45. Access of customs officials to the territories or constructions of enterprises for the purposes of implementing customs control, as well as for planned and random examination of financial and economic activity.**

In order to ensure the appropriate implementation of customs controls, the customs authorities have the right to examine financial and economic activity of enterprises involved in foreign economic activity.

With a view of implementing customs control, as well as conducting the planned and random examinations of financial and economic activities of the enterprises, the customs officials have the right to unimpeded access to the territory or construction of an enterprise of any form of ownership and subordination, wherein the goods under customs control are located, and have the right to unimpeded access to documentation and electronic databases on foreign economic activities of the said enterprises.

**Article 46. Joint customs control on the customs border of Ukraine.**

On the basis of international treaties to which Ukraine is a party, customs control may be conducted jointly with the customs authorities of neighboring states at the customs border of Ukraine.

**CHAPTER 7. Zones of Customs Control.**

**Article 47. Location of zones of customs control.**

With the aim of supporting the implementation of customs control of goods and vehicles crossing the customs border of Ukraine, as well the conduct of activities related to identification, prevention and cessation of contraband and violations of customs rules, zones of customs control are created at the customs border crossing points of Ukraine, within the border zone at the state border, in sea and river ports, airports, at railway stations, at sites where goods undergo customs clearance, as well as at customs authorities' sites located on the territories of enterprises, free customs zones, and at other places determined by customs authorities.

**Article 48. Procedures for establishing zones of customs control**

The State Customs Service of Ukraine determines the procedures for creation of zones of customs control, their bounds, regime (operations), as well as the procedure for crossing the said zones by citizens, goods and vehicles.

Zones of customs control located within the bounds of the state border crossing points are created in cooperation with the State Committee on Protection of the State Border of Ukraine.

#### **Article 49. Building of constructions and other objects in zones of customs control**

In zones of customs control, created at the customs border crossing points of Ukraine, buildings and other objects of infrastructure belonging to other authorities authorized to conduct the types of control listed in Article 25 of this code, are located with the permission of the State Customs Service of Ukraine and the State Committee on Protection of the State Border of Ukraine. The procedure for issuance of such permits is determined by the State Customs Service of Ukraine jointly with the State Committee on Protection of the State Border of Ukraine.

#### **Article 50. Regimes in the zones of customs control. Ensuring legality and order in zones of customs control**

Regime in a zone of customs control is the set of norms determined by this Code and other legislative acts on customs practice, which includes prescriptions, prohibitions and limitations as to the terms of stay of goods, vehicles and citizens; conditions for location of buildings and objects, as well as the undertaking of manufacturing, commercial and other economic activities in the zone of customs control.

Ensuring the safety of citizens, as well as the protection of goods, which are crossing the customs border of Ukraine, and compliance with the regime, legality and order in the zone of customs control are delegated to the relevant customs authorities.

#### **Article 51. Economic activity in the zone of customs control. Movement of citizens, goods and vehicles through the zone of customs control**

Manufacturing, commercial and other types of economic activity within the zone of customs control, and the movement of goods, vehicles, and citizens (including official persons of other states) through the zone of customs control and within the bounds of the said zone are allowed only by permission of the head or deputy head of the relevant customs authority and under the supervision of official persons of this authority, with the exception of cases foreseen by the laws of Ukraine.

### **CHAPTER 8. Implementation of Customs Control.**

#### **Article 52. Rights of customs authorities in implementing customs control.**

Customs authorities acting within the bounds of their authority have the right to use force with regard to violators of the customs control regime.

Customs authorities have the right to use force to stop and turn back into the zones of customs control the vehicles or citizens who have entered into the customs territory of Ukraine from the zones of customs control without permission, as well as sea and river boats, which have exited zones of customs control without permission of customs authorities and left the customs territory of Ukraine, and are not in the territorial waters of other states.

The list of types of force that may be applied, as well as the order of their application, is determined by this Code and other legislative acts of Ukraine.

### **Article 53. Submission of documents and information required for the implementation of customs control.**

Documents required for the implementation of customs control are submitted to the customs authorities:

- 1) upon crossing by the goods and vehicles of the customs border of Ukraine;
- 2) upon declaration of goods and vehicles;
- 3) upon notification of the customs authorities of the intent to move goods and vehicles across the customs border of Ukraine;
- 4) upon implementation of other supervisory functions by the customs authorities in accordance with this Code.

### **Article 54. Survey and re-examination of goods and vehicles.**

Customs authorities, with the aim of reviewing the lawfulness of crossing of the customs border of Ukraine by goods vehicles, have the right to inspect these goods and vehicles.

Re-examination of such goods and vehicles may take place by decision of the head of the customs authority or his deputy, if there are grounds to believe that the goods and vehicles in question are being moved across the customs border of Ukraine in violation of this Code and other legislative acts of Ukraine.

Survey and re-examination of goods and vehicles may take place only in the presence of the person, who is moving them across the customs border, or is storing them under customs supervision.

### **Article 55. Survey and re-examination of hand baggage and luggage.**

If there are grounds to believe that the hand baggage or luggage of a citizen transported across the customs border of Ukraine, or transiting it, comprises goods, which are subject to record and control by the state authorities, as defined in Article 25 of this Code; goods, which are subject to customs payments during the customs clearance; or goods, the movement of which through the customs border of Ukraine is restricted or forbidden, the customs authorities have the right to conduct a survey and where necessary - re-examine the hand baggage and luggage, including its unpacking.

Survey and re-examination of hand baggage and luggage of a citizen are conducted in the presence of this citizen or his authorized representative.

Survey and re-examination of hand baggage and luggage may be conducted in the absence of a citizen or his authorized representative:

- 1) if there are grounds to believe that unaccompanied luggage contains goods, which present a danger to the life and health of persons, animals and plants, as well as to the environment;
- 2) if the citizen or his authorized representative have not appeared to claim the unaccompanied luggage within one month of its arrival;
- 3) if goods are sent in international postal consignments;

4) in cases where hand baggage or luggage are left on the territory of Ukraine in violation of a commitment to transit them through the territory of Ukraine.

Survey and re-examination of hand baggage and luggage in the absence of a citizen or his authorized representative take place in the presence of representatives of the carrying or storing enterprise.

A report is compiled on each survey or re-examination in cases mentioned in points 1 and 2 of part four of this article. The State Customs Service of Ukraine determines the form for this report.

#### **Article 56. Personal inspection.**

An inspection of the person may take place as an extraordinary measure, provided there is a written permission of the head of the customs authority or his deputy, if there are sufficient grounds to believe that a citizen who is crossing the customs border of Ukraine or is in the zone of customs control or in a transit zone of an international airport, is concealing pirated goods or goods, which directly violate the customs rules or whose importation, exportation or transit through Ukraine is forbidden.

An inspection of the person at a customs post may be conducted, provided there is a written decision of the head of the post or his deputy, with a mandatory notification within 24 hours of the head of the customs authority as to the basis for and the results of such an inspection.

Prior to the beginning of an inspection, the customs official must present to the citizen a written decision of the head of the customs authority, head of the customs post or his deputy, and furthermore the official must inform the citizen of his rights during such inspection and propose that the citizen turn over the concealed goods voluntary.

Personal inspection takes place in the isolated premises, which meets sanitary and hygienic standards. It is conducted by a customs official of the same sex as the inspected citizen, in the presence of not less than two witnesses of the same sex. Persons, who are not interested in the results of the inspection, are invited to be witnesses. Relatives of the inspected person may not be witnesses, nor may the customs officials. Access to the premises where the inspection is taking place by citizens not participating in it, as well as the opportunity to observe the inspection by such citizens are forbidden. Only a medical worker may conduct any inspection of the organs of the inspected citizen.

During the personal inspection a protocol is compiled in accordance with the prescriptions of the State Customs Service of Ukraine and the Ministry of Justice of Ukraine.

The protocol is signed by the customs official who conducted the inspection, the citizen who was inspected, the witnesses who were present at the inspection, and in cases where a medical worker participated in the inspection - his signature as well. The citizen whose organs were inspected, has the right to draw up a statement within the protocol.

A copy of the protocol is given to the citizen.

#### **Article 57. Record of goods and vehicles moving through the customs border of Ukraine.**

Record of the goods and vehicles moving through the customs border of Ukraine is the registration of the given goods and vehicles by customs authorities with the goal of implementing customs control.

The record of goods crossing the customs border of Ukraine via pipelines and power lines is carried out by means of the appropriate instruments.

The State Customs Service of Ukraine sets the form of documents used for the record of goods and vehicles crossing the customs border of Ukraine.

#### **Article 58. Verbal questioning of a citizen or an enterprise manager.**

Verbal questioning of the citizens and executive personnel of enterprises is the receiving by customs authorities of information important for customs control from persons obtaining such information.

During the verbal questioning, a protocol is prepared. Its form is determined by the State Customs Service of Ukraine.

The customs officials determine the methods for calling on persons for verbal questioning.

#### **Article 59. Review of the reporting system for goods crossing the customs border of Ukraine.**

Review of the reporting system for goods crossing the customs border of Ukraine is the activity conducted by customs officials at enterprises, whose activity is the subject of customs control, aimed at determining the degree of compliance of documentation on the said goods and vehicles with requirements set out in this Code and in other legislative acts of Ukraine.

#### **Article 60. Review of financial and economic activity of enterprises involved in foreign economic activity.**

Decisions on the review of financial and economic activity of enterprises engaged in foreign economic activity are made by the head of a customs authority or his deputy in the form of an order.

Reviews of the financial and economic activity of an enterprises may be conducted once a year and during the period of time not exceeding two months. In certain exceptional cases this period may be extended by the customs authorities to three months.

Any given review of financial and economic activity may span no more than three calendar years per entity being reviewed.

In reviewing financial and economic activity, the customs authorities have the right to apply all necessary forms of customs control described in this Code.

Customs officials participating in review of financial and economic activity of the enterprises have the right to demand all necessary documents from the enterprise under review.

Documents required for the review of financial and economic activity of an enterprise are submitted to the customs authorities in a three-day term in the form of duly certified copies. If there is a reason to suspect that originals of the documents may be destroyed, concealed, amended or changed, the customs official responsible for the review has the right to seize such documents with an appropriate protocol for removal being prepared, the form of which is approved by the State Customs Service of Ukraine. The said documents shall be seized in the presence of witnesses. The protocol of seizure is signed by the person seizing the documents, by the witnesses, as well as the authorized representative of the enterprise under review. A copy of the protocol is handed to the director of the enterprise under review, or his deputy.

The seized documents must be returned to the enterprise from whence they were seized within five days from the date of their seizure.

The results of review of financial and economic activity must be given in a written form to the enterprise under review within one month from the day of the signing of the protocol describing the results of the said review.

**Article 61. Examination of the territories and premises of temporary warehouses, licensed customs warehouses, free customs zones, duty-free shops and other places of location of goods and vehicles subject to customs control, or where activities controlled by the customs authorities are carried out.**

Examination of the territories and premises of temporary warehouses, licensed customs warehouses, free customs zones, duty-free shops and other places of location of goods and vehicles subject to customs controls, or where activities controlled by the customs authorities are carried out, are conducted with the aim of:

- a) determining the lawfulness of importation into the customs territory of Ukraine of goods and vehicles, observance of procedure for their importation, as well as full and proper collection of customs payments;
- b) determining that the actual quantities of imported goods and vehicles match the quantities declared in customs documents;
- c) ensuring the compliance of activities controlled by the customs authorities with provisions of this Code and other legislation of Ukraine.

The results of examination of the territories and premises should be duly set out in a protocol, whose form is determined by the State Customs Service of Ukraine. A copy of this protocol is handed to the owner of the temporary warehouse, licensed customs warehouse, duty-free shop or to the director or deputy director of the governing body of a free customs zone.

**Article 62. Use of technical and special instruments for implementation of customs control.**

Technical and special instruments not harmful to people's life and health, animals and plants and those, which do not cause harm to goods and vehicles, may be utilized in implementing customs control.

**Article 63. Operations with goods and vehicles which were not cleared through the customs.**

With the permission of the customs authorities, or where necessary - upon their demand, the goods which were not cleared through the customs yet, may be loaded, unloaded, and re-loaded; unpacked, packed and re-packed, the damaged packaging may be removed; identification marks and signs on these goods or their packages may be changed; and vehicles may be changed. The said operations are conducted at the expense of persons transporting these goods and vehicles across the customs border of Ukraine.

The use of goods and vehicles which were not cleared through the customs is prohibited, except for cases defined in this Code and other legislative acts of Ukraine.

#### **Article 64. Identification of goods, vehicles, premises and other places during the customs control implementation.**

Goods under customs control, vehicles and premises where such goods are held or may be held, or where the activity controlled by the customs authorities is carried out, as well as meters for energy resources, electricity, heat and other forms of energy may be identified by the customs authorities.

The following customs equipment is applied in the process of identification: seals, stamps, holographic marks, digital, letter or other markings, identification signs, taking of samples, compilation of an inventory of goods and vehicles, drawings, models, photographs, illustrations, use of supporting documentation etc.

The means of identification may be altered or destroyed only by the customs authorities or other authorities acting with the customs authorities' permission, with the exception of cases where there is threat of destruction, irreversible loss or substantial damage to goods and vehicles. In such cases the customs authorities are immediately notified about the changes, removal or destruction of identification marks. The evidence of the existing threat is notified documentary.

#### **Article 65. Involvement of specialists and experts in the process of customs control implementation.**

Where necessary, the specialists and experts may be involved in the implementation of customs control.

The head of a customs authority or his deputy summons specialists and experts. The heads of state enterprises, at which the given specialist or expert is employed, are required to perform such commands.

The specialist or expert participating in the implementation of customs control has the right to reimbursement of any expenses emanating from his summons. The specialist or expert retains the average wage paid at his place of employment for the time spent on the summons.

Compensation of specialists or experts, including their travel expenses, per diems for time spent in a business trip in connection with their participation in customs control, as well as compensation for work performed by the specialists or experts in implementing customs control, is paid out from the state budget of Ukraine in accordance with the procedures established by the Cabinet of Ministers of Ukraine.

## **CHAPTER 9. Special procedures of customs control.**

### **Article 66. Exemption from certain types of customs control.**

Exemption from certain types of customs controls is determined by this Code, other laws of Ukraine, as well as international agreements to which Ukraine is a party.

Non-application of customs control does not mean an exemption of someone from complying with the order of movement of goods and vehicles across the customs border of Ukraine.

### **Article 67. Exemption from customs inspection.**

The hand baggage and luggage of the President of Ukraine, the Chairman of the Supreme Rada of Ukraine, people's deputies, the Prime Minister of Ukraine, Head of the Supreme Court of Ukraine, Head of the Constitutional Court of Ukraine and members of their families accompanying them, are exempt from customs inspection.

### **Article 68. Simplified customs control.**

With the permission of the State Customs Service of Ukraine, the regional customs departments and customs units may apply simplified customs control.

The simplified customs control is applied during the movement through the customs border of Ukraine of goods not subject to mandatory declaration and taxation and which do not belong to the categories of goods prohibited or restricted for the movement through the customs border of Ukraine.

The simplified customs control is applied by the customs authorities equipped with zones (corridors) for the simplified customs control.

Citizens walking through the zones (corridors) of simplified customs control are exempt from filing a customs declaration.

Exemption from filing a customs declaration does mean an exemption from compliance with the order of movement of goods through the customs border of Ukraine.

### **Article 69. Customs control following the completion of customs clearance of goods and vehicles.**

Following the completion of customs clearance of goods and vehicles imported into the customs territory of Ukraine, customs bodies may at any time review the compliance of the actual use of such goods and vehicles on the customs territory of Ukraine with the declared customs regime and the purpose for their importation.

Customs authorities have the right to demand that persons selling goods of foreign origin on the customs territory of Ukraine show documents on the origin of these goods, as well as documents certifying the lawfulness of the importation of such goods into the customs territory of Ukraine.

### **SECTION 3. Customs Clearance.**

#### **CHAPTER 10. General Concepts.**

##### **Article 70. The purposes of customs clearance.**

Customs clearance is conducted by customs officials with the purpose of confirming information received during the customs control of goods and vehicles crossing the customs border of Ukraine, and with the goal of procedural implementation the results of such control, as well as for statistical purposes of tracking the importation into the customs territory of Ukraine, exportation beyond its bounds, and transit through its territory of goods and vehicles.

Customs clearance operations, the procedure for their implementation, as well as forms for customs declarations and other documents used during the customs clearance of goods and vehicles, as well as the procedure for filling in these documents are determined by the State Customs Service of Ukraine.

##### **Article 71. Place and time of customs clearance implementation.**

Customs clearance is conducted in places of location of the appropriate customs authorities' subdivisions during a time set by the customs authorities in agreement with the bodies authorized to conduct the types of control listed in Article 25 of this Code.

In accordance with the international agreements to which Ukraine is a party, customs clearance at the customs border crossing points of Ukraine may take place around the clock.

Customs clearance of goods and vehicles moved through the customs border by a legal entity is implemented by the customs authorities in whose area of activities the legal entity is located. In cases envisaged by the State Customs Service of Ukraine, customs clearance by another customs authority may take place with a written agreement between the two customs bodies.

The State Customs Service of Ukraine may define the territories with buildings, constructions, engineering and technical instruments and communications required for the implementation of customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine (freight customs constructions). A freight customs complex may be a part of the customs system of Ukraine as a specialized customs organization or may be owned by a resident legal entity, registered as a business. The freight customs complexes may be opened by the businesses with the permission of the State Customs Service of Ukraine. Requirements to a freight customs complex are determined by the State Customs Service of Ukraine.

Customs clearance of goods and vehicles exported beyond the bounds of the customs territory by the citizens may be implemented at any customs authority throughout the customs territory of Ukraine.

Goods (except those, which are transported in an unaccompanied luggage, as well as automobiles), imported into the customs territory of Ukraine by citizens, may be cleared through the customs at the customs border crossing points of Ukraine.

Goods imported into the customs territory of Ukraine in an unaccompanied luggage are cleared through the customs authorities at the place of residence or temporary stay of the said citizens.

The State Customs Service of Ukraine determines the procedure for the customs clearance of automobiles imported into the customs territory of Ukraine by citizens.

At the request of persons transporting goods and vehicles across the customs border of Ukraine, customs clearance may be completed by customs authorities at a place removed from the location of the customs authorities and at a non-standard time, in cases envisaged by this Code.

Where goods and vehicles undergo customs clearance beyond the location of customs authorities, the interested persons transport the customs officials to and from the place of customs clearance.

In accordance with decisions of the State Customs Service of Ukraine, customs clearance of certain types of goods may be implemented in the customs authorities specially created for this purpose.

#### **Article 72. Beginning of customs clearance.**

Customs clearance begins after submission of a customs declaration, documents required for customs clearance, and all necessary information on the goods and vehicles subject to customs clearance.

By placing the appropriate marking on the customs declaration, the customs authorities certify that goods, vehicles and accompanying documents are accepted for the customs control and customs clearance.

#### **Article 73. Presence of declarants during the customs clearance**

Declarants may be present during the customs clearance of goods and vehicles presented by them for the clearance.

In situations where measures described in Articles 54 and 55 of this Code are applied, as well upon the demand of the customs authority, the presence of the declarants during the customs clearance is mandatory.

#### **Article 74. Customs clearance of military vehicles and military hardware.**

Military hardware, equipped completely by a military unit, as well as military airplanes, warships, and support ships of the Naval Forces of Ukraine, are subject to the customs clearance. The State Customs Service of Ukraine in agreement with the Ministry of Defense of Ukraine determines the procedure for such clearance.

The customs clearance of military hardware, warships, warplanes and military vehicles of foreign countries is implemented with the participation of the representatives of the Ministry of Defense of Ukraine.

## **Article 75. Drawing of probes and samples of goods.**

With the goal of implementing the customs controls and customs clearance of goods, the customs authority may, with a written authorization from the appropriate official of the said authority, take the probes and samples of these goods for testing (analysis, expertise). The testing (analysis, expertise) is conducted on the State Budget expense.

A declarants and the relevant state monitoring bodies, with the permission of customs authorities, may take the probes and samples of goods under customs control.

Probes and samples are taken in the minimum quantity sufficient for the testing (analysis, expertise).

A protocol on the drawing of probes and samples of goods under customs control is prepared in a form, determined by the State Customs Service of Ukraine.

Declarants have the right to be present during the drawing of probes and samples by officials of the customs authority and other state monitoring bodies. The drawing of probes and samples of goods under customs control (supervision) by other state monitoring bodies or the declarant is conducted in the presence of customs officials. The declarants are obligated to assist customs officials in drawing of probes and samples. Loading and other necessary operations shall be provided at the declarant's expense also.

A separate customs declaration for the goods' probes and samples is not filed, provided that information on them will be included into the customs declaration submitted for all goods crossing the customs border of Ukraine.

Declarants have the right to review the results of the testing (analysis, expertise) of probes and samples of goods. The results of testing (analysis) undertaken by other state authorities or declarants must be presented to the customs authorities keeping the goods under customs control.

Customs authorities do not reimburse expenses incurred by the declarants as a result of drawing of tests and samples of goods under customs control. Expenses for testing (analysis, expertise) of probes and samples of goods incurred by the customs authorities and customs laboratories are not reimbursed by the declarant, except the cases when testing (analysis, expertise) is undertaken at the declarant's initiative.

The procedure for drawing of probes and samples of goods, the terms of testing (analysis, expertise), and disposition of samples are determined by the Cabinet of Ministers of Ukraine.

## **Article 76. Submission of protocols prepared by the enterprises to customs authorities.**

Enterprises transporting goods across the customs border of Ukraine prepare, in the presence of customs officials, a protocol about non-compliance of goods with the information contained in documents required for customs control; about damaging of goods; and about damaging of packaging or marking thereof. The said protocols are submitted to the relevant customs authorities.

**Article 77. The language of documents submitted for the customs control and customs clearance implementation.**

Documents required for the implementation of customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine in the course of foreign economic transactions, are to be submitted to the customs authority in the Ukrainian language or in the official language of the customs unions to which Ukraine is a party. If the originals of such documents are written in other language than noted above, the declarant must provide their translation into the Ukrainian language at his own expense.

**Article 78. Duration of customs clearance.**

Customs clearance may last no longer than ten, or in cases outlined in Article 79 of this Code, no longer than three days from the date of presentation of goods and vehicles subject to customs clearance, and following the submission of a customs declaration and all required documents and information. The noted terms do not include time required for the implementation of other types of control, as provided for in Article 25 of this Code.

Customs clearance is considered to be completed after the customs authorities have conducted procedures described by this Code with regard to the relevant customs regime.

**Article 79. Simplified procedure for customs clearance of certain types of goods.**

Goods crossing the customs border of Ukraine with the status of technical or humanitarian assistance; goods required for the amelioration of the consequences of natural disasters, accidents, catastrophes, epidemics; live animals; short life products or goods which require special storage conditions; radioactive materials, photo, audio or video materials for the mass media - all undergo priority customs clearance in a simplified order.

The State Customs Service of Ukraine determines the procedure for implementation of the simplified customs clearance.

**Article 80. Obligation of customs authorities to explain the requirements of customs clearance.**

If customs authorities refuse to clear the goods or vehicles through the customs border of Ukraine, the customs authorities are obligated to provide interested parties with a written notice and explanation of the reasons for refusal, including a description of customs requirements necessary to clear the goods through the customs and to transport them through the customs border of Ukraine.

**CHAPTER 11. Declaration**

**Article 81. Process of declaring.**

The process of declaring takes place by submitting (in writing, orally, or by action) exact information as to goods and vehicles, the goal in their crossing the customs border of Ukraine, as well as information required for the implementation of customs control and completion of customs clearance.

The conditions and order of use of declaration forms, the list of information required for the implementation of customs controls and completion of customs clearance, lists of

goods subject to mandatory declaration, and the form of customs documents and their order of submission are determined by the State Customs Committee of Ukraine.

#### **Article 82. Temporary and incomplete declarations.**

If the declarant, for serious reasons, cannot declare all goods and vehicles imported into the customs territory of Ukraine at the time that they are crossing the customs border of Ukraine (except for goods transited through the territory of Ukraine), such goods may be cleared for free use following the submission to the customs authorities of a temporary or incomplete declaration with the declarant obligating himself to submit a standard customs declaration no later than 30 days following the clearance for free use of the goods at issue. Customs authorities make a decision as to the clearance for free use of goods with completion of customs clearance at a later date based on the circumstances under which the said goods crossed the customs border of Ukraine, the character of the enterprise, body or organization, and on condition of full payment of all required customs payments.

#### **Article 83. Periodic customs declaration.**

Where goods regularly cross the customs border of Ukraine via a single entity (person) and on identical conditions and grounds, the customs authorities may permit such an entity to submit a periodic customs declaration, which describes the movement of goods for a period of time coordinated with the customs authorities.

The order and conditions of submitting a periodic customs declaration are determined by the State Customs Committee of Ukraine.

#### **Article 84. Place of declaring.**

Goods and vehicles, which are moving across the customs border of Ukraine, shall be declared at the customs authority who is in charge of customs clearance of these goods and vehicles.

Transportation means for transferring goods are declared simultaneously with these goods, except the cases envisaged by part three of this article.

Sea, river and air transport shall be declared at the customs authority in a port or airport of destination on the customs territory of Ukraine, or in a port or the sea port of departure from the customs territory of Ukraine.

Transportation means transferring the passengers and empty means of transportation shall be declared by the customs authority at the customs border crossing point of Ukraine.

#### **Article 85. Terms of declaring.**

The customs declaration is submitted to the customs authority, which is in charge of customs clearance, during 10 days following the delivery of goods and vehicles into the customs authority of destination.

Goods moved through the customs border of Ukraine by the citizens, are declared at the customs authority simultaneously with presentation of these goods.

In case of entrance of the empty means of transportation and transportation means, which are transferring the passengers, into the customs territory of Ukraine, they are declared at the customs authority not later than 3 hours from the moment of arrival into the point of

passing thereof through the customs border of Ukraine. In case of their exiting the customs territory of Ukraine – not later than 3 hours after crossing the customs border of Ukraine.

The above mentioned terms may be prolonged, if such is determined by the State Customs Service of Ukraine.

#### **Article 86. Acceptance of a customs declaration.**

The customs declaration is accepted and registered by the customs authority in an order determined by the State Customs Service of Ukraine.

The filing of a customs declaration to the customs authority shall be accompanied by submission of commercial accompanying and other documents determined by the State Customs Service of Ukraine.

With a view of checking information, which is comprised in the customs declaration and other submitted documents, the customs authority may require additional data needed for customs clearance and customs control.

Customs declaration is accepted by the customs authority, if it is determined that it comprises all necessary information and all necessary documents are attached thereto. The date and the time of acceptance of the customs declaration is recorded by the customs officer, who accepted it and marked the customs declaration formsheet, as well as certified it by an appropriate record in the customs authority documents.

From the moment the customs declaration is accepted, it becomes a document, certifying the facts of legal significance.

The customs authority does not have a right to reject in acceptance of a customs declaration, if a declarant fulfilled all conditions determined by the legislation of Ukraine.

#### **Article 87. Declarants.**

The declarant may be the enterprises or citizens, or their authorized customs brokers (intermediators), who are possessing the goods and vehicles, which are crossing the customs border of Ukraine.

Also the declarants of goods and vehicles belonging to the citizens, may be the individuals authorized (by the owners of these goods and vehicles) for declaring by the notarized orders.

#### **Article 88. Obligations of a declarant.**

A declarant performs all duties, and is fully liable, as stipulated by this Code, notwithstanding whether he is the owner of the goods and vehicles transported through the customs border of Ukraine, or a customs broker or other authorized person.

The declarant is obliged:

- to declare goods and vehicles in an order established by this Code;
- to present, at the request of customs authority, goods and vehicles for customs control and customs clearance;

- to submit documents and additional information, necessary for the fulfillment of customs procedures, to the customs authority;
- to pay customs fees.

#### **Article 89. Preliminary customs declaration and preliminary notification.**

Prior to the importation of goods into the customs territory of Ukraine, the declarant is submitting a preliminary declaration and preliminary notification to the customs authority.

The procedure for submitting a preliminary declaration and a preliminary notification, their form and a list of requirements to the information comprised therein, are determined by the State Customs Service of Ukraine.

#### **Article 90. Changes, amendments to and exclusions from the customs declaration.**

Upon the permission of the customs authority, information contained in the customs declaration may be changed or amended, and the submitted customs declaration – retrieved.

Changes, amendments or exclusions may be done only before the moment of acceptance of the customs declaration by the customs authority for customs clearance.

Changing, amending and retrieving of the customs declaration after its acceptance by the customs authority for customs clearance are not allowed. Introduction of amendments or changes, significant for the application of customs control procedures to goods and vehicles or influencing the conditions of taxation of goods, or application of non-tariff measures, is conducted by way of submission to the customs authority of a new customs declaration, if this is not in contradiction with the provisions of this Code.

The customs officers are not allowed to fill in customs declarations, change or amend information, contained in the customs declaration, except for introduction of information, which is within the competence of customs authorities.

### **SECTION IV.**

#### **Movement and Admission of Goods and Vehicles Through the Customs Border of Ukraine.**

#### **CHAPTER 12. Crossing of Goods and Vehicles Across the Customs Border of Ukraine.**

#### **Article 91. Customs border crossing points of Ukraine, where goods and vehicles may cross.**

Crossing of goods and vehicles through the customs border of Ukraine is accomplished at entry points at the customs border of Ukraine, which are determined by the Cabinet of Ministers of Ukraine in accordance with international agreements to which Ukraine is a party.

Crossing of certain types of goods through the customs border of Ukraine may take place at entry points especially designated at the customs border of Ukraine. The list of such entry points is approved by the Cabinet of Ministers of Ukraine.

## **Article 92. Goods prohibited for crossing the customs border of Ukraine.**

The importation into Ukraine, exportation from Ukraine and transit through its territory of certain goods may be prohibited or limited by the laws of Ukraine. The following goods may not be permitted to cross the customs border of Ukraine:

- 1) goods whose crossing of the customs border of Ukraine is forbidden, in particular:
  - a) goods whose importation into Ukraine is prohibited, including:

goods, which cause harm to the health of or threaten the life of the population and animal life, or which may cause harm to the environment;

literary and fictional works, polygraphic and other printed production, film, photo, audio and video materials that propagate war, cruelty, pornography, racial, ethnic or religious animosity, or which call for the violent overthrow of the constitutional order in Ukraine;

- b) goods whose exportation from Ukraine is prohibited, specifically:  
goods, which are part of the natural, historical or cultural values of the Ukrainian people as defined by relevant laws of Ukraine;
  - c) goods whose transit through the customs territory of Ukraine is prohibited.

A precise list of goods whose importation into the territory of Ukraine, including for transit purposes, and exportation are prohibited, is determined by the Supreme Rada of Ukraine;

- 2) goods, which have not completed customs clearance;
- 3) goods crossing the customs border of Ukraine in violation of the provisions of this Code and other legislative acts of Ukraine.

Currency values and cultural values may not be moved across the customs border of Ukraine in international mail, including transit traffic.

## **Article 93. Limitations on the movement of certain goods across the customs border of Ukraine.**

The movement of particular types of goods across the customs border of Ukraine may be limited. Entry for such goods at the customs border of Ukraine takes place on the basis of permission of authorized state bodies, which regulate relevant areas.

Lists of goods whose movement across Ukraine's custom border takes place on the bases of permission granted by state bodies, and the order of issuance of such permits are determined by the Cabinet of Ministers of Ukraine. State bodies authorized to issue such permits are determined by the Cabinet of Ministers of Ukraine.

The order of implementing customs control, customs clearance and entry through the customs border of Ukraine for goods which are the subject of limitations, are determined by the Cabinet of Ministers of Ukraine.

**Article 94. Authority of customs bodies in regulating the movement of cultural values across the customs border of Ukraine.**

The customs authorities of Ukraine regulate the movement of cultural artifacts across the customs border of Ukraine in coordination with other law enforcement bodies, the State Service on regulation of Transfer of Cultural Artifacts Across the State Border of Ukraine at the Ministry of Culture and Arts of Ukraine, and the State Committee of Archives of Ukraine in accordance with legislation of Ukraine.

**CHAPTER 13. Preliminary Operations.**

**Article 95. Preliminary operations.**

Preliminary operations are those acts, which take place prior to the beginning of customs clearance for goods and vehicles.

Preliminary operations aim to speed up the customs clearance of goods and vehicles, and the implementation of customs procedures in accordance with this Code.

The conditions and order of utilizing preliminary operations found in this Code do not depend on the country of origin of goods or the country of export.

**Article 96. Submission of documents to the customs authorities at the customs border crossing points of Ukraine.**

If customs clearance of goods and vehicles, in their full quantity in accordance with their particular customs regime, take place in a place other than the customs border crossing point, the customs authority at the customs border crossing point in Ukraine shall receive transport, commercial and other documents, which contain information on the said goods and vehicles, and this information shall be sufficient to decide whether to permit entry through the customs border of Ukraine.

**Article 97. Notification of customs authorities as to one's intent to import goods into the customs territory of Ukraine and to export goods from the customs territory of Ukraine.**

During the importation of goods into the customs territory of Ukraine, the declarant notifies the appropriate customs authority as to his intent to import such goods ahead of time.

In the case of exportation of goods beyond the customs territory of Ukraine, the declarant notifies the appropriate customs authority as to his intent to export such goods. The customs authority sets the time and place of delivery of the said goods to conduct customs control and customs clearance.

The order of notification of customs authorities as to one's intent to import goods into the customs territory of Ukraine or to export such goods from of the customs territory of Ukraine is determined by the State Customs Committee of Ukraine.

## **Article 98. Delivery of goods and documents to a location designated by the customs authorities.**

Following the submission of the notification described in Article 97 above, the declarant is obliged to deliver the goods and documents thereto with no changes in their state to a location designated by the customs authorities and to secure the goods and documents at this location until the arrival of customs officials.

The delivery of goods and documents should take place by the deadline set by the customs authorities, using a normal delivery regime, and factoring in available transport, an established route and other conditions of transport.

Goods and vehicles that carry such goods, are placed in zones of customs control following their arrival on site.

Changes in parking location for vehicles, unloading, reloading, unpacking, packing and repackaging of goods, as well as changes to, removal, or damage of identification marks are subject exclusively to customs authorities' discretion.

All additional expenses carried by the declarant as a result of actions or circumstances foreseen by this article, do not result in reimbursement by the customs authorities.

## **CHAPTER 14. Preliminary Rulings.**

### **Article 99. Reaching a preliminary ruling.**

The State Customs Committee of Ukraine, as well as the regional customs departments and customs units designated by the State Customs Committee of Ukraine, may make preliminary rulings as to the classification of goods, their customs value and country of origin, the measure of customs payments and other issues relating to the implementation of the customs legislation of Ukraine, as to specific goods or a specific form of foreign economic transaction.

A preliminary rulings payment is assessed when such rulings are made.

### **Article 100. Queries regarding the preliminary rulings.**

The person interested in obtaining a preliminary ruling, sends a written query to the customs authority that is permitted to make a ruling.

The query must include all information required to make a preliminary ruling. Samples of goods, their description, photographs, drawings, blueprints, and commercial documents, as well as any other necessary information required for the particular character of ruling requested must be provided. The customs authority that is to make a ruling, sets out a list of necessary documents and information for a ruling to be made.

No preliminary ruling is made by customs authorities if the documents and information submitted to the authorities is insufficient to make a ruling.

### **Article 101. Legal consequences of a preliminary ruling.**

Preliminary rulings adopted by the customs authorities are mandatory for all customs authorities.

A preliminary ruling as to goods crossing the customs border of Ukraine is valid for one year on the condition that the law, upon which the ruling was made, does not change over that period of time.

A preliminary ruling may be appealed in accordance with the valid legislation.

#### **Article 102. Cancellation or modification of a preliminary ruling.**

Customs authorities may cancel or modify a preliminary ruling made by them or a subordinate customs body.

A preliminary ruling may be cancelled or modified if such a ruling was made on the basis of incomplete or inaccurate information given by the applicant, as well as in cases where laws are amended or where conditions, upon which the preliminary ruling was reached, change. A decision to cancel a preliminary ruling or to modify the said ruling becomes effective on the day it is reached.

In case of cancellation or modification of a preliminary ruling, the preliminary rulings payment is not returned.

A decision cancelling a preliminary ruling may be appealed in accordance with the laws of Ukraine.

### **CHAPTER 15. Temporary Storage**

#### **Article 103. Temporary storage warehouses**

From the moment of presentation to customs authorities and until their release in accordance with the relevant customs regime, goods are held in temporary storage under customs control. Such goods may be stored in temporary storage warehouses until completion of customs clearance and with the permission of customs authorities. The customs regime for said goods is chosen upon their transfer for temporary storage and may not be changed by the owner of the goods or his authorized representative without the agreement of customs authorities until the expiration of the term of temporary storage.

With the goal of creating favorable conditions for and shortening the duration of customs control implementation and customs clearance, customs authorities may take decisions on the creation of temporary storage warehouses belonging to transport and expediting organizations, which move goods through the customs border of Ukraine, or belonging to other organizations. Zones of customs control are created within the bounds of such warehouses.

Appropriately furnished warehouse facilities, reservoirs, and covered and open lots may be utilized as temporary storage warehouses. Temporary storage warehouses are designated by customs authorities in whose area of operations such warehouses operate, and in the order determined by the State Customs Committee of Ukraine.

Goods in temporary storage under customs control may be stored at warehouses of customs authorities.

#### **Article 104. Permission for use of facilities as a temporary storage warehouse**

A building, reservoir or lot may be used as a temporary storage warehouse in accordance with a properly prepared permit issued by a relevant customs authority. A customs fee is assessed for granting of permits for use of a building, reservoir or lot as a temporary storage warehouse.

The order of review of applications for, and the granting of permits for use of a building, reservoir or lot as a temporary storage warehouse and the duration of said permit are determined by the relevant customs authority.

The State Customs Committee of Ukraine keeps an inventory of temporary storage warehouses and permits for their creation, issued by customs authorities.

If the owner of a temporary storage warehouse is not fulfilling the obligations, or adhering to additional requirements or limitations as laid out in Articles 108-110 of this Code, a permit for use of a facility as a temporary storage warehouse may be revoked by the customs authority, which issued the permit. In case of revocation of a permit under this article, the customs fee defined in the first part of this article is not subject to refund.

#### **Article 105. Types of temporary storage warehouses**

Temporary storage warehouses may be of an open or closed type.

Closed temporary storage warehouses are exclusively for storage of goods belonging to the warehouse owner.

All persons may use open temporary storage warehouses.

In order to obtain a permit for use of facilities as an open temporary storage warehouse, an enterprise must possess a license to conduct customs broker activities or customs transporter activities.

#### **Article 106. Relations between the owner of a temporary storage warehouse and persons placing goods and vehicles in storage at said warehouses**

The relationship between an owner of a temporary storage warehouse and persons placing goods in storage at said warehouse are determined by agreement.

The relationship between customs authorities that are owners of warehouses, in which goods are stored temporarily under customs control, and persons placing goods in storage at warehouses, is regulated in accordance with this Code and with normative legal acts of the State Customs Committee of Ukraine.

#### **Article 107. Documents required for placing of goods and vehicles at temporary storage warehouses**

To place goods at temporary storage warehouses, the entity placing them must submit documents to customs authorities enabling identification of said goods.

#### **Article 108. Obligations of the owner of a temporary storage warehouse**

The owner of a temporary storage warehouse is obligated:

- 1) to equip the warehouse and create appropriate conditions for customs control;
- 2) to make impossible the removal from the warehouse (beyond customs control) of any goods and vehicles being stored at said warehouse;
- 3) not to interfere with implementation of customs control;
- 4) to inventory and report to customs authorities information on goods and vehicles being stored at the warehouse, in the order determined by the State Customs Committee of Ukraine;
- 5) to make it impossible for passersby to access the warehouse where goods and vehicles are being stored;
- 6) to equip the warehouse with no fewer than two identification devices, one of which must be in customs authorities' possession;
- 7) to adhere to the conditions of the permit for use of facilities as a temporary storage warehouse and the requirements of customs authorities, including ensuring access by customs officials to goods being stored at a warehouse, at all times, upon demand; and providing customs authorities with facilities, equipment and means of communication for implementation of customs control and customs clearance.

#### **Article 109. Supplemental rights of customs authorities regarding temporary storage warehouses**

Customs authorities may make mandatory demands as to the construction, outfitting and location of temporary storage warehouses in accordance with instructions governing temporary storage warehouses, as determined by the State Customs Committee of Ukraine.

A Customs authority has the right to disallow placement of goods at temporary storage warehouses, if the warehouse owner does not provide the necessary conditions for customs officials' activities on the territory of the warehouse related to implementation of customs control of said goods.

#### **Article 110. Limitations on placement of goods at temporary storage warehouses**

All types of goods may be placed at temporary storage warehouses. Goods, which may harm other goods, or that require special conditions for their storage, should be placed at specially adapted facilities at temporary storage warehouses.

Goods held exclusively by customs authorities in accordance with Article 168 of this Code are not subject to placement in temporary storage.

The State Customs Committee of Ukraine may determine the list of specific types of goods to be placed in temporary storage under customs control exclusively at customs authorities' warehouses.

#### **Article 111. Persons responsible for securing goods and vehicles placed at temporary storage warehouses**

The owner of a temporary storage warehouse bears responsibility before customs authorities for securing goods and vehicles placed at said temporary storage warehouse.

In case of release without permission of customs authorities or loss of goods and vehicles placed at a temporary storage warehouse, the owner of said temporary storage warehouse is liable in accordance with Article 398 of this Code.

### **Article 112. Duration of temporary storage of goods by enterprises**

The duration of temporary storage of goods by enterprises may not exceed three months.

The State Customs Committee of Ukraine may set shorter durations of storage for certain categories of goods.

The duration of temporary storage of goods set out in the first part of this article may be prolonged to four months upon application of the declarant to the customs authority overseeing the customs authority, which permitted temporary storage of said goods. An application for prolongation of temporary storage of goods is negotiated with the owner of the warehouse and the relevant customs authorities.

Prior to expiration of the terms of temporary storage of goods as defined in parts one, two and three of this Article, said goods must be:

- 1) declared by the owner or his authorized representative;
- or
- 2) placed by the owner or his authorized representative for storage by the relevant customs authority.

### **Article 113. Operations with goods at temporary storage warehouses**

Besides operations set down in Article 63 of this Code, goods placed at temporary storage warehouses may, with the permission of customs authorities:

- 1) undergo inspection and measuring by the owner of the warehouse, or other person, who placed said goods at said warehouse, or its representative;
- 2) be included in operations necessary for the preservation of said goods in an unchanged state.

Samples of goods in storage at a warehouse may be taken with the permission of customs authorities.

## **SECTION V.**

### **Customs Procedures at Delivery of Goods across the Customs Border of Ukraine with Different Means of Transportation.**

#### **CHAPTER 16. General provisions.**

### **Article 114. Means and ways of delivery of goods.**

Moving goods across the customs borders of Ukraine is carried out with the means of aviation, vehicles, railway, pipelines and through power lines.

Depending on the presence of the carrier, consignor, consignee and also a contract for transportation of goods, the goods are moved in the form of:

- freight;
- accompanied luggage;

- unaccompanied luggage;
- hand luggage;
- international postal consignment.

#### **Article 115. Customs procedures at transportation.**

Means of transportation that move passengers or goods across the customs border of Ukraine are subject to customs control and customs clearance.

The customs procedures that are applied for customs control and customs clearance of means of transportation that deliver goods or passengers across the customs borders of Ukraine are unified and they do not depend on the country of registration or on the country that owns the means of transportation, on the country the means of transportation goes from and the country the means of transportation goes to, except for the instances envisaged by international treaties that impose sanctions and restrictions on trade with certain countries.

#### **Article 116. Interaction in certification of international transportation of goods.**

Customs control over the international transportation of goods is conducted by the customs authorities in liaison with other relevant supervisory services based on the harmonized procedures with definite terms and sequences of execution of immediate responsibilities by separate services.

Timetables for the movement of vehicles across the customs border of Ukraine is stipulated by the Ministry of Transportation of Ukraine in liaison with the State Customs Service of Ukraine and the State Committee on Protection of the State Border of Ukraine.

The procedures mentioned in the first part of this Article are adopted by the senior officials of the Customs Service in agreement with the Border Guard and other relevant supervisory services.

#### **Article 117. Assistance to the customs officers in enforcement of customs procedures**

With the aim to facilitate the conduct of the customs procedures at the moving means of transportation across the customs border of Ukraine operators of waterborne transport, air transport, motor transport and railway transport are obliged to provide all necessary assistance to customs officers in conduct of their duty.

#### **Article 118. Premises of the customs service in ports, international airports and cross border railway stations.**

Administration of sea and river ports, international airports cross border railway stations are obliged to provide all necessary premises, equipment, means of communication and sets all conditions for conduct of customs procedures free of charge.

List and parameters of the premises are stipulated by the State Customs Service and the Ministry of Transportation of Ukraine based on volumes and character of international deliveries.

#### **Article 119. Customs procedures pertaining to stocks and consumption.**

Stocks and consumption mean the following:

- 1) stocks provided for consumption by passengers and crews of vessels, aircrafts, trains and other means of transportation, regardless of whether they are for sale or not;
- 2) stocks, including fuel and lubricants, necessary for operation of vessels, aircraft's, trains and other means of transportation including those procured abroad to mitigate consequences of a breakage or for conduct of necessary routine maintenance of the said means of transportation;
- 3) stocks provided for supply and equipment, fuel and lubricants, raw materials for industrial processing, food and other stocks taken outside the customs territory of Ukraine to ensure operation of Ukrainian vessels and vessels chartered (rented) by Ukrainian entities for fishing.

Stocks provided for consumption and carried by vessels, aircrafts, trains or other means of transportation across the customs border of Ukraine in the amounts set on the basis of rates of consumption with regard to length of the trip are subject to customs clearance on a non-license basis according to the regular procedures under the condition of their customs declaration and payment of customs duties.

#### **Article 120. Passage of special equipment entering with vehicles.**

Special equipment used for loading, unloading, protection and storage of goods that moves across the customs border of Ukraine together with vehicles, are subject to passage under the same conditions as vehicles, provided they are used according to their application and enter or leave Ukraine together with the vehicles.

#### **Article 121. Passage of spare parts and equipment for maintenance of vehicles.**

Spare parts and equipment for maintenance of vehicles that temporarily enter the customs territory of Ukraine or temporarily departure from it may be brought in (taken out) under the condition of their return to or from Ukraine without payment of customs duty except a levy for customs certificates. Customs department that is responsible for passage of the spare parts and equipment may apply terms of guarantee envisaged in Article 216 of the present Code.

Installed spare parts and equipment may not stay (leave) on the customs territory of Ukraine and with a permit from the customs authority they may:  
be submitted to the customs authority for certification for free use on the customs territory of Ukraine (outside Ukraine);  
be destroyed under supervision of the customs authority.

#### **Article 122. Restrictions on passage of alcohol or tobacco carried on board of means of transportation**

Means of international transportation are permitted to carry on board into or from the customs territory of Ukraine the amount of alcohol or tobacco for consumption of crew or passengers based on the rates of consumption stipulated by the Cabinet of Ministers of Ukraine.

### **Article 123. Temporary permit for the passage of means of transportation through the customs territory of Ukraine**

Means of transportation used for moving of passengers or goods across the customs border of Ukraine are permitted to temporally enter the customs territory of Ukraine without payment of customs duty and without non-tariff regulation.

Means of transportation that entered the customs territory of Ukraine temporally must leave Ukraine without introduction of any changes into their design (except for essential tear and wear, consumed fuel and lubricants and necessary maintenance).

Temporary passage of means of transportation through the customs territory of Ukraine is permitted under the condition that they may not be used for domestic transportation on the customs territory of Ukraine.

### **Article 124. Goods that enter the customs territory of Ukraine by mistake**

Goods are considered to enter the customs territory of Ukraine by mistake, if it is not proved that the carrier or consignee did it out of premeditated misconduct or gross negligence.

Goods are not considered as entering the customs territory of Ukraine by mistake if conditions or arrangements of their passage were changed after they crossed the customs border of Ukraine.

## **CHAPTER 17. Customs Procedures for Sea and River Transportation.**

### **Article 125. Locations for conduct of customs procedures**

Customs authorities conduct customs procedures at the customs control area located on territories of sea and river ports and also in the sea zones of international ports. A list of these ports is adopted by the Cabinet of Ministers of Ukraine.

### **Article 126. Customs control areas at sea and river ports**

Customs control areas at sea and river ports are located on the sites allocated by the management of these ports.

Procedures of establishment and functioning of the customs control areas at sea and river ports are stipulated by the State Customs Service in agreement with the state Committee of Border Protection and the Ministry of Transportation of Ukraine.

### **Article 127. Timeframe for customs control**

A vessel that conducts international transportation is considered to be under customs control all the time it stays in the port. During all her stay customs service is authorized to conduct single or repeated customs checks, sealing of some of the premises or holds that contain goods that are not permitted to enter (leave) the customs territory of Ukraine.

## **Article 128. Timeframe for customs clearance of vessels that conduct international transportation**

Depending on tonnage and usage of the vessel that conduct international transportation, the timeframe for issuance of customs certificate is defined by the commander of the customs service in agreement with the commander of the border guard service and other supervisory bodies.

## **Article 129. Location of customs control at waterborne transportation**

Sites of loading and unloading of the vessels that conduct international transportation, sites of departure and arrival of passengers of the vessels and sites of harboring for conduct of customs procedures are defined by the administration of the port in agreement with the commander of the customs service and the commander of the border control guards.

Sites for harboring of vessels for customs control at the ports are defined by the customs service.

Change in location is conducted on permission of the customs service, except for instances stipulated in Article 130 of the Code.

## **Article 130. Emergency customs control**

If a vessel that conducts international transportation due to a wreck, natural calamity or some of the circumstances, that may be considered acts of God, is not able to reach one of the customs control areas located on the customs territory of Ukraine, unloading of goods is permitted in the locations that have no customs control areas. For these instances the captain of the vessel is obliged to take all measures to ensure preservation of the goods and their submission for control at the nearest customs control area.

## **Article 131. Customs control over unloading at waterborne transportation**

Unloading and loading of vessels that conduct international transportation may be conducted with the permission of the customs service and under its control according to freight documents required by the legislation of Ukraine. Final release of goods is conducted upon processing of customs declarations.

## **Article 132. Customs control for the vessels that enter the water border of Ukraine for a short term**

The vessel that enters a Ukrainian international port to replenish stocks of water, fuel, food, conduct of emergency maintenance for the term of up to 48 hours is not subject to customs clearance, but stays under customs supervision until it departs.

The goods that are loaded into that vessel are subjects for customs supervision according to general procedures.

## **Article 133. Customs control of coasting vessels**

Ukrainian coasting vessels that conduct coasting transportation between Ukrainian ports are subject to customs control during all the time they stay at ports. Customs clearance of

these vessels is conducted on the basis of a written submission of the captain of the vessel stating that she does not enter foreign ports and does not harbor near foreign vessels or that the next voyage does not envisage entering foreign ports or contacts with foreign vessels. If a vessel, for some reason, entered foreign waters or contacted foreign vessels, she is subject to the customs control according to regular procedures.

#### **Article 134. Customs clearance of Ukrainian vessels manufactured or purchased abroad or sold abroad**

During the first entry of Ukrainian vessels manufactured or purchased abroad on the customs territory of Ukraine or during departure of the vessels manufactured for foreign customers or sold abroad, the owner of the vessel is obliged, apart from other documents necessary for customs clearance of the said vessels, to submit customs declaration and to pay all customs duties to the customs authorities.

#### **Article 135. Customs permit for departure of the vessel that conducts international transportation**

The administration of the port shall not permit the captain of the vessel to leave the area of the port without an entry made into the relevant document by the customs authorities.

Customs permit for departure from the port is not required for a temporary departure of the vessel from the port that arises due to the natural disaster, for rescue of people or in other force majeure.

#### **Article 136. Customs control over goods transferred by foreign men-of-war**

Goods that are transferred by foreign men-of-war to or from the customs territory of Ukraine are subject to customs clearance.

### **CHAPTER 18. Customs Procedures for Airborne Transport.**

#### **Article 137. International airport**

Transportation of goods across the customs border of Ukraine by air transport is conducted through international airports that have customs service. A list of the international airports is stipulated by the Cabinet of Ministers of Ukraine.

Transportation of goods through other airport that have no customs service is permitted as exceptions on permission from the Cabinet of Ministers or for emergency landing of the aircraft.

#### **Article 138. Documents for control of the aircraft**

The commander of the aircraft immediately upon arrival from abroad or not later than in three hours before departure is obliged to submit the following documents for customs control:

- 1) general declaration;
- 2) documents on postal deliveries, goods and documents that accompany goods;
- 3) other documents envisaged in the present Code, in other legislative regulations of Ukraine or in international treaties ratified by Ukraine.

A customs permit for unloading or loading of the aircraft is issued only after checking of submitted documents for compliance with the requirements of the present Code and Provisions of Customs Control of Aircrafts adopted by the State Customs Service of Ukraine.

#### **Article 139. Emergency landing.**

The commander of the aircraft that makes an emergency landing outside of the international airports is obliged to take all measures necessary for preservation of goods subject for customs control and to notify the nearest international airport on the site of landing during 24 hours.

Having received this notification, the administrator of the international airport is obliged to provide transportation of customs officers to the site of landing or to take the passengers, the crew and the goods subject for customs control to the customs service.

#### **Article 140. Passage of goods carried by transit passengers of aircrafts**

Goods carried by transit passengers of aircrafts (except for the goods banned for transit) are not customs levied and are free to be moved within the customs control area of the international airport.

#### **Article 141. Preferential regime of customs control of the aircraft.**

Customs control and customs clearances of the aircrafts that carry official state delegations are conducted without customs checking.

The grounds for granting the preferential customs regime are the official submission of the Ministry of Foreign Affairs of Ukraine.

### **CHAPTER 19. Customs Procedure for Railway Transportation.**

#### **Article 142. Customs procedures at customs border check points at railway border crossing.**

Checking of documents, railway trains and other customs procedures envisaged in the present Code is conducted at the customs control areas at railway border crossings.

Loading, unloading, reloading and other works necessary for conduct of customs control and customs clearance of the goods are carried out at the expense of the railway.

#### **Article 143. Timeframe for conduct of customs control at railway transportation**

Customs control at railway transportation is conducted according to the procedures adopted by the border crossing railway stations, within the timeframes adopted by the administrator of the railway, commander of the customs service and commander of the border guards.

#### **Article 144. Documents necessary for conduct of customs control at railway transportation**

Authorized persons of the trains that enter or leave the customs territory of Ukraine are obliged to submit the following documents upon arrival at railway border crossing customs check point:

- 1) certificate of transfer or a list of luggage;
- 2) railway invoices;
- 3) other documents envisaged by the present Code, other legislative regulations of Ukraine and by the international treaties ratified by Ukraine.

#### **Article 145. Responsibility to bring goods to the customs check point at destination**

The railway is responsible for bringing the goods subject to customs control to the customs checkpoints at destination.

#### **Article 146. Location for conduct of customs procedures for international railway transportation.**

Customs control of goods and means of transportation involved in international railway transportation is conducted at the customs control areas. Passengers of international trains may also pass customs control at other sites located along their route that are appointed by the State Customs Service of Ukraine, the State Committee of Border Protection of Ukraine and the Ministry of Transportation of Ukraine.

In order to keep timetables of the railway such control may be conducted at locations other than border crosspoints or at locations selected by the commander of the customs service in agreement with the administrator of the railway and the commander of the border guards. In exceptional cases at the request of the customs service some railway cars, locomotives, other elements of the train may be excluded from the train for conduct of customs procedures, if such conduct is impossible in the train.

Departure of means of railway transportation from the stations is conducted with permission of the customs service and the border guards.

#### **Article 147. Passage of goods carried at dining cars of international trains**

Food, alcoholic and non-alcoholic drinks that pass the customs border of Ukraine in the dining cars of international trains are subject to mandatory customs declaration.

Food and non-alcohol drinks that pass the customs border of Ukraine are exempt from customs duties under the following conditions:

- a) they are sold exclusively for immediate consumption in the train;
- б) their amount does not exceed the minimum quantity necessary to render services of the dining car along the route.

Alcohol rinks and tobacco that cross the customs border of Ukraine in the dining cars are permitted to pass the customs border of Ukraine under conditions of payment of all required customs levies.

## **CHAPTER 20. Customs Procedures at Motor Transportation.**

### **Article 148. Documents necessary for customs control of means of motor transportation**

Operators that conduct motor transportation of goods and passengers across the customs border of Ukraine are obliged to provide:

- 1) a license for international motor transportation of goods and passengers and a license for their means of transportation;
- 2) a certificate stating that their means of transportation is adequate for international transportation issued by an authorized government agency of Ukraine and registered with the customs service at the region of residence of the operator;
- 3) documents certifying that the means of transportation comply with international requirements and standards.

### **Article 149. Obligations of operators that conduct motor transportation of goods subject to customs control.**

Operators that conduct motor transportation of goods subject to customs control are obliged:

- 1) to bring goods to their destination preserving customs obligations;
- 2) not to start loading, unloading or reloading of goods without a permission from the customs service;
- 3) to submit all documents necessary for customs control and customs clearance to the customs service;
- 4) in cases of necessity to carry out unloading, loading, packing and unpacking of goods for their submission to customs control at the expense of the operators.

### **Article 150. Procedures for the customs clearance of vehicles transporting the goods across the customs border of Ukraine.**

Means of motor transportation employed in delivery of goods across the customs border of Ukraine do not need a separate customs declaration, if the goods moved by the means of motor transportation across the customs border of Ukraine are declared.

Information on the means of motor transportation that delivers the goods is included into the customs declaration for its freight, IMT certificate (1975 Convention on International Motor Transportation), invoices for the freight and other accompanying documents.

## **CHAPTER 21. Customs Procedures for the Pipeline and Power Lines.**

### **Article 151. Customs control procedures for goods transported by pipelines and power lines.**

The Cabinet of Ministers of Ukraine shall determine the customs control points for the purposes of customs control of goods transferred by the pipeline and power lines (including the transit through the territory of Ukraine).

The Customs Service of Ukraine shall introduce the procedure and time limits for customs control purposes of the customs clearance of the goods transferred by the pipeline and power lines, taking into account the specific features of such transfer through the customs border of Ukraine.

**Article 152. Documents for the purposes of customs clearance of goods transferred by the pipelines.**

For the purposes of customs clearance of goods transferred by the pipelines, the Declarant (declaring person) shall submit the following documents to the customs authority:

- 1) the agreement (contract) on foreign economic activity;
- 2) the act of acceptance and transfer (of the goods);
- 3) the quality certificate;
- 4) the invoice;
- 5) the teletype route;
- 6) the permissions (licenses) of the corresponding government bodies;
- 7) other documents determined by this Code and other Ukrainian laws.

**Article 153. Documents for the customs clearance of the transfer of electricity.**

For the purposes of customs clearance of the transfer of electricity the Declarant shall submit the following documents to the customs authority:

- 1) the agreement (contract) on foreign economic activity;
- 2) the supporting documentation of the corresponding enterprise regarding the amount of electricity transferred through the customs territory of Ukraine;
- 3) other documents determined by this Code and other Ukrainian laws.

**CHAPTER 22. Transfer of Goods through the Customs Border of Ukraine by Mail.**

**Article 154. Transfer of international mail through the customs border of Ukraine.**

The International mail (correspondence) shall be transferred through the customs territory of Ukraine (including transit through the territory of Ukraine) after completion of the customs control and the customs clearance of goods contained in such mail (correspondence).

The postal enterprises of Ukraine must submit (at their own expense) the international postal consignment transferred through the customs border of Ukraine to the customs authorities for customs clearance.

The State Committee for Communication and Information of Ukraine in agreement with the State Customs Service of Ukraine shall identify and equip the points of international mail exchange for purposes of customs control and customs clearance of the goods transferred through the customs border of Ukraine as the international postal consignment.

The delivery of international postal consignment to the customs clearance points, unpacking and submitting for the survey, repacking and storage shall be conducted by the postal enterprises of Ukraine at their own expense with the participation and under control of the customs authorities.

After customs clearance and accruing of the customs charges the international correspondence received from abroad shall be transferred to the postal enterprises under their responsibility. The postal enterprises shall deliver the international correspondence to

the recipients in case such recipients pay in full all the accrued customs duty payments to the postal enterprises.

**Article 155. Procedures and conditions for customs control of goods transferred by the international postal consignment.**

The Cabinet of Minister of Ukraine shall introduce the procedures and conditions for the customs control of goods transferred through the customs border of Ukraine by international postal consignment.

**SECTION VI. Disposition of Goods, which are under Customs Control.**

**CHAPTER 23. Transfer of Goods and Vehicles Between the Customs Authorities. Transit Shipments.**

**Article 156. Rights and duties of the shipping company.**

Transit shipment shall be carried out as transitional and internal customs transit.

Transitional customs transit – is the shipment of goods and vehicles under the customs control from one point located at the customs border of Ukraine (importation point into the customs territory of Ukraine) to another point located at the customs border of Ukraine (point of exportation outside the customs territory of Ukraine).

The internal customs transit – is the shipment of goods and vehicles under the customs control:

from one point located at the customs border of Ukraine (importation point into the customs territory of Ukraine) to another customs authority, located inside the customs territory of Ukraine;

from the customs authority located within the customs territory of Ukraine to the point located at the customs border of Ukraine (point of exportation outside the customs territory of Ukraine);

from the customs authority, located within the customs territory of Ukraine to another customs authority, located within the customs territory of Ukraine.

**Article 158. Conditions for transiting the goods and vehicles.**

The transit goods and vehicles shall comply with the following:

- 1) shall stay unchanged (except natural loses) and shall not be used for other purposes than transit;
- 2) shall be delivered to the customs authority of destination in accordance with the time period established by the customs authority of dispatching.

During the transit of goods through the custom territory of Ukraine, in accordance and under the control of the customs authority, certain operations may be performed with such goods without changing the qualities and the shape of such goods (reloading, unloading, loading, repackaging).

#### **Article 159. Itineraries for the transit shipments.**

The goods and vehicles shall be transited through the customs territory of Ukraine via itineraries determined by the shipping companies on their own consideration of economic efficiency principles.

For the purposes of state security, economic, political, ecological, technical and other reasons the Cabinet of Ministers of Ukraine may introduce some limitations regarding the use of certain roads and transit itineraries within the customs territory of Ukraine, identify the roads or itineraries for certain kinds goods and vehicles transited through the customs territory of Ukraine, identify the points for importation and exportation of the certain goods and so on.

#### **Article 160. Time period for the customs transit.**

The Cabinet of Ministers of Ukraine introduces the maximum time limits for the customs transit of different kinds of transportation.

The dispatching customs authority introduces the time period for the shipment of goods to the corresponding customs authority of destination in accordance with the existing norms for shipment of goods, taking into account the type of transportation, the itinerary, the distance to the final destination point and other shipment conditions. This time period shall not include the storage time at the warehouses in case of reloading into another kind of transportation and the time period, which is needed for other transaction of goods allowed by the customs authorities.

#### **Article 161. Measures applied in case of an accident or in case of Force Majeure**

If the transportation facility was unable to arrive to the destination customs authority, because of the accident or Force Majeure – it is allowed to unload goods in another place.

In such case the shipping company shall be obliged to do the following:

- to introduce all measures needed for preserving the goods and preventing any use of such goods;
- to urgently inform the nearest customs authority about such events and location of the vehicles and goods;
- to deliver goods to the nearest customs authority or deliver customs officials to the location of such goods.

The customs authority shall not reimburse to the shipping company the losses incurred during the implementation of measures, specified in this Article.

#### **Article 162. Liability for non-compliance with the established procedure for the transit shipment of goods.**

The shipping company shall be liable for non-compliance with the established procedure for the transit shipment of goods.

## **CHAPTER 24. Measures for Providing Guarantee of Delivering Goods and Vehicles under the Customs Control.**

### **Article 163. Measures for providing guarantee of delivering.**

In cases specified in this Code and other legislative acts of Ukraine the following guarantees may be introduced for delivering to the destination customs authority of goods and vehicles under customs control and transferred between the customs authorities:

- 1) the owner of goods and vehicles or an authorized person issues a financial guarantee to the customs authority;
- 2) the customs authority provides security protection and guarding of the goods and vehicles;
- 3) shipment of goods by the customs shipping company.

### **Article 164. Financial guarantees.**

Owner of the goods and vehicles under customs control or the authorized person may give the following kinds of financial guarantees to the customs authority regarding the obligatory delivery of such goods and vehicles to the destination customs authority:

- 1) money deposit;
- 2) the letter of guarantee from the authorized bank;
- 3) financial liability insurance of the shipping company;
- 4) guarantee of the independent financial intermediary.

The Cabinet of Ministers of Ukraine determines the conditions and procedures for the application of financial guarantees.

### **Article 165. Provision of security protection and guarding of the goods and vehicles by customs authorities.**

Security protection and guarding of the goods and vehicles is provided by the customs during internal and transitional customs transit.

The State Customs Service of Ukraine shall establish the forms and methods for security protection and guarding of the goods and vehicles to the destination customs authority.

The customs charges shall be paid for the security protection and guarding of the goods and vehicles by the customs authority.

### **Article 166. Shipment of goods by the customs shipping company.**

Transportation of goods to the destination customs authority by the customs shipping company as a guarantee of delivering goods and vehicles shall be conducted in compliance with Articles 187-189 of this Code.

### **Article 167. Conditions for applying measures of guaranteeing of the shipment of goods.**

Decision on the application of measures to guarantee the shipment of goods and vehicles to the destination customs authority shall be adopted in each particular case by the corresponding customs authority located at the point of beginning of the transit of such goods and vehicles, provided there are grounds for the application of such measures.

Such guarantee measures are compulsory for goods subject to excise tax in accordance with effective Ukrainian legislation.

The owner of the goods and vehicles or the authorized person shall choose the type of guarantee measure in case otherwise is not specified in the effective legislation in Ukraine.

The State Customs Service of Ukraine establishes the procedures and conditions for the application of the guarantee measures for delivering of goods and vehicles to the destination customs authority.

The guarantee measures for delivering of goods and vehicles under the customs control and shipped between the customs authorities shall be applied at the expense of the owner or such goods and vehicles (or authorized person). Such expenses shall not be subject to reimbursement.

## **CHAPTER 25. Storage of Goods and Vehicles at the Customs Warehouses.**

### **Article 168. Goods stored exclusively by the customs authority.**

The following goods shall be obligatory transferred to the Customs authority for storage purposes:

- 1) goods, which are not allowed during shipment into the customs territory of Ukraine because of the established prohibitions or limitations on such imports into Ukraine, or on transit through the territory of Ukraine, and which are not shipped outside the territory of Ukraine the same day;
- 2) goods imported by the individuals into the customs territory of Ukraine and subject to customs duty payments – in case such payments have not been made;
- 3) goods not declared by the enterprises (by the owner or by the authorized person) after expiration of the temporary storage time period established in the Part I Article 112 of this Code;
- 4) goods declared for rejection to the benefit of the State in accordance with the Article 264 of this Code.

Goods subject to obligatory transfer to the customs authority for storage purposes (except hard currency valuables) – shall be stored at the customs warehouses.

Hard currency valuables transferred to the Customs authority for storage purposes shall be deposit it in the authorized banks of Ukraine.

### **Article 169. Customs warehouses.**

Customs warehouses are the premises, reservoirs, open and sheltered lots, which belong or used by the customs authorities and which are specially equipped for the purposes of storage of goods.

## **Article 170. Goods and vehicles, which are stored at the customs warehouses.**

The following goods may be stored at the customs warehouses (except goods, specified in the Article 168 of this Code):

- 1) goods in the temporary storage under the customs control in accordance with the Article 103 of this Code;
- 2) goods exported outside the customs territory of Ukraine and which are stored under the customs control after the customs clearance until actual exportation;
- 3) goods and vehicles under transit regime in accordance with the Article 205 of this Code;
- 4) goods under customs warehouse regime in accordance with the Article 217 of this Code;
- 5) samples of goods and technical and technological documents selected by the customs authority for purposes of classification of goods in accordance with the Article 373 of this Code;
- 6) samples of goods and technical documents selected by the Customs authority for purposes of verification of certificates of goods in accordance with the Article 375 of this Code;
- 7) tests and samples of goods for purposes of forensic analysis selected in accordance with the Article 458 of this Code in cases of non-compliance with the customs rules;
- 8) goods and vehicles confiscated in accordance with the Article 449, 450 of this Code.

Goods, which are declared in accordance with the different customs regimes shall be stored at the customs warehouses in accordance with the procedures established for the corresponding customs regime.

Goods that need special storage conditions or special equipment shall not be stored at such customs warehouses, which do not have the necessary condition or the necessary equipment.

The State Customs Service of Ukraine shall establish the procedures for the regime of work of customs warehouse.

Customs duty shall be charged for storage of goods at the customs warehouse, except the cases, specified in this Code.

Customs authority shall be liable for the safety of the goods at corresponding warehouses in accordance with the procedure introduced by the Legislation of Ukraine.

## **Article 171. Time period for storage of goods and vehicles at the customs warehouses.**

Goods, which are specified in the Sections 1-3 Article 168 and Sections 1-3 Article 170 of this Code may be stored at the customs warehouses for the period of three months.

Goods, which are specified in the Section 4 Article 170 may be stored at the customs warehouses for the time periods established in the Article 219 of this Code.

Goods, which are specified in the Section 4 Article 168, goods and documents, specified in the Sections 5-7 Article 170 as well as goods and transportation facilities, specified in the Section 8 Article 170 of this Code may be stored at the customs warehouses for the time periods established by the State Customs Service of Ukraine.

**Article 172. Transactions with the goods, which are stored at the customs warehouses by the enterprises.**

Except transactions, specified in the Article 63 of this Code, the enterprises, which store the goods under customs control at the customs warehouses may (after getting permission and under control of the above mentioned bodies) perform the following transactions with such goods:

- 1) preparation of goods for sale and transportation (division of the shipment, formatting of the shipment, sorting out, packaging and repackaging);
- 2) mixing up the goods (components) without changing the characteristics and features of such goods;
- 3) simple warehouse transactions.

**Article 173. Release of goods from the customs warehouses.**

The goods, which are stored by the enterprises at the customs warehouses under the customs control may be released to such enterprises only after the customs clearance.

The goods, specified in the first paragraph of this Article may also be released to a person, to whom the ownership for such goods was transferred during the storage period.

**CHAPTER 26. Disposition of Goods, Vehicles and Money.**

**Article 174. Disposition of goods and vehicles.**

Goods, which are stored under the customs control (except cases, specified in Section 1 Article 168 of this Code) and which were not requested by the owner or by the authorized person before the expiry of the storage time period, specified in Section 1 and 2 Article 171 of this Code, shall be sold. The customs authority shall provide the corresponding information to the owner at least two weeks in advance.

Goods, which have not complied with the customs rules as well as goods with the specially prepared hiding places and vehicles, which have been used for transportation of such goods through the customs border of Ukraine and confiscated in accordance with the Court decision – shall be sold, or in cases specified in the legislation – shall be transferred free of charge or shall be destroyed within the time periods established by the Law for the implementation of Court decisions.

Goods, which are quickly perishable or which have the limited storage time period (including goods, which have not complied with the customs rules), confiscated by the customs authorities shall be sold, taking into account the expiration date.

Goods refused by the owner for the benefit of the State shall be sold, and in cases specified in the Legislation – shall be transferred or destroyed within the time periods, specified in the Legislation of Ukraine.

Goods and vehicles specified in paragraphs 1-4 of this Article shall be sold at the customs auctions, commodity exchange or at trading enterprises in accordance with the procedure established by the legislation.

The Cabinet of Ministers of Ukraine shall establish the procedure for disposal of certain types of goods, which are not subject to sale.

#### **Article 175. Organizations of customs auctions.**

The Cabinet of Ministers of Ukraine shall establish the procedure for organization of customs auctions.

Customs duty shall be charged for participation in the customs auctions.

#### **Article 176. Disposal of money, received from the sale of goods and vehicles.**

Money, received from sale of goods, which have not been requested by the owner or by the authorized person before the expiration of the storage time period, specified in Sections 1 and 2, Article 171 of this Code – after withholding of the corresponding customs payments, payment of commission fee to the trading enterprise, which sold such goods, as well as reimbursement of such expenses as storage, evaluation, clearance, transportation, forensic analysis (in case it is need), mailing corresponding notices to the owners – shall be allocated to the bank account of the corresponding customs authority.

In case the goods, which have not complied with the customs rules, are quickly perishable or have limited storage time period are sold before the Court decision – all the money, received as proceeds from the sale shall be allocated as collateral (pledge) in case of confiscation of such goods.

In case the Court shall not adopt a decision regarding confiscation of goods, specified in the second paragraph of this Article, or if such case shall be terminated – money, received as proceeds from the sale of such goods shall be allocated and kept at the bank account of the corresponding customs authority after withholding of the corresponding amounts of customs payments. Expenses, specified in first paragraph of this Article shall not be reimbursed and the commission fee to the trading enterprise shall not be paid.

In case the Court shall adopt a decision only about financial sanction (penalty) – a part of money, received as proceeds from the sale of goods specified in the second paragraph of this Article, may be confiscated as collateral for such sanction.

Money, received as proceeds from the sale of goods and vehicles, confiscated in accordance with the Court decision, as well as from goods, which have been transferred by the owner to the benefit of the State – after the reimbursement of expenses specified in the first paragraph of this Article and payment of the commission fee to the trading enterprise – shall be transferred by the State Customs Service of Ukraine to the State Budget of Ukraine.

The owner of the goods, specified in the first paragraph (and in the corresponding cases – in the second paragraph) of this Article or the authorized person may receive from the customs authority the remaining amount of money, received as proceeds from the sale of such goods within the time period established for the Court claims, and in accordance with the Legislation of Ukraine. In case, specified in the first paragraph of this Article, the

Court claim time period shall be calculated from the date of transfer of goods for storage; and in cases, specified in the third and forth paragraph of this Article – from the date of enforcement of the Court decision. The State Customs Service of Ukraine shall transfer the money, collected not during such time period, to the State Budget of Ukraine. Interest shall not be accrued for keeping the above mentioned money at the bank account of the customs authority.

## **CHAPTER 27. Disposal of Money, Received by the Customs Authority in Accordance with this Code.**

### **Article 177. Disposal of customs fees.**

Customs fees, specified in this Code shall be used for creation of the special fund, which shall be used for financial purposes. Material and technical procurement (support) and development of infrastructure of the customs service system of Ukraine in accordance with the Article 21 of this Code.

### **Article 178. Disposal of other money, received by the customs authorities.**

The State Customs Service of Ukraine transfers the Ukrainian currency and foreign currency confiscated in accordance with the Court decision to the State Budget of Ukraine.

The State Customs Service of Ukraine transfers the money received as proceeds from the sale of securities, precious metals and stones (and its produce), confiscated in accordance with the Court decisions, to the State Budget of Ukraine.

### **Article 179. Disposal of money allocated by the legal entities and physical persons into the bank accounts of the customs authorities or transferred to the customs authorities for storage purposes.**

The Ukrainian currency and the foreign currency allocated by the legal entities into the bank accounts of the customs authorities and as well transferred by the physical persons (citizens) to the customs authorities for storage purposes may be used by the owners of such funds or by the authorized persons for purposes of payment customs duties.

In case the owners of the funds specified in the first paragraph of this Article have not complied with the customs rules – such funds may be confiscated by the customs authorities as collateral for purposes of enforced collection in accordance with the procedure, specified in the Articles 449 and 450 of this Code.

In cases, specified in the first paragraph of this Article, interest shall not be charged for keeping money at the customs authorities' bank accounts.

## **CHAPTER 28. Customs Broker.**

### **Article 180. Customs broker.**

Customs broker (intermediary) – is a company that declares the goods and vehicles, which are moving through the customs border of Ukraine. Such company has a license for engaging into the customs broking activity issued by the State Customs Service of Ukraine. Only a resident company may engage in customs broking activity.

### **Article 181. Procedure for customs broking activity.**

Customs broker shall perform the broking activity in compliance with this Code and the regulations approved by the State Customs Service of Ukraine.

The relationship between the broker and the person represented by such broker shall be governed by the Power of Attorney Agreement.

### **Article 182. License for engaging into the customs broking activity.**

For the purposes of obtaining a license to engage in customs broking activity the enterprise should do the following:

- 1) to sign an agreement for his own activity in the amount of not less than 2 000 nontaxable citizens' incomes;
- 2) to obtain the material and technical equipment that is necessary for engaging into customs broking activity;
- 3) to support the accounting and reporting of transactions with goods that are subject to customs control.

For a person, who have not complied with the customs rules, specified in the Section 2 of Article 396, Articles 407, 409, 419, 420 and 422 of this Code – such license for engaging into the customs broking activity may be issued not earlier than one year after such persons were held liable for such violations.

If the Customs broker violates the procedures for engaging into the customs broking activity (established in accordance with this Code) and if the multiple violations occurred, the State Customs Service of Ukraine may initiate (or may respond to the initiative of the corresponding customs authority) the special sanctions in a way of cancellation of license for the period up to three months or total cancellation of such license. The total cancellation of a license shall also be enforced when the enterprise will fail to submit full data (or submits false data) to the customs authority for the purposes of obtaining a license. The corresponding order shall be provided to the customs broker and shall be signed by such broker (or shall be mailed by the registered letter) and shall become effective from the date of delivery or mailing.

In case of total cancellation of a license for engaging into the customs broking activity, the next application of such enterprise for the license may be reviewed by the State Customs Service of Ukraine not earlier than one year after application of the above mentioned sanction.

Decision on termination and total cancellation of a license for engaging into the customs broking activity may be appealed in accordance with the procedure established by the legislation.

### **Article 183. Rights and duties of the customs broker.**

The customs broker, on behalf of the person he represents, may engage in transactions connected with submission to the customs authority of goods and vehicles and documents for customs clearance.

The customs broker shall be authorized to declare goods and vehicles with any customs authority of Ukraine.

In the process of activities, specified in the first paragraph of this Article the Customs broker shall be liable in the same way, as if such broker independently transfers goods and vehicles through the customs border of Ukraine.

#### **Article 184. State register of the customs brokers.**

The State Customs Service of Ukraine shall keep the State Register of Customs Brokers and shall periodically publish such Register.

#### **Article 185. Declaration expert.**

Direct exercising of the customs broker's activity shall be authorized to the expert, who have signed the labor agreement with the customs broker and who is entitled to the qualification identification and is included into the Register of Declaration Experts. The declaration expert may sign the labor agreement only with one customs broker at a time.

The corresponding customs authority, where the customs broker has been accredited, shall issue the qualification ID. On the basis of such ID and in case of the corresponding assignment from the customs broker, the declaration expert shall be authorized to declare goods and vehicles in any customs authority of Ukraine. The State Customs Service of Ukraine shall introduce the requirements for such experts, procedure for issue, termination and cancellation of the qualification ID.

#### **Article 186. Customs duty charges for the license to engage in customs broking activity and for the qualification ID of a declaration expert.**

Customs duty shall be charged for the license to engage in customs broking activity and for the qualification ID of a declaration expert.

In case of termination or total cancellation of a license to engage in customs broking activity (or declaration expert ID) – payments, specified in the first paragraph of this Article, shall not be reimbursed.

### **CHAPTER 29. Customs Shipment Company.**

#### **Article 187. Customs shipment company.**

Customs shipment company - is an enterprise engaged into the shipment of goods under customs control between the customs authorities without implementation of the guarantee measures, specified in paragraphs 1 and 2 Section 1 Article 163 of this Code. Such company has a license from the State Customs Service of Ukraine to engage into the corresponding activity.

Only a resident enterprise may become a customs shipment company.

This Code and the Regulations approved by the State Customs Service of Ukraine shall regulate the activities of the customs shipment company.

The corresponding agreement between the customs shipment company and the owner of the goods shall regulate such relations.

**Article 188. License to engage into the customs shipment company activity.**

For the purposes of obtaining a license to engage into the customs shipment Company activity the enterprise should do the following:

- 1) to sign the insurance agreement (for such activity) for the amount not less than 2 000 non-taxable citizens' minimum incomes;
- 2) to own the vehicles (transportation facilities) that comply with the requirements established by the State Customs Service of Ukraine;
- 3) to provide for the accounting and reporting on transactions with goods subject to customs control.

A person that have not complied with the customs rules, specified in the Section 2 Article 396, Articles 398, 399, 400, 401, 403, 404, 409, 416, 419 and 422 of this Code - may obtain a license to engage into the customs shipment activity not earlier than one year after he was held liable for such violations.

Customs payment shall be charged for the license to engage into the Customs Shipment Company activity.

In case of non-compliance of the customs shipment company's activity with the procedures established by this Code and in case of multiple violations, the State Customs Service of Ukraine may initiate (or respond to the applications of the corresponding customs authority) a special sanction in a way of termination of corresponding license for the period up to three months or total cancellation of such license. The license to engage in customs shipment activity may also be cancelled in case of submitting of not full or false data for the purposes of obtaining such a license. The corresponding order shall be delivered to the customs shipment company and signed (by its representative) or shall be mailed by the registered mail, and shall become effective from the date of delivery or from the date of mailing.

In case of total cancellation of a license to engage in customs shipment activity, the customs charges (specified in Section 3 of this Article) shall not be reimbursed. The cancellation of the license may be appealed, or application regarding the issue of the new license may be reviewed by the State Customs Service of Ukraine not earlier than one year after the application of the specified sanction.

Decision on termination or total cancellation of such license may be subject to appeal in accordance with the legislation.

**Article 189. State Register of the customs shipment companies.**

The State Customs Service of Ukraine shall maintain the Register of the Customs Shipment Companies and shall periodically publish such Register.

**SECTION VIII.**  
**Customs Regime for Goods and Vehicles which are Moving Through the Customs**  
**Border of Ukraine**

**CHAPTER 30. Basic Concepts.**

**Article 190. Types of customs regime.**

The following type of customs regime shall apply in accordance with the purpose of the movement of goods through the customs border of Ukraine:

- 1) import;
- 2) re-import;
- 3) export;
- 4) re-export;
- 5) transit;
- 6) temporary import (export);
- 7) customs warehouse;
- 8) duty free zone;
- 9) duty free shop;
- 10) processing within the customs territory of Ukraine;
- 11) processing outside the customs territory of Ukraine;
- 12) damaging or destroying;
- 13) transfer for the benefit of the State.

The Customs Regime that is not mentioned above in this Article may be applied only in case of introduction of specific changes into this Code.

**Article 191. Choice and change of the customs regime.**

The Declarant may choose on his own the customs regime for the goods and vehicles, which are transferred through the customs border of Ukraine, in accordance with the purposes of such transfer, and on the basis of documents submitted to the customs authority for the purposes of customs control and clearance.

The customs regime may be changed in case of adherence to all procedures stipulated by the declared regime, legislative requirements on tariff and non-tariff measures and submission to the customs authority of documents (for purposes of customs control and clearance), that verify the declared regime.

**Article 192. Regulation of issues on the application of customs regimes.**

The State Customs Service of Ukraine regulates the issues of customs control in accordance with the declared customs regime and identifies procedures for such control and issues, explanations regarding specific features of applications of the customs procedures.

**CHAPTER 31. Import.**

**Article 193. The notion “import”.**

“Import” means the customs regime of entering of goods into the customs territory of Ukraine for the purposes of free circulation without time limits for such goods’ presence within the country and without any customs limitations for the use of goods.

#### **Article 194. Conditions for importing goods.**

Entering of goods into the customs territory of Ukraine in import regime envisages the following:

- 1) submitting to the Customs authority of documents certifying the purposes and conditions for entering of goods into the customs territory of Ukraine;
- 2) payment of customs duties applied to goods upon entering the customs territory of Ukraine in accordance with Ukrainian legislation;
- 3) compliance with the provisions of the effective legislation with respect to non-tariff regulation and other restrictions.

### **CHAPTER 32. Re-import.**

#### **Article 195. The notion of “re-import”.**

“Re-import” – means the regime when goods originating in Ukraine and transferred outside the customs territory of Ukraine in accordance with the Customs Export Regime, re-enter the customs territory of Ukraine no later than the specified time period for the purposes of free circulation within this territory.

#### **Article 196. Conditions for re-importing goods.**

The goods may be re-imported through the customs border of Ukraine in the following cases:

- 1) such goods originate in the customs territory of Ukraine;
- 2) such goods entered the customs territory of Ukraine not later than one year after exit (export) thereof from the customs territory of Ukraine;
- 3) such goods have not been used outside Ukraine for purposes of gaining profit;
- 4) such goods enter in the same conditions as at the moment of exiting (exportation), except the natural wear or natural losses in case of normal transportation and storage conditions, as well as other cases stipulated by the State Customs Service of Ukraine.

#### **Article 197. Documentation processing during the re-importation of goods.**

Documentation processing for the re-importing of goods may be completed only when these goods (declared for re-import) may be identified with the previously exported goods.

#### **Article 198. Reimbursement of exit (export) duty and other fees during re-import of goods.**

In case of re-import of goods within one year from the date of exportation of such goods – the amounts of the export duties paid during the exportation shall be reimbursed to the owners of such goods or to the authorized persons on the basis of their applications. The

above mentioned amounts shall be returned by the State Treasury Bodies from the State Budget of Ukraine in accordance with the application from the corresponding customs offices.

A person, who re-imports the goods, pays the money received by the exporter as charges or at the cost of other privileges granted during the exit (export) of these goods, as well as the accrued interest on these sums of money, calculated according to the National Bank of Ukraine.

The amounts, which are specified in the paragraph 2 of this Article and interest, shall be transferred by the State Customs Service of Ukraine to the State Budget of Ukraine.

## **CHAPTER 33. Export.**

### **Article 199. The notion “export regime”.**

“Export” - means the customs regime for transferring of goods outside the customs territory of Ukraine for purposes of free circulation without obligatory return of such goods into the country, and without any customs restrictions for the utilization of goods outside Ukraine.

### **Article 200. Conditions for exporting goods.**

Transferring of goods outside the customs territory of Ukraine in export regime envisages the following:

- 1) submission to the Customs authority of documents that certify the purposes and conditions for exportation of goods outside the customs territory of Ukraine;
- 2) payment of customs fees for the export of goods;
- 3) adherence to the provisions of the effective legislation with respect to non-tariff regulation and other restrictions.

## **CHAPTER 34. Re-export.**

### **Article 201. The notion “re-export”.**

“Re-export” is the customs regime when goods originating outside Ukraine are exported from the customs territory of Ukraine in accordance with the customs export regime no later than within the specified time period after the date of entering.

### **Article 202. Conditions for the re-export of goods.**

The goods may be re-exported from the customs territory of Ukraine in the following cases:

- 1) the agency authorized by the Cabinet of Ministers of Ukraine or other agency specified in the international agreement, to which Ukraine is a party, issues a permission for the customs body to re-export goods outside the customs territory of Ukraine;

- 2) such goods are exported on the same conditions as at the moment of entering into the customs territory of Ukraine, except the natural wear or natural losses in case of normal transportation and storage conditions, as well as in other cases specified by the State Customs Service of Ukraine;
- 3) such goods were not used inside Ukraine for the purposes of gaining profit;
- 4) such goods are re-exported outside the customs territory of Ukraine not later than within one year after entrance thereof into the customs territory of Ukraine;

#### **Article 203. Tax exemption of the re-exported goods.**

In case the goods (originating in other countries) are declared to the customs authorities in the re-export regime – the import taxes for the goods shall be paid by way of submitting the ordinary promissory notes to the customs authorities and the actual payment shall be made 90 days after accepting of the tax return.

In case the goods that are re-exported within the above mentioned time period – the promissory notes shall be considered as repaid.

In case the goods that are declared in accordance with the re-export regime are not actually exported within the above mentioned time period – the Customs authority shall submit the promissory notes for payment.

In case the goods that are declared in accordance with the re-export regime are actually exported (within the one year time period) from the customs territory of Ukraine after payment of the promissory notes – the corresponding amounts shall be reimbursed in accordance with the procedures specified in the Article 360 of this Code.

In case of actual re-exportation of the goods the export taxes for such goods shall not be charged.

### **CHAPTER 35. Transit.**

#### **Article 205. The notion “transit”.**

“Transit” is the customs regime when the goods under the customs control are transferred from one customs authority to another (or within the activity zone of the same customs authority) without charging the export or import taxes and without any use of such goods and vehicles within the customs border of Ukraine.

#### **Article 206. Conditions for the transit of the goods and vehicles.**

Transit of goods and vehicles shall comply with the following rules:

- 1) such goods shall stay in the same conditions (shape) except for the normal wear and tear or losses in case of the normal transportation and storage conditions;
- 2) such goods and vehicles shall not be used within the customs border of Ukraine for other purposes than transit.
- 3) in cases, specified in the effective legislation of Ukraine, such goods may be transferred in accordance with the transit permit, issued by the corresponding authorized body;
- 4) in cases, specified by the Cabinet of Ministers of Ukraine, such goods may be transferred in accordance with the established roads and itineraries;

- 5) such goods shall be delivered to the destination customs point within the time period, specified in the effective (in Ukraine) transport rules, for different transportation means, itineraries, distance to the destination point and other transportation conditions.

#### **Article 207. Guarantees for the transit of goods and vehicles.**

In cases, specified in Ukrainian legislation, the customs authority allows the transit of goods and vehicles only in case of availability of the properly equipped transport facilities and application of guarantees, specified in Articles 163 – 167 of this Code.

#### **Article 208. Permission of goods and vehicles for transit.**

The customs authority adopts the decision on permitting the transit of goods and vehicles, provided that necessary documents are available, and the shipment company complies with this Code and other legislative acts of Ukraine.

### **CHAPTER 36. Temporary Importation (Exportation).**

#### **Article 209. The notion “temporary importation (exportation)”.**

“Temporary importation (exportation) customs regime” means the customs regime when goods may be imported into the customs territory of Ukraine or exported outside the customs territory of Ukraine with a conditional full exemption from payment of taxes in accordance with the procedures specified in this Code, and with the obligatory return of this goods without any changes (except for natural wear and tear in case of normal transportation conditions).

#### **Article 210. Conditions for transferring of goods in the temporary importation (exportation) regime.**

Transfer of goods in the temporary importation (exportation) regime envisages the following:

- 1) submitting to the customs authority of documents explaining the purposes of the temporary importation of goods into the customs territory of Ukraine (exportation outside the customs territory of Ukraine);
- 2) submitting to the corresponding customs authority of the obligation regarding the exportation (importation) of such goods within the time periods needed for the temporary importation (exportation). Such time period shall be established by this Code;
- 3) at the request of the customs authority – implementation of guarantees regarding the payment of customs fees in cases specified by the State Customs Service of Ukraine;
- 4) in some cases specified in the effective legislation of Ukraine – to submit to the corresponding customs authority the permit of the corresponding authorized body regarding temporary importation (exportation) of goods.

#### **Article 211. Types of goods that may be permitted for the temporary importation with the conditional full exemption from taxation.**

The permit for the temporary importation into the customs territory of Ukraine with the obligatory exportation back, with the conditional full exemption from payment of import taxes shall be allowed for the following goods:

- goods for purposes for the demonstration or use on the exhibitions, conferences or other corresponding events;
- professional equipment for persons, who arrive into Ukraine for purposes of preparing reports, making records or programs for mass media or making movies;
- containers, packages, copies of the advertisement videos as well as any other goods imported in connection with any commercial transactions but in case such importation is not a commercial transaction;
- goods, imported with the educational, scientific and cultural purposes (scientific and educational equipment, equipment for improvement leisure of the sailors, as well as any other goods imported within the educational scientific and cultural activities);
- personal items of the passengers and goods, which are imported for purposes of sports;
- materials for purposes of advertisement and tourism;
- transportation facilities, which are used exclusively for purposes of movement of passengers and goods across the customs border of Ukraine.

#### **Article 212. Permission of goods for temporary importation (exportation) regime.**

The corresponding customs authority, in accordance with the procedure established by the State Customs Service of Ukraine, shall adopt a decision permitting the temporary importation (exportation) of goods.

The customs authority shall not allow the transfer of goods in the temporary importation (exportation) regime, if there is no possibility to properly identify such goods, and if there is no guarantee of returning such goods.

The Cabinet of Minister of Ukraine may establish conditions for the application of the above mentioned regime, as well as list of the goods not allowed for the temporary importation (exportation) regime through the customs border of Ukraine.

#### **Article 213. Time limits for temporary importation (exportation) of goods.**

The total time period for the temporary importation (exportation) of goods is one year.

Taking into account the purposes of importation (exportation) of goods and other circumstances, the State Customs Service of Ukraine may extend the time period specified in the first paragraph of this Article.

#### **Article 214. Exemption from tax payments during the temporary importation (exportation) of goods.**

Goods, which are temporary imported into the customs territory of Ukraine or temporary exported outside the customs territory of Ukraine shall not be subject to the corresponding import (export) taxes except the cases, specified in this Code.

**Article 215. Disposition of goods after the expiration of the temporary importation (exportation) time period.**

Before the temporary importation (exportation) time period expires, the person, who provided an obligation regarding the exportation (importation) back of the goods temporarily imported (exported), shall do the following:

- 1) export (import) these goods in accordance with the obligation provided to the customs authority, or
- 2) apply for changing the customs regime of such goods, which is allowed in compliance with the provisions of this Code and other legislative acts of Ukraine.

**Article 216. Guarantees regarding the temporary imported (exported) goods.**

In case of the temporary importation (exportation) of certain types of goods or in certain cases, specified by the State Customs Service of Ukraine – the customs authorities shall perform the customs clearance of temporary imported (exported) goods, if the temporary importation (exportation) regime is guaranteed in a way of transferring of the deposit into the Customs Service bank account in the amount, which equals the customs duty charges (in case such goods are imported (exported) in the import (export) regime).

**CHAPTER 37. Customs Warehouse.**

**Article 217. The notion “customs warehouse”.**

“Customs warehouse” is the customs regime, when goods, which are imported outside the customs territory of Ukraine, are stored under the customs control without charging the customs duties, except the customs clearance payment, and without the application of non-tariff regulation measures and other limitations during the storage period, and the goods, which are exported outside the customs territory of Ukraine, are stored after the customs clearance under the customs control until actual exportation outside the customs territory of Ukraine.

**Article 218. Conditions for the transfer of goods in a customs warehouse regime.**

Goods may be transferred into the customs warehouse regime except for goods, which are forbidden for importation into Ukraine, exportation outside Ukraine and transit through the territory of Ukraine, as well as goods specified in the list of the State Customs Service of Ukraine.

The goods, which may damage other goods or which need some special storage conditions, shall be stored in the specially equipped premises.

**Article 219. Time period for the storage of goods in the customs warehouse regime.**

The time period for the storage of goods, which are imported from the customs territory of Ukraine in the customs warehouse regime, shall not exceed three years from the date the corresponding regime for goods was introduced.

The time period for the storage of excisable goods (imported outside the customs territory of Ukraine) in the customs warehouse regime shall not exceed three month from the date such regime was introduced.

Goods imported outside the customs territory of Ukraine and stored in the customs warehouse regime – before the expiration of the storage time period established in the paragraphs 1 and 2 of this Article - shall be declared by the owner or by the authorized person for purposes of another customs regime.

Goods exported outside the customs territory may be stored in the customs licensed warehouse regime up to three month. Before the expiration of the above mentioned time period, such goods shall be exported outside the customs territory of Ukraine.

#### **Article 220. Transactions with goods in the customs warehouse regime.**

The following transactions may be performed with goods in the customs warehouse regime:

- 1) transactions which are needed for the purposes of storage of such goods;
- 2) preparation of goods (in accordance with the permission from the customs authority) for sale and transportation: distribution of shipment, formatting of shipment, sorting out, packaging, repackaging, marking, loading, unloading, reloading and other similar transactions.

The Customs Service of Ukraine shall establish a specific list and a procedure for performing such transactions.

#### **Article 221. Customs licensed warehouses and the types of such warehouses.**

Goods in the customs warehouse regime shall be stored by way of using the specialized and equipped premises, reservoir, lot and so on – customs licensed warehouse.

Depending on the owners of the customs licensed warehouses, there are the following types of the customs licensed warehouses:

- 1) open warehouses – for the storage of goods owned by any persons;
- 2) sheltered warehouses – for the storage of goods, which belong to the owners of such warehouses.

#### **Article 222. Owners of the licensed customs warehouses.**

Only the resident enterprises may be the owners of the licensed customs warehouses.

#### **Article 223. License to open and operate the licensed customs warehouse.**

For the purposes of obtaining a license to open and operate the licensed customs warehouse, the enterprise is obliged to do the following;

- 1) to sign the insurance agreement for his own activity in the amount not less than 2000 non-taxable citizens' minimum income;

- 2) to own the premises, reservoirs or lots, which correspond to the requirements established by the State Customs Service of Ukraine;
- 3) to provide the proper accounting and reporting on transactions with goods, which are subject to customs control.

An obligatory condition for obtaining a license to open and operate the licensed customs warehouse of the open type – to obtain a license for performing of the customs broking activity.

If the enterprise violated the customs rules, specified in the second paragraph of Article 396, Articles 398, 403, 404, 407, 409, 410, 418, 419, 420, 421, 422 of this Code - the license to open and operate the license customs warehouse may be issued not earlier than one year after the date of introducing the liability measures for such violations.

The State Customs Service of Ukraine shall establish the procedure for issuing, termination, re-establishing and cancellation of the license to open and operate the licensed customs warehouse.

Customs duty is charged for issuing of the license to open and operate the licensed customs warehouse.

If the owner of the licensed customs warehouse violates the procedure for opening and operating the licensed customs warehouse (established in accordance with this Code), as well as in case of repeated violations – the State Customs Service of Ukraine may initiate (or may respond to the application of the customs authorities) a special sanction to the owner of such warehouse in a way of termination of the license (to open and operate the licensed customs warehouse) up to three months or cancellation of such license. The license may be cancelled if the enterprise submitted the non-complete or false data, which are imported for allowing of such license. The order on application of the special sanction shall be handed to the owner of the licensed customs warehouse and signed by such owner, or shall be mailed by the registered mail. Such sanctions shall become effective from the date of delivering or mailing.

In case of cancellation of the license to open or operate the licensed customs warehouse the custom duty specified in paragraphs 4 and 5 shall not be reimbursed. The next application for issuing such license or application regarding other license issued by the State Customs Service of Ukraine may be reviewed at least one year after the application of the above mentioned sanction.

Decisions on termination of the license to open and operate the licensed customs warehouse and on the cancellation of such license may be appealed in accordance with the procedure established by the legislation.

The State Customs Service of Ukraine shall maintain the Register of the Licensed Customs Warehouses and shall periodically publish such Register.

#### **Article 224. Requests to the licensed customs warehouses.**

For the purposes of a licensed customs warehouse may be used the premises, reservoirs, lots, which are protected from each side and equipped with the alarm system and at least two support (identification) systems (one support system shall be located in the customs authority).

A licensed customs warehouse shall be properly equipped with the working place for the customs official, who controls the activities of such warehouse, and also with the equipped point for customs controls transactions, especially review of goods, which are under customs warehouse regime.

The State Customs Service of Ukraine established conditions for location of the licensed customs warehouses in different towns (locations).

Goods, which are imported from the customs territory of Ukraine and goods, which are exported outside the customs territory of Ukraine, shall be separately stored at the licensed customs warehouse.

The territory of the licensed customs warehouse, as well as other territory, which is necessary for providing a proper storage conditions for goods at the licensed customs warehouse – is the customs control zone.

For purposes of avoiding transportation facility delays, as well as for purposes of creating proper conditions for performing of customs control and processing the transfer of goods into the Customs Warehouse Regime – shall be allowed the activities of the temporary storage warehouse in the same customs control Zone in case such Warehouses belong to the same owner.

#### **Article 225. Duties of the owner of a licensed customs warehouse.**

Owner of the licensed customs warehouse shall have the following duties:

- 1) to comply with the provisions of this Code and to comply with the request of the customs authorities with the respect to opening and operation of the licensed customs warehouse;
- 2) to exclude the possibilities to storage at the licensed warehouse and withdrawal from the licensed customs warehouse of goods without proper customs control;
- 3) to assist in the performance of the customs control at the licensed customs warehouse;
- 4) to provide the uninterrupted access of customs service officials to the goods at the licensed customs warehouse, as well as to the corresponding documentation;
- 5) to provide free of charge to the customs officials (who are performing the customs control at the license customs warehouse) – the premises, equipment and communication facilities for purposes of customs control and customs clearance;
- 6) to maintain the accounting of goods at the licensed customs warehouse and to submit monthly report to the customs authorities on such goods, in accordance with the form and procedure established by the State Customs Service of Ukraine;
- 7) to provide timely and fully the declaration of goods which are brought in and withdrawn from the licensed customs warehouse, and to provide all necessary documents to the customs service office;
- 8) to provide timely payment of all proper customs duties (fees) to the customs authority.

#### **Article 226. Liquidation of the licensed customs warehouse.**

The licensed customs warehouse shall be liquidated in the following cases:

- 1) in connection with the expiration of the license or cancellation of the license to open and operate the licensed customs warehouse;
- 2) in accordance with the application of the owner of the warehouse.

In case of the liquidation of the licensed customs warehouse, the goods shall not be allowed to be brought in into the licensed customs warehouse. Goods shall be withdrawn from the licensed customs warehouse in accordance with the provisions of this Code.

#### **Article 227. Special incidents of storage goods at the licensed customs warehouse.**

Customs duties shall be charged for the storage goods under customs control at the licensed customs warehouse within the time period of termination of the effective license. After the re-establishment of the effective license the above-mentioned Customs payments shall not be reimbursed.

In case of the liquidation of the licensed customs warehouse the stored goods may be transferred under customs control to another licensed customs warehouse, or such goods may be submitted for purposes of customs clearance into another customs regime.

The customs duty shall be charged for the storage of goods under customs control at the licensed customs warehouse after the liquidation of such warehouse. The corresponding time period for such storage shall be established in accordance with the rules specified in Article 112 of this Code.

### **CHAPTER 38. free customs zone.**

#### **Article 228. The notion “free customs zone as a customs regime”.**

“Free customs zone” means such customs regime, when goods, which are imported into the territory of the corresponding special (free) economic zone from the customs territory of Ukraine, as well as goods exported from the territories of the above mentioned zone s outside the customs territory of Ukraine – shall not be subject to tariff and non-tariff regulations measures.

#### **Article 229. Free customs zones.**

Free customs zones are the parts of the territory of Ukraine, where the customs regime of free customs zone is introduced. For the purposes of taxation, the goods imported into the free customs zones shall be treated as such, as located outside the customs territory of Ukraine.

Free customs zones shall be created in accordance with the effective legislation of Ukraine on special (free) economic zones by way of adopting a separate law for each free economic zone, which identifies the status, territory and time period of such zone and specific features of the application of the legislation of Ukraine on such territory. The law shall establish the requests with respect to creation of free customs zone, types of goods, allowed to such zone and types of transactions performed with the goods within the zone. The law shall also identify the requests regarding the organization of functioning of the free customs zone and duties of the administration of such zone with respect to compliance with the customs legislation provisions during the customs control.

**Article 230. Conditions for taxation and transferring of goods across the border of the free customs zone.**

The following taxation rules shall be established for importation (exportation) of goods in the (international trade) free zones:

- 1) in case of importation of goods (except excisable goods) from the customs territory of Ukraine into the territory of International trade free zone – the value added tax and the excise tax shall not be charged;
- 2) in case of importation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of International trade free zone) into the customs territory of Ukraine – the same taxation procedure shall apply as in case of importation of goods into Ukraine in accordance with the legislation of Ukraine;
- 3) in case of exportation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of International trade free zone) outside the customs territory of Ukraine – the export duty, the value added tax and the excise tax shall not be charged;
- 4) in case of exportation of goods (except excisable goods) from the customs territory of Ukraine into the territory of International trade free zone – the export duty and the excise tax shall not be charged, and the value added tax shall be charged at a zero rate;
- 5) in case of exportation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of International trade free zone) outside the customs territory of Ukraine – the export duty shall be charged in the same way as in case of regular exportation of goods, and value added tax and the excise tax shall not be charged;
- 6) in case of exportation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of International trade free zone) into the customs territory of Ukraine – the export duty shall not be charged, and value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine, as for the purposes of importation of goods.

The following taxation rules shall be established for importation (exportation) of goods in other types of free zones (except the International trade free zones):

- 1) in case of importation of goods (except excisable goods) from the customs territory of Ukraine into the territory of free zone – the export duty shall not be charged, and the value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine, as for the purposes of importation of goods;
- 2) in case of importation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of free zone) into the customs territory of Ukraine – the export duty shall be charged, and the value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine, as for the purposes of exportation of goods;
- 3) in case of exportation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of International trade free zone) into the customs territory of Ukraine – the value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine. The export duty shall not be charged;
- 4) in case of exportation of goods (produced in the Free Zone) from such free zone outside the customs territory of Ukraine – the export duty shall not be charged. The

value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine;

5) in case of exportation of goods from the customs territory of Ukraine into the territory of free zone – the export duty shall not be charged, the value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine;

6) in case of exportation of goods from such zone (which were previously imported from the customs territory of Ukraine into the territory of Free Zone) into the customs territory of Ukraine – the export duty shall not be charged, the value added tax and the excise tax shall be charged in accordance with the legislation of Ukraine, as for the purposes of exportation of goods.

#### **Article 231. Requirements to free customs zones.**

For the purposes of proper organization of customs control, the corresponding customs authority may request the following from the administration of the free customs zone:

- 1) to build the fence around the zone;
- 2) to introduce limitations with respect to access to such zone during the certain hours;
- 3) to introduce other measures in accordance with the law on such zone, which are not preventing the normal operation of the zone.

Any construction without the preliminary agreement with the corresponding customs authority shall not be allowed.

#### **Article 232. Customs authority measures for purposes of customs control in free customs zones.**

For the purposes of customs control at the free customs zones, the customs authorities shall be authorized to do the following:

- 1) to perform permanent control and monitoring over the free customs zones borders, as well as over the access into such zone;
- 2) to request proper accounting of the transferring of goods (for purposes of control) from the persons who transfer goods across the free customs zone border;
- 3) to audit the goods transferred across the free customs zone border for the purposes of compliance with this Code and to avoid the transfer of forbidden goods;
- 4) to audit goods in the free customs zones at any time;
- 5) to perform other measures for the purposes of ensuring security of the customs control.

#### **Article 233. Transactions, which are allowed in the free customs zones.**

Production and other commercial transactions with goods are allowed in free customs zones in compliance with the provisions of this Code, except retail sale of such goods. The law on each free customs zone shall list the types of goods and types of transactions with these goods.

For purposes of compliance with the legislation, and taking into account the types of goods – certain limitations and restrictions may be introduced for the transactions with goods in

the free customs zones. The Cabinet of Ministers of Ukraine shall establish such limitations and restrictions with respect to activities in the free customs zones.

The customs authorities may forbid certain persons from performing transactions with goods in the free customs zones, if such persons do not adhere to the provisions of this Code and other legislative acts of Ukraine. Customs authorities may also refuse such persons in access to the free customs zones.

The Cabinet of Ministers of Ukraine may restrict or forbid the importation of certain goods into the free customs zones.

#### **Article 234. Time periods for keeping goods in the free customs zones.**

The goods may be stored in the free customs zones for whole period of operation of such zones.

#### **Article 235. Accounting of goods in the free customs zones.**

The persons (who perform transactions with goods in free customs zone) shall maintain the accounting of goods which are imported, exported, stored, produced, processed, purchased and sold, and shall submit to the customs authority the reports on such transactions in accordance with the procedure established by the State Customs Service of Ukraine. Any changes with the goods within the free customs zones shall be reflected in the accounting documents.

#### **Article 236. Application of the non-tariff regulations measures during the movement of goods through the borders of the free customs zones.**

Foreign goods imported into the free customs zones from the customs territory of Ukraine for the purposes of final consumption in such zones shall not be subject to non-tariff regulations measures, except cases established in the legislation of Ukraine.

Transfer of goods from the customs territory of Ukraine into the free customs zones shall be made in accordance with the export regime including application of the corresponding non-tariff measures.

In case of importation from free customs zones into the customs territory of Ukraine of goods originating in such zones – the non-tariff regulation measures shall not apply. For all other goods - the non-tariff regulation measures shall apply in accordance with the general procedure and in accordance with the declared customs regime.

The law on free customs zones shall establish other conditions for transfer of goods across the borders of the free customs zones.

#### **Article 237. Liquidation of the free customs zone.**

In case of liquidation of the free customs zone, the owner of goods (located in such zone) or the corresponding authorized persons shall be obliged to use the above mentioned goods until all issues connected with the liquidation of the free customs zone are resolved.

If the owner or the authorized person did not use the above mentioned goods before the all issues connected with the liquidation of free customs zones were resolved– such goods shall be declared for another customs regime.

## **CHAPTER 39. Duty Free Shop.**

### **Article 238. The notion “duty free shop”.**

“Duty free shop” means the customs regime when the goods (that are not going to be consumed in the customs territory of Ukraine) are imported into the customs control zones of the international airports and sea ports without payment of export and import taxes for such goods and without application of the non-tariff regulation measures. Such goods are sold in the above-mentioned zones under the customs control.

### **Article 239. Conditions for sale of goods in the duty free shop regime.**

The goods within the duty free regime shall be sold only in the special shops (duty free shops). The State Customs Service of Ukraine in agreement with the State Committee on Protection of the State Border of Ukraine shall issue the corresponding license to open and operate such shops. The Cabinet of Ministers of Ukraine shall establish the procedure for purposes of opening the duty free shops.

Duty free shops shall be so located, and shall have such conditions for sale, as avoiding the goods to be directly brought in into the customs territory of Ukraine.

The premises of the duty free shop shall include the following:

- 1) hall for sale, including bars and public catering points;
- 2) additional technical premises;
- 3) warehouse.

The goods may be stored within the duty free shop regime for the period up to three months. After the expiration of such regime or during such regime the goods may be declared to the customs authority for the following purposes:

- 1) for purposes of the free circulation within the customs territory of Ukraine;
- 2) for purposes of free circulation outside the customs territory of Ukraine;
- 3) for purposes of transfer into the customs warehouse regime;
- 4) for purposes of destruction under the customs control.

The State Customs Service of Ukraine shall identify the procedure for customs clearance and declaration of goods, which are transferred to the duty free shop and sold in such shop.

The Cabinet of Ministers of Ukraine shall establish the procedure for the sale of goods in the duty free shops.

### **Article 240. License to open and operate the duty free shop.**

The State Customs Service of Ukraine in agreement with the State Committee on Protection of the State Customs Border of Ukraine shall establish the procedure for issuing, termination, re-establishing and cancellation of the license to open and operate the duty free shop.

The customs duty shall be charged for issuing a license to open and operate the duty free shop.

If a person has violated the customs rules, specified in the second paragraph of Article 396, Articles 398, 403, 404, 407, 409, 410, 413, 418, 419, 420, 421, 422 of this Code - the license to open and operate the duty free shop may be issued not earlier than one year from the date of introducing the liability measures for such violations.

In case the owner of duty free shop violates the procedure for opening and operating the duty free shop (established in accordance with this Code), as well as in case of repeated violations – the State Customs Service of Ukraine may initiate (or may respond to the application of the customs authorities) the special sanction in relation to the owner of such duty free shop by way of termination of the license (to open and operate the duty free shop) for the period up to three months, or cancellation of such license. The license may also be cancelled, if the person submitted the non-complete or false data, which are important for issuing of such license. The order on the application of the special sanction shall be handed to the owner of the duty free shop and signed by such owner or shall be mailed by the registered mail. Such sanctions shall become effective from the date of delivering or mailing.

In case of termination of the license to open and operate the duty free shop – transfer of the new shipment of goods and sale of the goods shall not be allowed. All goods in such duty free shop should be immediately transferred into the warehouse of the duty free shop.

In case of cancellation of the license to open and operate the duty free shop, the custom duty specified in paragraph 2 shall not be reimbursed. The next application with respect of issuing such license or application regarding other license issued by the State Customs Service of Ukraine may be reviewed at least after one year from the application of the above mentioned sanction.

Decisions on termination of the license to open and operate the duty free shop and on cancellation of such license may be appealed in accordance with the procedure established by the legislation.

The State Customs Service of Ukraine shall maintain the Register of the duty free shops and shall periodically publish such Register.

#### **Article 241. Requirements to the owners of the duty free shops.**

Only resident enterprise may become an owner of the duty free shop.

The owner of the duty free shop shall be obliged to do the following:

- 1) to declare on time to the customs authority the goods, which are brought in into the shop or taken out from the shop and submit all the necessary the documents for purposes of customs control and customs clearance;
- 2) to exclude the possibility the brining in into the shop and taking out from the shop of the goods without customs control;
- 3) to comply with the provisions of this Code and other legislative acts of Ukraine on the activities of the duty free shops;

- 4) to maintain accounting of goods, which are brought in and sold by the duty free shop, and to submit to the corresponding customs authority the report on goods flow in the shop in accordance with the form established by the State Customs Service of Ukraine.

#### **Article 242. Liquidation of the duty free shop.**

Duty free shop shall be liquidated according to the following:

- 1) after the expiry of license or cancellation of license to open and operate the duty free shop;
- 2) in accordance with the application of the shop owner.

The State Customs Service of Ukraine shall establish the procedure for the liquidation of the duty free shop.

After the decision on liquidation of duty free shop becomes effective, the transfer of new shipment of goods, as well as sale of goods in the shop, shall not be allowed. The goods in the duty free shop shall be immediately transferred to the warehouse of the shop and shall be declared for another customs regime by the owner of the shop.

Customs duty shall be charged for storage of the goods (under the customs control) at the liquidated duty free shop from the date, when the decision on liquidation of the shop becomes effective.

Rules, specified in the Article 112 of this Code, shall establish the time period for the storage of goods under customs control at the liquidated duty free shop.

### **CHAPTER 40. Processing at the Customs Territory of Ukraine.**

#### **Article 243. The customs regime of processing at the customs territory of Ukraine**

Processing at the customs territory of Ukraine is the customs regime, when goods originating in other countries are imported and processed in the customs territory of Ukraine (in accordance with the established procedure) without application of the non-tariff regulation measures, provided that the products of processing are exported outside the customs territory of Ukraine in accordance with the export customs regime.

#### **Article 244. Permit to process goods at the customs territory of Ukraine**

The importation and processing within the customs territory of Ukraine of goods originating in other countries shall be made in accordance with the customs authority permit.

Such permit may be cancelled by the customs authority in case this permit has been issued on the grounds of not full or false data (which were substantially imported during adopting of such decision) or in case the resident enterprise (which obtained such permit) is not complying with the provisions of this Code and other legislative acts of Ukraine.

## **Article 245. Transactions with respect to the processing of goods**

Number of transactions with respect to processing of goods within the processing customs regime shall not be limited.

Transactions with respect to processing the goods may include the following:

- 1) general processing of the goods;
- 2) re-processing of the goods – assembling, putting together, adjusting and receiving other goods as a result of such activities;
- 3) repair of the goods, including rehabilitation and adjusting;
- 4) use of certain goods, which are not results of processing but which improve the processing (in case such goods are fully depleted during such process).

This Code and other legislative acts of Ukraine shall establish restrictions for certain transactions on processing of goods and procedure for processing of goods (including the possibility and conditions for using Ukrainian goods in the processing).

Other enterprises may perform certain transactions on processing the goods on behalf of the resident enterprise, which obtain the permit for processing the goods within the customs territory of Ukraine (in case the customs authority shall allow such activities). In such case the enterprise, which obtained the proper permit shall be liable to the customs authority for compliance with the established procedure for processing of the goods.

In case conditions for processing of the goods within the customs territory of Ukraine envisages performance of some transactions by the different enterprises – each of such enterprise shall obtain the permit of customs authority for processing of the goods within the customs territory of Ukraine. Transfer of goods between such enterprises shall be made in accordance with the permission and under control of the customs authorities.

## **Article 246. Time periods for processing of the goods within the customs territory of Ukraine**

Time period for processing of the goods within the customs territory of Ukraine shall be calculated starting from the day of finalization of the customs clearance of the goods (imported for processing) by the customs authority.

The customs authority shall establish the time period for processing of the goods at the customs territory of Ukraine during the issues of permit to the resident enterprise, taking into account the time period which is necessary for the processing of the goods and use of the ready made product (but as a rule not more than 90 days).

In certain cases the Cabinet of Ministers of Ukraine may respond to the application of the Ministry of Economy of Ukraine and establish longer time periods for processing of the goods.

## **Article 247. Audit of the customs authority of compliance with the processing regime within the customs territory of Ukraine**

At any time the customs authority may audit the goods, which are imported for purposes of processing within the customs territory of Ukraine, as well as the products of such processing.

#### **Article 248. The amount of processed products**

The customs authority shall control the amount of processed products after the processing of goods within the customs territory of Ukraine. Such data shall be reflected in the contract for processing of goods within the customs territory of Ukraine.

#### **Article 249. Payment of taxes and reimbursement of taxes**

Import taxes for the goods, which are brought in into the customs territory of Ukraine within the processing regime – shall be paid in away of issuing to the customs authority of the regular promissory notes with the deferred payment for 90 calendar days from submitting of the customs return. The Cabinet of Ministers of Ukraine may extend such period.

In case the processed products are not exported within the above specified time period – the customs authority shall request payment of the promissory note.

#### **Article 250. Tax exemption of the processed products**

In case of exportation outside the customs territory of Ukraine of the goods imported into Ukraine within the processing regime – the foreign goods and processed products shall not be subject to export taxes and non-tariff regulations measures.

#### **Article 251. Procedure for customs clearance of the processed products.**

In case of exportation outside the customs territory of Ukraine of the goods (imported for processing within the customs territory of Ukraine) or the processed products – such goods shall be declared in the customs declaration, which shall specify the number and the value of Ukrainian goods used for processing of the above mentioned goods.

Ukrainian goods, which were used in the processing of foreign goods shall be cleared through the customs in accordance with the procedure established by this Code and other legislative acts of Ukraine on the customs clearance of Ukrainian goods' exports.

#### **Article 252. Conditions for the sale of the processed products within the customs territory of Ukraine.**

If the processing of foreign goods within the customs territory of Ukraine includes payment in a form of portion of processed products – such products shall be processed within the import customs regime and shall be subject to all corresponding customs charges and non-tariff regulation measures.

## **CHAPTER 41. Processing outside the Customs Territory of Ukraine.**

### **Article 253. “Processing outside the customs territory of Ukraine” as a customs regime**

Processing outside the customs territory of Ukraine means such customs regime, when the goods (in free circulation within the customs territory of Ukraine) are exported without application of tariff and non-tariff regulation measures, for purposes of processing or repair outside the customs territory of Ukraine, and such goods shall be returned into Ukraine.

### **Article 254. Transactions with respect to processing of goods outside the customs territory of Ukraine**

During the processing of the goods outside the customs territory of Ukraine, the transactions specified in the second paragraph of the Article 245 of this Code, may be performed.

The laws of Ukraine may establish restrictions with respect to certain transactions on the processing of goods outside the customs territory of Ukraine.

### **Article 255. Permit to export goods for processing outside the customs territory of Ukraine**

The customs authority is authorized to allow exportation of goods for the purposes of processing outside the customs territory of Ukraine.

The customs authority may cancel such permit in case it has been issued on the basis of incomplete or inaccurate information substantially important for the issuance of such permit, or in case the resident enterprise (which obtained such permit) does not adhere to the provisions of this Code and other legislative acts of Ukraine.

### **Article 256. Time period for processing of goods outside the customs territory of Ukraine**

Time period of the processing of goods outside the customs territory of Ukraine shall be calculated from the day of completion of the customs clearance of goods, which are exported for processing.

The customs authority shall establish such time period during the issuance of the permit to the resident enterprise, taking into account the time period needed for the processing of goods (but, as a rule, not more than 90 days).

In certain cases the Cabinet of Ministers of Ukraine, on the application of the Ministry of Economy of Ukraine, may establish the longer time periods for the processing of goods.

### **Article 257. The amount of processed products.**

The customs authority shall control the amount of processed products after the processing of goods outside the customs territory of Ukraine is completed. Such data shall be reflected in the contract on the processing of goods outside the customs territory of Ukraine.

#### **Article 258. Procedure for the customs clearance and payment of taxes.**

In case of importation into the customs territory of Ukraine of goods, exported from the customs territory of Ukraine for processing, or the processed products – such goods shall be declared in the customs declaration, which shall specify the foreign goods used for processing of the above mentioned goods.

Import taxes for the goods, which are brought in into the customs territory of Ukraine, shall be paid in accordance with the value of the processed products.

#### **Article 259. Tax exemptions**

In case of importation into the customs territory of Ukraine of the processed products – such products shall not be subject to import taxes, if there are documented proof that such goods were exported for purposes of repair and repair was free of cost (on the grounds of the agreement, guarantee or other obligations).

#### **Article 260. Payment of customs duty in case of exportation of the goods for processing**

The goods, which are exported outside the customs territory of Ukraine for the purposes of processing, shall be subject to export taxes, which shall be reimbursed after the importation of the processed products into the customs territory of Ukraine. Such taxes shall be reimbursed in accordance with the procedure established in the Article 360 of this Code.

### **CHAPTER 42. Destroying or Extermination.**

#### **Article 261. Destroying or extermination as a customs regime.**

Destroying or extermination - means the customs regime when goods imported into the customs territory of Ukraine are destroyed, or transferred into conditions, when the usage of such goods becomes impossible, under the customs control without charging any import taxes and without application of the non-tariff regulation measures.

Destroying or extermination of goods shall be allowed on the grounds of the written permit issued by the customs authority on the basis of the permits from other government bodies, authorized to control the movement of goods across the customs border of Ukraine. The customs authority shall not issue such permit in case the destruction of the goods may damage the environment, as well as in other cases, specified by the State Customs Service of Ukraine together with other government bodies authorized to control the movement of goods across the Customs Border of Ukraine.

#### **Article 262. Expenses for extermination of goods**

The goods shall be exterminated or destructed at the expense of the owner or other interested person.

#### **Article 263. The waste (residues) resulting from extermination or destroying of the goods**

The waste (residues) resulting from the extermination or destroying of the goods shall be allocated into the corresponding customs regime as goods, imported into the customs territory of Ukraine and staying under the customs control.

#### **CHAPTER 43. Refusal for the Benefit of the State.**

##### **Article 264. Refusal for the benefit of the State as a customs regime.**

Refusal for the benefit of the State – means such customs regime, when the owner of the goods refuses from the goods, which are under customs control, without any benefit for himself. Within such regime the customs duties and non-tariff regulation measures shall not be accrued and paid.

The customs authority shall be authorized to allow the refusal from the goods and the State Customs Service of Ukraine shall establish the procedure for refusal from the goods for the benefit of the State.

The Cabinet of Ministers of Ukraine shall establish the list of goods, which may not be included into the customs regime of refusal for the benefit of the State.

### **PART IX**

#### **Specific Features of the Movement and Taxation of Goods Moved Through the Customs Border of Ukraine by the Citizens.**

#### **CHAPTER 44. General Concepts.**

##### **Article 265. Procedure for the transportation of goods across the customs border of Ukraine by the citizens**

If the provisions of this Code and other legislative acts of Ukraine were observed, the citizens may transfer across the customs border of Ukraine any goods except for the goods, which are forbidden for importation into Ukraine and exportation from Ukraine, as well as goods, which are subject to foreign economic restrictions (in accordance with the legislation of Ukraine).

##### **Article 266. Conditions for mailing goods by the citizens in the international postal consignment**

In accordance with the Procedure established in the Articles 154 – 155 of this Code, the citizens can mail the goods in the international postal consignment, except for the goods, which are forbidden.

This Code and other legislative acts of Ukraine shall establish the restrictions on the number and value of goods, as well as the list of goods forbidden for mailing in the international postal consignment.

##### **Article 267. Calculation of the value of goods mailed by the citizens across the customs border of Ukraine for purposes of accruing of the customs duties**

Customs value of the goods, which are mailed by the individuals across the customs border of Ukraine, for purposes of accruing of the customs duties, shall be calculated on the grounds of the application by the owner (or authorized person), if the certifying documents (cash register receipts, price tags and so on) were provided, which may be identified with the available goods. For determination of the customs value of goods transferred in an unaccompanied luggage, the value of insurance and freight shall be added to the value of the goods preceding their crossing of the customs border of Ukraine.

If such certifying documents are not available, or there are reasonable doubts with respect to the truthfulness of the declared value – the customs authorities shall independently determine the customs value on the basis of customs value of identical or similar goods.

#### **CHAPTER 45. Clearance and Taxation of Goods that are being taken by the Citizens outside the Customs Territory of Ukraine.**

##### **Article 268. Requirements concerning the importation of goods outside the customs territory of Ukraine by the citizens.**

Goods are imported outside the customs territory of Ukraine by the citizens in accordance with procedures and requirements established by legislation of Ukraine for the enterprises.

Part one of this Article does not apply to:

- 1) goods that are exported (shipped) in connection with one's leaving Ukraine to reside permanently outside the country;
- 2) goods that are a part of inheritance available in Ukraine for the benefit of a non-resident citizen, on condition that the inheritance items are verified by the agencies that perform notary services, and provided that the state duty is paid;
- 3) goods that are temporarily exported (shipped) outside the customs territory of Ukraine under a written pledge to return such goods;
- 4) goods that were temporarily imported (shipped) into the customs territory of Ukraine under a written pledge to bring such goods back, which must be supported by necessary documents;
- 5) goods received by nonresident citizens as awards or prizes for participation in contests, competitions and festivals held in the territory of Ukraine, which is supported by necessary documents;
- 6) goods for personal use, including items needed for preliminary settlement, acquired in Ukraine by nonresident citizens who enjoy privileges under international agreements of Ukraine, that are taken (shipped) by such citizens in connection with their leaving Ukraine for good;
- 7) goods acquired by non-resident citizens in the territory of Ukraine, provided that total value of such goods does not exceed the amount of foreign currency that such citizens had at the time of entry in Ukraine, on condition that necessary documents are provided;
- 8) goods for personal use that are taken (shipped) by non-resident citizens who leave Ukraine for permanent residence abroad.

#### **CHAPTER 46. Passage and Taxation of Goods that are Brought by the Citizens into the Customs Territory of Ukraine.**

##### **Article 269. Requirements regarding the citizen's bringing of goods into the customs territory of Ukraine.**

Goods that are taken by the citizens into the customs territory of Ukraine are subject to taxation according to the procedures established for enterprises and on terms established by the legislation of Ukraine.

Part one of this Article does not apply to:

- goods of the aggregate value not exceeding the equivalent of 100 US dollars;
- goods for personal use that are temporarily imported (shipped) by nonresident citizens into the customs territory of Ukraine under a written pledge to export such goods;
- goods that are imported (shipped), when the citizens move into Ukraine for permanent residence;
- goods that are imported (shipped) by citizens who enjoy privileges under the international agreements of Ukraine;
- goods that are imported (shipped) by citizens, and are a part of inheritance made available outside of the customs territory of Ukraine for the benefit of a resident, provided there is a proof of the inheritance provided by agencies that perform notary services in the country in which the inheritance is executed. The said proof must be legally verified by the consulate agencies of Ukraine that operate in the respective country;
- goods, received by the resident citizens as awards and prizes at contests, tournaments, festivals outside the customs territory of Ukraine, provided there is a documentary proof of the fact of award, verified by a consulate agency of Ukraine in the respective country;
- goods that have been previously exported (shipped) by the citizens outside the customs border of Ukraine under a written pledge to bring such goods back, and that are being imported (shipped) back into the customs territory of Ukraine, provided that the corresponding export customs declaration is available.

**Article 270. Exempting from taxation of alcoholic beverages and tobacco products that are being shipped into the customs territory of Ukraine by citizens.**

Citizens may bring alcoholic beverages and tobacco products into the customs territory of Ukraine without paying the import taxes, in the following quantities per person:

- a) 2 liters of wine and 1 liter of strong alcoholic beverages;
- б) 200 cigarettes or 50 cigars, or 250 grams of tobacco, or a set of such items with the total weight no more than 250 grams.

Alcoholic beverages and tobacco products, specified in part one of this Article, shall be exempt from taxation on condition that such goods:

- brought into the customs territory of Ukraine by the citizens who are 18 years of age or older;
- being moved through the customs border of Ukraine in accompanied luggage or in hand bags of the citizens.

Alcoholic beverages and tobacco products, regardless of quantity thereof, shall not be exempt from taxation if a person that takes them into the customs territory of Ukraine was not present in Ukraine for less than 24 hours.

**Article 271. Terms of temporary importation of goods by citizens into the customs territory of Ukraine under a pledge to take the goods back outside the country, including transit.**

Taxable goods that are temporarily brought (shipped) by citizens into the customs territory of Ukraine under a pledge to take the goods outside the country, as well as for the purpose of transit, shall be allowed for entry into the customs territory of Ukraine on condition that financial guarantees are provided to the customs organ. Types of financial guarantees, terms and procedures for provision and termination thereof, shall be established by the State Customs Service of Ukraine.

In the event of violation of the pledge to take the goods outside the customs territory of Ukraine, or violation of transit through the customs territory of Ukraine of the goods specified in part one of this Article, except for situations where such violation occurred as a result of an accident or Act of God, which is supported by necessary documents, the financial guarantees shall be seized.

**SECTION X.**

**Border Enforcement Measures Related to Goods Containing the Intellectual Property Objects.**

**CHAPTER 47. Movement through the customs border of Ukraine of goods that contain intellectual property objects.**

**Article 272. Procedures for customs control and customs clearance of goods that contain intellectual property objects.**

Customs control and customs clearance of goods that contain intellectual property objects shall be carried on in accordance with the procedure established by the Cabinet of Ministers of Ukraine, with provisions of this Code taken into account.

**Article 273. Customs bodies' measures regarding the control of movement across the customs border of Ukraine of goods that are the intellectual property objects.**

A right holder, who has grounds to believe that in the process of movement of goods across the customs border of Ukraine, his rights to an intellectual property object were violated, or may be violated, has a right to file an application with the State Customs Service of Ukraine to register goods containing intellectual property objects.

The State Customs Service of Ukraine maintains a registry of goods that contain intellectual property objects.

Procedures for the registration of goods that contain intellectual property objects, including the form of application by a right holder, the list of information and documents that are to be attached to the application, procedure for filing and review of the application, procedure for maintaining the registry, shall be established by the Cabinet of Ministers of Ukraine. Customs fees shall be charged: for the registration of goods that contain intellectual property objects, for extension of the validity period of such registration, and for introducing changes to the registry of goods that contain intellectual property objects.

The list of goods that contain intellectual property objects and may be included in the registry, shall be established by the State Customs Service of Ukraine.

After the registration of the respective goods with the registry of the State Customs Service of Ukraine, the customs authorities of Ukraine shall take measures to prevent importation into the customs territory of Ukraine of pirated goods.

To ensure the customs control over the imports into the customs territory of Ukraine of goods that contain intellectual property objects, information regarding the registered goods shall be communicated to all customs authorities of Ukraine.

**Article 274. Suspension of the customs clearance of goods containing intellectual property objects.**

If a customs authority has reasons to believe that the goods submitted for customs control and customs clearance are pirated, the customs clearance of such goods shall be suspended. Such goods shall be placed in the temporary storage warehouses or in the customs warehouses.

A decision to suspend customs clearance for a period of 15 working days with a possibility of further extension of a period for 15 days more, is to be made by the head of the customs authority or his deputy.

A customs authority shall inform the Declarant declaring person about the reasons for the suspension of customs clearance no later than the next working day after the decision regarding such suspension was adopted, and also notifies the name and address of the right holder to the Declarant.

Upon the permission of the customs authority, the right holder and the Declarant may draw the probes and samples of goods, with respect to which the decision on suspension of the customs clearance was adopted, and use such samples for the purposes of forensic analysis.

Compensation of expenses to the customs authorities, owners of temporary storage warehouses, Declarant (declaring person) and other persons, in the event of the suspension of customs clearance of goods specified in this Article, shall be provided at the expense of the right holder. The Cabinet of Ministers of Ukraine shall establish the procedure for compensation of the said expenses, as well as the procedures for the disposal of pirated goods.

**Article 275. Cooperation of customs bodies with other government agencies in the area of intellectual property rights protection.**

In controlling the movement across the customs border of Ukraine of goods containing intellectual property objects, the customs authorities shall interact with other government agencies, authorized to take measures in the sphere of protection of intellectual property rights, in accordance with procedures established by the legislation of Ukraine.

**SECTION XI.**  
**Administering Customs Duty Imposed on the Goods that Move Across the Customs**  
**Border of Ukraine.**  
**The Customs Tariff of Ukraine.**

**CHAPTER 48. Customs Duty. Customs Tariffs of Ukraine. Customs Duty Rates, their Types and Procedures for Imposing Customs Duties.**

**Article 276. Customs duty.**

Customs duty is imposed on goods that move across the customs territory of Ukraine, unless otherwise is provided by this Code, other legislative acts of Ukraine and international agreements of Ukraine, recognized as mandatory by the Supreme Rada of Ukraine.

Customs duty is the national government tax on goods that are moved across the customs border of Ukraine.

**Article 277. Types of customs duty rates.**

The following types of customs duty rates are used in Ukraine:

- Ad valorem rates, which are calculated as a percentage of the customs value of goods on which the customs duty is imposed;
- Specific, which are assessed as a stated monetary amount per unit of the goods on which the customs duty is imposed;
- Combined, which combine both types mentioned above.

**Article 278. The Customs Tariff of Ukraine.**

The Customs Tariff of Ukraine is a systematized, in accordance with the Ukrainian commodity nomenclature of foreign economic activity, list of rates of the import duty imposed on goods that are brought into the customs territory of Ukraine.

The Customs Tariff of Ukraine contains Ukrainian commodity nomenclature of foreign economic activity and import duty rates.

**Article 279. Procedure for establishing the custom duty rates.**

Marginal rates of the Customs Tariff of Ukraine shall be established by law on the basis of principles of customs-tariffs policy of Ukraine and obligations stipulated by the international agreements of Ukraine.

Only the Cabinet of Ministers of Ukraine, within the authority established by the law, shall introduce changes into the tariff rates of Ukraine for objects of taxation – goods which are moving through the customs border of Ukraine.

The rates of the customs tariffs of Ukraine shall be established on the basis of classification scheme of structure of the goods' subcategories of the Ukrainian commodity nomenclature of foreign economic activity.

It is prohibited to reduce customs duty rates for particular persons and for particular contracts, or exempt particular persons from payment of customs duties and postpone the terms of payment of customs duties.

#### **Article 280. The Commodity Nomenclature of the Customs Tariffs of Ukraine.**

The foundation of the commodity nomenclatural scheme of the Customs Tariffs of Ukraine (the commodity nomenclature) is the Ukrainian Commodity Nomenclature of Foreign Economic Activity based on the Harmonized Commodity Description and Coding System.

#### **CHAPTER 49. The Customs-Tariff Council of Ukraine.**

##### **Article 281. Responsibilities of the Customs-Tariff Council of Ukraine.**

The Customs-Tariff Council of Ukraine, which is established under the Cabinet of Ministers of Ukraine, shall be responsible for:

- 1) preparing of proposals on the main guidelines of the customs-tariff policy of Ukraine, including imposition, elimination or changing of customs duty rates, provision of tariff privileges and preferences, as well as amendment of the Customs Tariff nomenclature of Ukraine;
- 2) participation in drafting of laws, other legal regulatory acts, and also international agreements of Ukraine on customs – tariff regulation;
- 3) developing a complex of tariff regulation measures aimed at protecting Ukrainian market and national producers in carrying out foreign trade transactions.

The State Customs Service of Ukraine shall perform the functions of the staff of the Customs – Tariffs Council of Ukraine.

The Cabinet of Ministers of Ukraine shall adopt the Statute of the Customs – Tariffs Council of Ukraine and establish its structure.

#### **CHAPTER 50. Types of Customs Duties.**

##### **Article 282. Types of customs duties that are applied in Ukraine.**

The following types of customs duties are applied in Ukraine :

- 1) entrance (import) duty;
- 2) exit (export) duty;
- 3) seasonal duties;
- 4) special types:
  - special;
  - anti-dumping;
  - countervailing.

##### **Article 283. Entrance (import) duty.**

Import duty is imposed on goods at the time of importation of such goods into the customs territory of Ukraine.

The import duty is a differentiated duty:

- 1) to the goods originating in countries, which enjoy the Most Favorable Nation Regime in commercial and economic relations, the customs duty within the marginal rates shall apply;
- 2) to the goods originating in countries, which do not enjoy the Most Favorable Nation Regime in commercial and economic relations, or to goods the country of origin of which can not be determined, the customs duty rates shall be applied, exceeding the marginal rates in proportion established by the Verhovna Rada of Ukraine;
- 3) to the goods originating in countries that together with Ukraine form a customs union or a free trade zone, and to the goods originating in developing countries that use the national system of preferences of Ukraine, shall be applied the preferential customs duty rates.

The rates of import duty are unified for all persons who move goods across the customs border of Ukraine, regardless of the types of foreign trade agreements, except for cases provided for in this Code, laws of Ukraine on taxation and international agreements of Ukraine, recognized as mandatory by the Supreme Rada of Ukraine.

#### **Article 284. Export duty.**

Export duty shall be assessed on the goods at the time the goods are exported outside the customs territory of Ukraine.

Export duty shall be assessed at the rates established by law.

The rates of export duty are unified for all persons who move goods across the customs border of Ukraine, regardless of the types of foreign trade agreements, except for cases provided for in this Code, laws of Ukraine on taxation and international agreements of Ukraine, recognized as mandatory by the Supreme Rada of Ukraine.

#### **Article 285. Seasonal duty.**

For the purposes of prompt regulation of import and export of particular categories of goods, a seasonal import or export duty may be imposed for a period no longer than three months from the date of its imposition. Import duty rates established by the Customs Tariff of Ukraine shall not apply in such cases.

The overall period of application of seasonal duty may not exceed six months of a calendar year.

A procedure for implementation of the seasonal export duty and the seasonal import duty, as well as their rates and terms are to be established by the Cabinet of Ministers of Ukraine.

#### **Article 286. Special types of duties.**

To protect economic interests of Ukraine, Ukrainian manufacturers and in cases specified in laws of Ukraine, in the event of importation of goods in the customs territory of Ukraine and exportation of such goods outside this territory, regardless of other types of duty there may be also applied the following special types of customs duty:

- a) special duty;
- b) anti-dumping duty;
- c) countervailing duty.

#### **Article 287. Special duty.**

The special duty shall be applied:

- a) as a measure aimed at protecting Ukrainian producers;
- b) as a way of protecting national producers when goods are imported into the customs territory of Ukraine in quantities and (or) on conditions that injure or threaten material injury to national producers;
- c) as a preventive measure applicable to the participants of foreign economic activity who violate the national interests in foreign economic activity;
- d) as measures taken in response to the discriminatory and (or) unfair actions of other countries, customs unions and economic unions, that restrict the fulfillment of legitimate rights and interests of foreign economic activity businesses and (or) damage Ukraine's interests.

#### **Article 288. Anti-dumping duty.**

The anti-dumping duty shall be applied:

- a) in accordance with laws of Ukraine in case of importation into the customs territory of Ukraine of dumping goods, which injure national producers;
- b) in case of exportation outside the customs territory of Ukraine of goods at prices substantially lower than prices of other exporters of similar or directly competitive goods at the time of such exportation, provided that such exportation causes damage.

#### **Article 289. Countervailing duty.**

Countervailing duty shall be applied:

- a) in accordance with the laws of Ukraine, in case of importation into the customs territory of Ukraine of subsidized import goods that injure national producers;
- b) in case of exportation outside the customs territory of Ukraine of goods directly or indirectly subsidized for manufacturing, processing, sale, transportation, export or consuming, if such exports result in harm.

#### **Article 290. Procedure for application of special types of customs duties.**

Special types of customs duty shall be imposed on the basis of decisions on anti-dumping, countervailing or special measures, applied in accordance with laws of Ukraine.

If the imported goods are subject to anti-dumping, countervailing or special measures, preferences shall not be established, terminated or suspended by the authority that established these measures.

**SECTION XII.**  
**Customs Value of Goods.**  
**Methods of Determination of the Customs Value of Goods.**

**CHAPTER 51. General Provisions.**

**Article 291. Customs value of goods.**

Customs value of goods is the value of goods which are moving across the customs border of Ukraine, declared by the Declarant (declaring person), or determined by a customs authority, calculated at the time the goods are crossing the customs border of Ukraine according to the provisions of this Code.

**Article 292. Determining of the customs value of goods and customs valuation of goods that move through the customs border of Ukraine.**

Procedure for determining the customs value of goods and for the customs valuation of goods shall apply to the goods that move through the customs border of Ukraine.

Methods of determining the custom value of goods that move through the customs border of Ukraine, and conditions for the application thereof, are established by this Code.

**Article 293. Utilization of information on the customs value of goods.**

Information regarding the customs value of goods, provided by the Declarant at the time the goods move through the customs border of Ukraine, and received by the customs authority, shall be used for the calculation of the customs duty payments, maintenance of customs statistics, as well as in relevant cases, for payments of penalties, other sanctions and fines, established by laws of Ukraine.

**Article 294. Declaring of the customs value of goods.**

The customs value of goods and the method of its determination must be specified (declared) by the Declarant to the customs authority at the time of movement of goods through the customs border of Ukraine by way of submission of the customs value declaration.

Procedures and conditions for declaring the customs value of goods that move through the customs border of Ukraine, as well as declaration forms and procedures for their submission shall be established by the State Customs Service of Ukraine.

The customs value of goods shall be determined by the Declarant in accordance with provisions of this Code.

Customs authority that clears the goods through the customs shall check the accuracy of determination of the customs value of goods.

**Article 295. Ensurance of confidentiality of information.**

Information that was provided by the Declarant and was recognized as such that constitute a commercial secret or as confidential, may be used by the customs authority only for the

customs purposes and may not be disclosed, given to the third persons, including other government organs, unless a special permission is granted by the Declarant, except for cases specified by law.

For the disclosure of confidential information or commercial secret, the customs officials shall be held responsible in accordance with law.

#### **Article 296. Rights and duties of a Declarant who declares the customs value of goods.**

The customs value of goods declared by a Declarant and the data related to such value and submitted by him, must be based on the accurate, documentary supported information, which is to be submitted in quantitative form.

If the customs value of goods declared by a Declarant needs to be supported, the declarant may be required, upon the request of a customs authority, to provide necessary information to this authority.

Customs authority may decide it impossible to use a method of customs valuation chosen by the Declarant.

If clarification of the customs value of goods declared by a Declarant is necessary, the Declarant may request a tax organ to give him the goods that are being declared, to use them on the basis of guarantees provided by an authorized bank, or to make customs payments in accordance with the customs valuation of these goods, carried out by a customs authority.

Additional expenses that were incurred by a Declarant in connection with clarification of the declared by him customs value of goods, or with his having submitted to the customs organ additional information, shall be covered by the Declarant. Extension of the period of customs clearance of goods in connection with the customs valuation, may not be used by the Declarant for the purposes of postponement of customs duty and other customs fees payments.

#### **Article 297. Rights and obligations of a customs authority in controlling the customs valuation of goods.**

A customs authority that controls the accuracy of the customs valuation of goods in compliance with provisions of this Code, has the right to issue a decision on the accuracy of the customs value of goods declared by the Declarant.

If sufficient data is unavailable, which would prove the accuracy of the determined customs value of goods declared by the Declarant, or if there are reasonable doubts regarding the accuracy of data submitted by the Declarant, the customs authority may determine the customs value of the goods that are being declared, sequentially applying the methods of determination of the customs value that are established by this Code, on the basis of available information, including information on prices of identical or similar (analogous) goods, with adjustments that are made under this Code.

A customs authority, upon a written request of the Declarant, is required, within a month, to provide the Declarant with written explanations regarding the reasons for the non-acceptance of the customs value of goods declared by the Declarant to the customs authority for assessing the customs fees.

A decision of a customs authority on determination of the customs value of goods may be appealed in accordance with the procedure established by law.

## **CHAPTER 52. Methods of Determination of the Customs Value of Goods, which are Imported into Ukraine, and Procedure for Application thereof.**

### **Article 298. Methods of determination of the customs value of goods that are imported into Ukraine.**

The customs value of goods that are imported into Ukraine shall be determined by way of application of the following methods:

Based on the transaction value of the imported goods (method 1);  
Based on the transaction value of identical goods (method 2);  
Based on the transaction value of similar (analogous) goods (method 3);  
Based on the deduction of the value (method 4);  
Based on the adding of value (method 5);  
Reserve method (method 6).

The primary method of determination of customs value of goods is the method based on the transaction value of the imported goods.

If the primary method may not be applied, then the methods listed in part one of this Article shall be applied sequentially. Every next method shall be applied on conditions that the customs value of goods may not be determined by applying the previous method.

The methods of deduction and computing value may be used in any sequence at the Declarant's discretion.

### **Article 299. The valuation method based on the transaction value of the imported goods.**

The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods imported into Ukraine at the moment of their crossing the customs border of Ukraine.

To determine the customs value of goods, the following expenses shall be added to the transaction value, provided such expenses were not earlier included in the price:

- 1) expenses on transportation of the goods to the airport, port or other place of entry of goods into the customs territory of Ukraine:
  - a) transportation costs;
  - b) expenses for loading, unloading and reloading of the goods;
  - c) insurance amounts;
- 2) purchaser's expenses:
  - a) commission and broker's compensation, except commission for purchases of the goods;
  - b) costs of containers and other multiple-use packaging, which according to the commodity nomenclature, are to be considered as a part of goods being valued;
  - c) cost of packaging, including cost of packaging materials and works related to packaging;

3) the relevant part of the value of such goods and services, which are directly or indirectly provided to the buyer free-of-charge or at a lower price, for production purposes or sale (alienation) of the goods that are being valued, provided that this part has not been included into the declared price:

- a) raw materials, materials, parts, unfinished products and other parts that are the components of the goods being valued;
- b) instruments, patterns, forms and other similar items, used in the production of goods being valued;
- c) materials used in the production of goods being valued (lubricants, fuel, etc.);
- d) engineering research, research and design services, design, decoration services, sketches and drawings, provided or made outside the customs territory of Ukraine and necessary for production of goods being valued;

4) licenses and other payments for the use of intellectual property objects, which the buyer (importer) directly or indirectly must pay under the terms of a sale (alienation) of the goods that are being valued;

5) a part of proceeds of any subsequent resale, disposal or use in the territory of Ukraine of the goods being valued, accrued directly or indirectly to the seller.

The said method shall be applied to determine the customs value of the goods on condition that:

1) there are no limitations of the rights of the buyer (importer) to use the goods that are being valued, except for those which:

- a) are established or required by laws of Ukraine;
- b) limit the geographical area in which the goods may be resold (alienated once again);
- c) do not substantially affect the value of the goods;

2) the sale (alienation) and the transaction value do not depend on the conditions, the influence of which is impossible to predict;

3) the data used by the Declarant are accurate, supported by documents, and are presented in a quantitative form;

4) 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;

5) participants of the transaction (exporter and importer) are not related, except for situations where their relationship did not influence the price, which must be proved by the Declarant. Persons are considered to be related when:

- a) one of them (a physical person) is an official of both businesses involved in the transaction;
- b) they are partners in business;
- c) they are employer and employee;
- d) one party of the transaction owns 5 per cent or more of the outstanding voting stock or shares of another party's capital;
- e) both of them are directly or indirectly controlled by a third person;
- f) together they directly or indirectly control a third person;
- g) one of them directly or indirectly controls the other;
- h) they are members of the same family.

6) 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 if they fall within the criteria of item 5 of part three of this Article.

7) In a sale between related persons, the transaction value shall be accepted for the customs clearance purposes and the goods shall be valued, taking into account the expenses listed in paragraphs 1-4 of part two of this article, if the importer will demonstrate that such value closely approximates to one of the following occurring at or about the same time:

- a) the transaction value in sales to unrelated buyers of identical or similar (analogous) goods for export into Ukraine;
- b) the customs value of identical or similar (analogous) goods, as provided in Articles 300 and 301 of this Code;
- c) transaction value in sales to unrelated buyers for export into Ukraine of the goods that are identical to the imported goods, provided that these goods were not manufactured in other country and the sellers of the two compared contracts are not related.

In making comparisons, as provided in item 7 of part three of this Article, it is necessary to take into account the differences between elements specified in items 1 – 5 of part two of this Article, as well as expenses incurred by the seller during the sale of goods to the unrelated buyer, and not incurred during the sale of goods to a related buyer. These comparisons are to be made on the basis of the importer's application, and provide grounds only for making comparisons. In determining the customs value it is prohibited to base such determinations on the alternative transaction values specified in sub-items "a" – "c" of item 7 of part three of this Article.

#### **Article 300. Methods of valuation based on the transaction value of identical goods.**

For the purposes of determining the customs value of goods, the transaction value of identical goods shall be used, provided that requirements specified in this Article are met. Identical goods are considered to be goods which are the same in all respects with the goods being valued, including:

- a) physical characteristics;
- b) quality and market reputation;
- c) country of origin;
- d) manufacturer.

Minor differences in appearance may not prevent the goods from being regarded as identical, if in general these goods meet the requirements of part 1 of this Article.

The transaction value of identical goods shall be taken as a basis for determining the customs value of the goods, provided that such goods:

- a) are sold (alienated) for import into the territory of Ukraine;
- b) are imported with the goods that are being valued simultaneously, or not earlier than 90 days before the importation of the goods that are being valued;
- c) are imported in approximately the same quantities and on the same commercial level. If identical goods were imported in a different quantities or on different commercial level, the Declarant is required to make necessary adjustments in the value of such goods, taking into account these differences, and documentary prove the reasonableness of the value.

The customs value of goods that is determined on the basis of transaction value of identical goods must be adjusted to reflect expenses specified in Article 299 of this Code.

The adjustments by the Declarant can be made on the basis of accurate and documentary supported data.

If several transaction values of identical goods exist for the purposes of application of this method, the lowest price shall be used for determining the customs value of goods being imported.

**Article 301. Method of evaluation based on the transaction value of similar (analogous) goods.**

The customs value shall be the transaction value of similar goods imported in accordance with provisions determined by this Article. In applying this method, the similar (analogous) goods shall mean goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions in comparison with goods being valued, and are commercially interchangeable.

To determine whether goods are similar (analogous), the following characteristics shall be taken into account:

- 1) quality, existence of a trade mark and market reputation;
- 2) country of origin;
- 3) manufacturer.

For purposes of application of the method of determination of the customs value of goods based on the transaction value of similar (analogous) goods, provisions of items 3 – 6 of Article 300 of this Code shall be used.

**Article 302. Admonition in application of the methods of determination of the customs value of goods according to the transaction value of similar (analogous) products.**

1. Goods shall not be regarded as identical or similar (analogous) to the goods being valued unless they were produced in the same country as the goods being valued.
2. Goods produced by a different person than the producer of the goods being valued, shall be taken into account only when there are no identical or similar (analogous) goods, produced by the same person as the goods being valued.
3. Goods shall not be considered identical or similar (analogous) if such goods incorporate engineering, development, artwork, design work, plans and sketches and other similar elements undertaken in Ukraine.

**Article 303. Methods of valuation based on the deduction of the value.**

If the goods being valued or identical or similar imported goods are sold (alienated) in the country of importation in the condition as imported, the customs value of the goods shall be determined by the method of deduction of the value.

The customs value of the goods shall be based on the unit price at which the goods being valued or identical or similar (analogous) goods are sold in the greatest aggregate quantity on the territory of Ukraine, at or about the same time of the importation of goods being

valued, but not later than 90 days from the date of importation of the goods to the unrelated buyer.

The following components shall be deducted from the unit price (provided that such components can be identified):

- 1) commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in Ukraine of imported goods of the same class or kind;
- 2) the entrance (import) duty, taxes, charges and other fees paid in Ukraine in connection with importation or sale of goods;
- 3) the usual costs of loading, unloading, transport and insurance costs incurred in Ukraine during the importation;

If neither the goods being valued, nor identical or similar imported goods are sold in the country of importation in the condition as imported, then, if the declarant so requests, the customs value shall be based on the unit price of the processed goods, the added value taken into account and with all provisions of part 2 and 3 of this Article adhered to.

#### **Article 304. Method of valuation based on the adding of value.**

To determine the customs value of goods, as the basis shall be taken prices on goods, computed by way of adding:

- 1) value of materials and expenses, incurred by the manufacturer in connection with production of the goods that are being valued;
- 2) usual expenses related to the sale (alienation) of goods of the same kind to Ukraine from the country of importation, including expenses for loading, weighing, transporting and insurance till the goods cross the customs border of Ukraine, and other expenses;
- 3) profits that the exporter usually receives as a result of delivery of such goods to Ukraine.

To determine the customs value under the method based on adding the value to the price of the goods, all expenses that are to be included in the price of goods under part two of article 299 of this Code shall be taken into account.

#### **Article 305. Reserve method.**

If the customs value may not be determined by the Declarant by way of subsequent application of methods specified in Articles 298 — 304 of this Code, or a customs authority has reasons to believe that these methods of determining the customs value can not be applied, the customs value of the goods shall be determined according to the international practice.

The customs value of the goods shall be determined by the reserve method on the basis of Ukrainian legislation, and must be consistent with principles and provisions of Article VII of General Agreement Tariffs and Trade (GATT) and Agreement on Application of Article VII of the General Agreement on Tariffs and Trade (GATT) of 1994.

To determine the customs value by the reserve method, a customs authority must share the available information regarding prices with a Declarant.

To determine the customs value by the reserve method, one may not use:

- 1) the price of goods on the domestic market of the country of exportation;
- 2) the price of goods for export to a country other than the country of importation;
- 3) prices of Ukrainian goods on the domestic market of Ukraine;
- 4) voluntarily established or unproven price of good;
- 5) production expenses, which differ from those that were used to determine prices of identical or similar (analogous) goods in accordance with provisions of Article 304 of this Code.

## **CHAPTER 53. Customs Value of Goods that are being Exported from Ukraine.**

### **Article 306. Determination of the customs value of goods that are being taken (exported) from Ukraine.**

The customs value of goods that are being taken (exported) from Ukraine on the basis of the sale/purchase or exchange agreement, is to be determined on the basis of the price actually paid or payable for these goods at the time of crossing the customs border of Ukraine.

The customs value of goods being exported shall also include the following actual expenses, provided that such expenses were not included in the price earlier:

- a) loading, weighing, reloading, transporting and insuring to the point of crossing the customs border of Ukraine;
- b) commissions and broker fees;
- c) license and other fees for the use of intellectual property objects, which the buyer must directly or indirectly pay as a condition for sale (export) of goods being valued.

The customs value of the goods being taken (exported) from Ukraine on the basis of an agreement that differs from the sale/purchase or exchange agreements, shall be determined on the basis of the price supported by commercial, shipment, banking, accounting and other documents that contain information regarding the value of goods being valued, reflecting the expenses for transporting and insuring the goods to a point of crossing of the customs border of Ukraine.

In case of establishing limitations on prices at the time of exporting particular goods (indicative prices, marginal prices, prices established as a result of anti-dumping investigations) the customs value of such goods in case of their exportation from Ukraine, shall be determined taking into account the provisions that specify the procedure for application of such limitations.

### **Article 307. Declaring the customs value.**

In the case of exportation of goods, on which the export, anti-dumping, countervailing or special kinds of duty are imposed, the customs value shall be declared upon the submission of the customs value declaration.

The customs value of goods shall be determined on the basis of the price actually paid or which is to be paid for these goods, provided it was not influenced by the following factors:

- 1) limitations of the rights of a seller (exporter) to the goods being valued, except for:
  - a) limitations established by the legislation of Ukraine;

- b) limitations that substantially influence the price of goods;
- 2) dependence of the sale (alienation) and the transaction value upon the conditions with unpredictable influence;
- 3) information used by the Declarant for purposes of determining the customs value of goods is not supported by documents, or is not accurate, or was not presented in quantitative form;
- 4) participants of the transaction (exporter and importer) are related persons, except for situations when their relationship did not influence the transaction value, which must be proved by the Declarant.

Persons shall be considered as related if at least one of the following occurred:

- a) one of them (a physical person) is an official of both businesses involved in the transaction;
- b) they are partners in business;
- c) they are employer and employee;
- d) one party of the transaction owns 5 per cent or more of the outstanding voting stock or shares of another party's capital;
- e) both of them are directly or indirectly controlled by a third person;
- f) together they directly or indirectly control a third person;
- g) one of them directly or indirectly controls the other;
- h) they are members of the same family.

### **SECTION XIII.**

#### **Country of Origin of the Goods**

#### **CHAPTER 54. Country of Origin of the Goods and Criteria of Determining a Country of Origin of the Goods. Certificates of Origin of Goods.**

##### **Article 308. Purpose of determining the country of origin of the goods.**

A country of origin of the goods is to be determined for the purpose of applying tariff and non-tariff methods of regulating imports of goods into the customs territory of Ukraine and exports of goods from this territory, as well as for ensuring the necessary accounting of goods to maintain foreign trade statistics.

##### **Article 309. Determining the country of origin of goods.**

The country of origin of goods is to be determined on the basis of principles applied in international practice. The procedure for determining the country of origin of goods is to be established by the Cabinet of Ministers of Ukraine on the basis of provisions of this Code.

The country of origin of goods is the country where the good has been wholly obtained or where the last substantial transformation has been carried out in accordance with the criteria established in this Code.

A group of countries, a customs union, a region or part of a country, may be considered a country of origin of goods, if it is necessary for the purposes of determining the origin of the goods.

### **Article 310. Goods wholly obtained in one country.**

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

- 1) minerals, extracted in the territory or territorial waters or from the continental shelf or the bottom of the sea which the country has exclusive right to exploit;
- 2) plant products produced, grown and collected on its territory;
- 3) live animals born and grown in the country;
- 4) products obtained from animals grown on its territory;
- 5) sea products obtained by hunting or fishing;
- 6) sea products obtained and/or produced in the open ocean by ships owned or chartered by the country;
- 7) secondary raw materials and waste that have formed as a result of production and other operations carried out in the particular country;
- 8) high technology products, obtained in the open space or aboard space ships owned or leased by the particular country;
- 9) goods produced in the country exclusively from goods described above.

### **Article 311. Criteria of substantial transformation of goods.**

When two or more countries are concerned in the production of the goods, then the origin of goods is to be determined in accordance with the criteria of substantial transformation.

A criterion of substantial transformation is based on:

- 1) a rule that requires that after transformation of the goods the classification code of the goods based on the Harmonized Commodity Description and Coding System will change at the level of any first four digits;
- 2) or on the rule of ad-valorem percentage, which provides for changes in the value of the goods as a result of their processing, provided that a value added in this case is less than 50 percent of the value of the goods received as a result of the processing, or if the value of the used materials from other country or of unknown origin is less than 50 percent of the value of the goods received as a result of the processing;
- 3) or on a list of manufacturing or technological operations, which do not result in changing of the code of the goods or its value under the ad-valorem percentage rule, but on certain conditions may be considered sufficient.

The list of such manufacturing and technological operations is to be established by the Cabinet of Ministers of Ukraine.

In case of application of the ad-valorem percentage rule, the value of the goods received as a result of processing in this country shall be determined on the basis of “franco-factory” of the manufacturer of the goods. Value of the parts of the goods that come from other countries is to be determined on the basis of their customs value, and value of the parts the origin of which could not be determined shall be determined depending on the price of their first sale in this country

If with respect to particular goods or country (countries) the criterion of substantial transformation is not specifically established, then the rule shall be applied under which the goods are considered as subjected to substantial transformation, if as a result of such processing the classification code of the goods under the Harmonized Commodity Description and Coding System was changed at the level of any first four digits.

Criteria of substantial transformation for particular goods and countries shall be established and applied on the basis of requirements of this Code in accordance with procedures that are to be established by the Cabinet of Ministers of Ukraine.

**Article 312. Additional provisions for establishing the criterion of substantial transformation of the goods.**

Substantial transformation shall not be considered as such that took place in:

- 1) transactions related to ensuring preservation of the goods during storage or transportation;
- 2) activities related to the preparation of goods for sale and transportation (splitting of shipments of goods, preparation of goods for deliveries, sorting, repackaging);
- 3) simple assembling transactions;
- 4) mixing of goods (components thereof) without giving to the resulting products characteristics that distinguish them from the initial components;
- 5) a combination of two or more transactions specified above;
- 6) slaughtering of animals.

**Article 313. Determining the country of origin of the goods, provided that such goods are shipped in shipments.**

Goods that are delivered in several shipments, either assembled or not, and that cannot be delivered in one shipment due to the technological reasons, as well as in cases where a shipment of goods is split into smaller bundles due to mistake, for the purposes of determining the origin of the goods, and if the Declarant wants so, must be considered as one shipment of goods.

Conditions for application of this rule are:

- 1) a preliminary notification of the customs authority about the splitting of the shipment of the assembled or not assembled goods into smaller shipments and the reasons therefore, a detailed specification of each shipment with the Ukrainian Commodity Nomenclature of Foreign Economic Activity specified, as well as with indication of the values and countries of origin of goods that belong to each shipment of goods;
- 2) a documentary proof that the shipment was split into smaller groups by a mistake;
- 3) delivery of all shipments of goods from one country by one shipping company;
- 4) importation of all shipments of goods through the same customs point;
- 5) delivery of all shipments of goods within the period that does not exceed six months from the date of submission of the customs declaration or the end of the term for its submission with respect to the first shipment of goods.

**Article 314. Verifying the origin of the goods.**

To verify the origin of the goods a customs authority may require that a certificate of origin of the goods be provided.

In case of exportation of the goods from the customs territory of Ukraine, a certificate of origin of the goods, where it is necessary and this fact is reflected in national rules of the country of importation or provided for by international obligations of Ukraine, is to be issued by the organ authorized by the Cabinet of Ministers of Ukraine.

In case of importation of the goods into the customs territory of Ukraine, a certificate of origin of the goods must be filed for goods that:

- 1) originate in countries which Ukraine treats preferentially in accordance with the Customs Tariff of Ukraine;
- 2) importation of which from certain countries is subject to regulation by quantitative restrictions (quotas) or other measures of regulating foreign economic activity;
- 3) if so is provided by international agreements, to which Ukraine is a party, and also by legislation of Ukraine in the area of environmental protection, health protection, consumer rights protection, public order, state security and other vital interests of Ukraine;
- 4) in cases where documents that are filed for the customs clearance purposes, do not contain information concerning the origin of the goods, or if a customs authority has sufficient reasons to believe that the declared information regarding the origin of goods is incorrect.

#### **Article 315. Certificate of origin of the goods.**

A certificate of origin of the goods must state that the goods in question originate in the respective country, and must specify:

- 1) a written statement by the exporter on the country about the origin of the goods;
- 2) a written statement of a competent organ from the exporting country, which has issued the certificate, stating that the information reflected in the certificate is correct.

A certificate of origin of the goods must be submitted together with the customs declaration, customs value declaration and other documents that are submitted for the purposes of customs clearance.

If a certificate of origin is lost, its officially verified duplicate shall be accepted.

If doubts arise as to the validity of the certificate of origin or information reflected in it, including information about the country of origin of the goods, a customs authority may address the organ that has issued the certificate, or competent organizations of the country which was stated as the country of origin of the goods, and request submission of additional information.

The goods shall not be regarded as such that come from a particular country until customs authorities, in situations specified in this Code, receive properly prepared certificate of origin of the goods or additional information requested by these customs authorities.

#### **Article 316. Grounds for refusal to release the goods.**

A customs authority may refuse to release the goods for movement through the customs border of Ukraine only if there are sufficient grounds for making a conclusion that goods originate in the country, the goods from which may not be allowed for release under the legislation of Ukraine and under international agreements to which Ukraine is a party.

Failure to submit a properly prepared certificate of origin or information regarding the origin of goods may not serve as the basis for refusal to allow customs clearance and release of the goods for purposes of movement through the customs border of Ukraine.

Goods, the country of origin of which have not been reliably determined, shall be released from a customs authority on a condition of payment of the customs duty at marginal rates.

The most favorable regime or a preferential regime may be applied to goods, provided a properly prepared certificate of origin of such goods was received no later than a year after the date of customs clearance.

**Article 317. Additional provisions regarding the determination of the country of origin.**

In determining the country of origin there won't be taken into account the country of origin of energy, machines, equipment and instruments, which are used in manufacturing.

The rules that concern determination of the country of origin of the goods that are imported from the territories of special (free) economic zones, located in the territory of Ukraine, shall be established by the Cabinet of Ministers of Ukraine.

**SECTION XIII**  
**Customs Privileges**

**CHAPTER 55. Customs Privileges for Missions of Foreign Governments, International Organizations, Representative Offices of Foreign Companies and for Foreign Officials in Ukraine. Customs Privileges for Ukrainian Diplomatic Missions Abroad.**

**Article 318. Customs privileges for diplomatic missions of foreign governments.**

Provided that the procedure for movement of goods through the customs border of Ukraine is followed, the diplomatic missions of foreign governments in Ukraine may import to Ukraine and export therefrom any items intended for official use. Such items shall be exempt from customs procedures and customs charges. The exemption shall not apply to customs fees charged for the storage of such items at customs licensed warehouses. The exemption shall not apply to customs procedures performed outside of normal business hours or in places other than the location of the relevant customs authorities.

**Article 319. Customs privileges for heads of diplomatic missions of foreign governments and diplomatic personnel of such missions.**

Heads of diplomatic missions of foreign governments, diplomatic personnel of such missions and members of their families may import into Ukraine items for personal use including articles for initial housing and export from Ukraine items for personal use including those purchased in Ukraine. Such imports and exports shall be exempt from any customs charges. The exemption shall not apply to customs fees charged for storing such items at customs licensed warehouses. The exemption shall not apply to customs procedures performed outside the normal business hours or in places other than the location of the relevant customs authorities. The exemption shall not apply unless all of the following requirements are met: the family members must reside with such heads or employees; such heads, employees and family members must neither be citizens of Ukraine nor reside permanently in its territory; the procedures for moving goods through the customs border of Ukraine are adhered to.

The personal luggage in possession of heads of diplomatic missions of foreign governments, diplomatic personnel of representations of such missions and members of their families who reside with them shall be exempt from examination by customs unless there are sufficient reasons to believe that such luggage contains items intended for

purposes other than personal use or products that either cannot be imported or exported to (out of) Ukraine or are subject to quarantine and other special rules. Examination of such luggage must take place only in the presence of persons mentioned in this Article or their authorized representatives.

**Article 320. Customs privileges for administrative and technical personnel of diplomatic missions of foreign governments.**

Administrative and technical personnel of diplomatic missions of foreign governments and members of their families residing with them may import into Ukraine items for initial housing. Such imports shall be exempt from any customs charges. The exemption shall not apply to customs fees charged for the storage of such items at customs licensed warehouses. The exemption shall not apply to customs procedures performed outside the normal business hours or in places other than the location of the relevant customs authorities. The exemption shall not apply if such personnel and family members are either citizens of Ukraine or reside permanently in its territory.

Persons mentioned in part 1 of this Article shall import into Ukraine and export from Ukraine items in accordance with the procedure provided for in Article 378 of this Code.

**Article 321. Application of customs privileges for diplomatic personnel of diplomatic missions of foreign governments to administrative and technical personnel and operating staff.**

If a special agreement with a foreign state so provides, customs privileges established by this Code for diplomatic personnel of diplomatic missions of foreign governments will apply to administrative and technical personnel and operating staff of such missions and members of their families who are not citizens of Ukraine and do not permanently reside in Ukraine. The privileges for administrative and technical personnel and operating staff apply on the reciprocal basis between the countries.

**Article 322. Application of customs privileges to consular missions of foreign governments and personnel thereof.**

Customs privileges for diplomatic missions of foreign governments provided for in this Code and the relevant diplomatic personnel shall apply to consular missions, heads of such missions, the relevant consular personnel and their family members.

On the basis of a special agreement with a foreign government, and in accordance with this Code, customs privileges apply to the personnel of diplomatic missions of foreign governments, consular personnel and their family members if they are neither citizens of Ukraine, nor permanently reside in Ukraine.

**Article 323. Movement of diplomatic pouch and consular valise across the customs border of Ukraine.**

Neither diplomatic pouch, nor consular valise may be unsealed or kept. Where customs authorities have sufficient reasons to believe that a consular valise contains products not provided for in part III of this article, the customs authority may request that such consular valise should be opened by the authorized persons of such state in the presence of customs officials. Where the request is rejected such valise must be returned to the point of shipment.

All luggage seats containing diplomatic pouch and consular valise must have visible exterior features indicating its nature.

Diplomatic pouch may include only diplomatic documents and items for official use; and consular valises - only official letters and documents or the articles intended for official use only.

**Article 324. Customs privileges for foreign diplomatic and consular couriers.**

Foreign diplomatic and consular couriers may import into Ukraine and export from Ukraine articles for their personal use. Such products shall be exempt from customs examination, duties and customs fees. Such exemption is granted on the reciprocal basis. The exemption shall not apply to customs fees charged for the storage of such items at customs licensed warehouses. The exemption shall not apply to customs procedures performed outside the normal business hours or in places other than the location of the relevant customs authority.

**Article 325. Customs privileges for the representatives and members of delegations of foreign governments.**

Customs privileges envisaged in this Code for diplomatic personnel of missions of foreign governments shall also apply to missions of foreign governments, members of governmental and parliamentary delegations, as well as (on the basis of reciprocity) members of delegations of foreign states arriving to Ukraine to participate in international negotiations, international conferences and meetings or with other official missions. Such privileges shall also apply to their family members accompanying such persons.

Customs privileges provided for in this Code for diplomatic personnel of foreign missions also apply to diplomatic personnel, consular officials of missions of foreign governments and their family members and persons specified in part 1 of this Article, who are transiting through the territory of Ukraine with the same purposes.

**Article 326. Customs privileges for International organizations, missions of foreign states to such organization and personnel thereof.**

Customs privileges for international and intergovernmental organizations and missions of foreign states to such organization, as well as personnel of such organizations and missions and their family members, shall be established by international treaties of Ukraine, recognized as mandatory by the Supreme Rada of Ukraine.

**Article 327. Granting of customs privileges to officials of missions of foreign governments and International organizations in Ukraine.**

Privileges provided for in Articles 319-322, and 324-326 of this Code shall apply to the relevant officials from the moment they crossed the customs border of Ukraine to take the post. If such official is already in the territory of Ukraine, the privileges shall apply from the moment of his entering upon his duties.

The same privileges apply to family members of such officials if such family members neither are citizens of Ukraine nor permanently reside in Ukraine.

**Article 328. Termination of customs privileges for officials of missions of foreign governments and International organizations in Ukraine.**

The privileges provided for in Articles 319-322, 324-326 of this Code shall not apply to the members of diplomatic staff of missions of foreign governments after they leave the territory of Ukraine.

**Article 329. Declaration of items of missions of foreign governments and International organizations.**

Items intended for official use by foreign governments and international organizations, and not intended for consumption in the territory of Ukraine, must be declared to the customs and shall be admitted to the customs territory of Ukraine temporarily, until the period of accreditation of such mission expires.

**Article 330. Declaration of items of missions of foreign companies.**

Items intended for official use by foreign companies, and not intended for consumption in the territory of Ukraine, must be declared at the customs. Such products shall be admitted to the customs territory of Ukraine temporarily, but not longer than three years after accreditation of the company. Such items are imported temporarily and must be re-exported.

**Article 331. Declaration of items belonging to officials of missions of foreign states and representative offices of foreign companies**

Items intended for personal use by persons with customs privileges, and not intended for consumption in the territory of Ukraine, must be declared at the customs. Such items shall be admitted to the customs territory of Ukraine temporarily and re-exported upon expiration of the period of stay of these persons.

**Article 332. The procedure for movement of goods belonging to the diplomatic missions of Ukraine abroad across the customs border of Ukraine**

Provided that the procedure for movement of goods through the customs border of Ukraine is followed, diplomatic missions of Ukraine abroad may export from Ukraine articles for official use in such mission. Such articles shall be exempt from customs examination and taxation. The exemption shall not apply to customs fees charged for the storage of such items at customs licensed warehouses. The exemption shall not apply to customs procedures performed outside the normal business hours or in places other than the location of the relevant customs authorities.

**Article 333. Declaration of articles of diplomatic missions of Ukraine abroad**

Articles intended for official use by diplomatic missions of Ukraine abroad shall be declared with the customs and shall be released temporarily, until the period of accreditation of such mission abroad expires.

## **CHAPTER 56. Tariff Privileges (Tariff Preferences)**

### **Article 334. Definition of tariff privileges (tariff preferences)**

Tariff privileges (tariff preferences) are privileges granted by Ukraine in the process of implementation of its foreign economic policy reciprocally or unilaterally to goods moving through the customs border of Ukraine in the way of tax exemptions, reduction in rates of duty or imposition of quotas on imports.

Tariff privileges (tariff preferences) can be granted only by this Code, other Ukrainian laws and international treaties of Ukraine recognized as mandatory by the Supreme Rada of Ukraine

Tariff privileges (tariff preferences) are imposed on goods and can not be applied for a single person individually.

The State Customs Service of Ukraine is empowered with establishing the procedure for applying tariff privileges provided by Ukrainian legislation.

### **Article 335. Definition of tariff preferences.**

Tariff preferences are the following measures of regulation of foreign economic activities - exemption from customs duties, reduction of customs duties or establishment of tariff quotas for imports.

Only this Code, other laws of Ukraine and international agreements approved by the Supreme Rada may establish tariff preferences.

Tariff preferences shall only apply to the following products:

- 1) products originating in countries that belong to the same customs union or free trade zone as Ukraine;
- 2) originating in developing countries and eligible for the national system of preferences of Ukraine.

### **Article 336. Preferences within customs unions or free trade zones.**

Appropriate international agreements of Ukraine shall establish duty exemptions, reduce duty rates or fix tariff quotas for preferential import of goods originating in countries creating customs union or free trade zone together with Ukraine.

### **Article 337. National system of preferences.**

The national system of preferences of Ukraine provides for establishing of preferential duty rates including duty exemption concerning goods originating from developing countries.

Preferential rates of the Customs Tariff of Ukraine shall apply to goods originating:

- 1) in the least developed countries (according to the United Nations data); and,

2) in developing countries whose GNP per capita does not exceed the same index of Ukraine.

**Article 338. Implementation of the national system of preferences.**

The Supreme Rada of Ukraine shall approve the list of countries eligible for the national system of preferences in the course of passing the law on the state budget for the following year.

The Supreme Rada of Ukraine shall establish preferential rates of the Customs Tariff of Ukraine according to the national system of preferences and the list of goods eligible for this system.

**Article 339. Exemption from duties.**

Only this Code and other laws of Ukraine on taxation shall exempt goods and vehicles from customs duties.

The following items shall be exempt from import and export duties:

- 1) vehicles - if they carry goods, luggage and passengers, as well as logistical items, fuel, food products and other items necessary for normal exploitation of such vehicle on its way, in points of intermediate stopping or those purchased abroad in connection with the liquidation of accident (damage) of such vehicles;
- 2) logistical items, fuel, food products and other items exported from Ukraine to ensure activities of Ukrainian ships engaged in fishery, registered in the State Vessel Register of Ukraine or the Ship Book of Ukraine as well as products of such fishery imported into the customs territory of Ukraine;
- 3) goods imported into the customs territory of Ukraine or exported from the customs territory of Ukraine for official and personal use by diplomatic and consular missions of foreign countries, their personnel and members of their families, as well as by international intergovernmental organizations and missions of foreign countries to such organizations, personnel of such organizations and missions, other foreign officials who enjoy the right to duty-free import of such articles on the basis of international agreements of Ukraine approved by the Supreme Rada of Ukraine or legislation of Ukraine;
- 4) goods that have to be confiscated by the state according to the Ukrainian legislation;
- 5) goods (except for those subject to the excise duty) imported into the customs territory of Ukraine free of charge as humanitarian aid according to the list approved by the Cabinet of Ministers of Ukraine;
- 6) goods (except for those subject to the excise duty) imported into the customs territory of Ukraine or exported from the customs territory of Ukraine with the purpose of elimination of consequences of accidents, catastrophes and natural disaster;
- 7) textbooks transmitted free of charge to educational, preschool and medical institutions financed from the budget wholly or partially;

- 8) goods (except for those subject to the excise duty) imported into the customs territory of Ukraine free of charge referred to by the Cabinet of Ministers of Ukraine as technical aid;
- 9) goods transited across the customs territory of Ukraine under the control of the customs;
- 10) goods transferred through the customs border of Ukraine by individuals and not designated for estrangement or use in production or other commercial activity, for the amounts defined by Ukrainian legislation; and,
- 11) other goods as provided for in the Ukrainian laws on taxation.

#### **Article 340. Use of Goods Eligible for Customs Taxation Privileges**

Goods eligible for privileges in payment of duties, taxes and fees may only be used for the purpose for which such privileges were granted.

After goods have been released for free circulation in Ukraine customs may at any time verify the actual use of such goods, and require that the relevant persons should submit a report on use of these goods and other necessary documents.

### **SECTION XV.**

#### **Calculation and Payment of Duties and Fees for Export or Import of Goods. The Control by Customs Authorities of Payment of Duties and Fees.**

#### **CHAPTER 57. General Provision**

#### **Article 342. Customs payments.**

The following customs payments shall be made where goods or vehicles are moved across the customs border of Ukraine and in other cases provided for in this Code and Ukrainian legislation:

- 1) duty;
- 2) value added tax (for export and import transactions);
- 3) excise tax (for imports);
- 4) fees for issuing license to carrying out the customs broker activities and for extending the validity of the license;
- 5) fees for issuing license to act as customs carrier and for extending of the validity of the license;
- 6) fees for issuing license to exploit customs licensed warehouse and for extending the validity of the license;
- 7) fees for issuing of license for the right of establishing of duty free shop and for extending of the validity of the license;
- 8) fees for issuing qualification certificate of the person authorized to declare goods to the customs and for extending the validity of the certificate;

- 9) customs fee for including a bank or other financial institution into a register of guarantors;
- 10) customs fee for issuing permits to use a premise, reservoir or land plot as a place for temporary storage;
- 11) customs fees for customs clearance of goods and vehicles;
- 12) customs fees for keeping goods under the customs control;
- 13) customs fee for storing and escorting products and vehicles by customs authority;
- 14) customs fees for the customs escort of goods;
- 15) fees for storage of goods in customs warehouses;
- 16) payment for participation in customs auctions;
- 17) payment for making preliminary decisions;
- 18) payment for registering products containing intellectual property and for prolongation of such registration;
- 19) other customs payments provided for in the legislation of Ukraine.

#### **Article 342. Calculation of duty**

Duty for goods transferred across the customs border of Ukraine shall be calculated according to the provisions of this Code in accordance with the rates established in the Customs Tariff of Ukraine as of the date of submission of the customs declaration.

#### **Article 343. Value added tax**

The value added tax for goods carried through the customs border of Ukraine is an indirect national tax calculated and collected by the customs authorities according to the rates valid as of the date of submission of the customs declarations according to the procedure established in this Code and Ukrainian laws on taxation.

#### **Article 344. The excise duty**

Excise duty for imports is an indirect tax applicable to high profit and monopoly goods. The customs shall calculate and collect the tax using the rates valid on the date of submission of the customs declarations. This Code and Ukrainian laws on taxation shall determine the procedure therefor.

#### **Article 345. Customs fees**

Customs fees are payments charged by the customs in cases provided for in this Code for discharge of their functions established in this Code and other legislative acts of Ukraine.

#### **Article 346. Customs fee for customs clearance**

Customs fee for customs clearance is a payment to the customs for discharge of their functions, and for customs services of carrying out procedures of customs clearance of goods.

Customs fee shall be collected for customs clearance of the following goods:

- 1) articles, including vehicles, transferred through the customs border of Ukraine;
- 2) goods and vehicles in places other than the location of the customs authority performing customs control and customs clearance including the customs control zones and the territory and facilities of enterprises storing such goods and vehicles;
- 3) goods and vehicles in time other than the working hours of the customs authority;
- 4) goods brought in a licensed warehouse;
- 5) goods and vehicles transited through Ukraine.

#### **Article 347. Exemption from customs fees for customs clearance**

Customs fees for the customs clearance shall not be levied:

- 1) where the relevant products are intended for official and personal use by persons eligible for customs privileges in accordance with Articles 318-322, 324-326 of this Code;
- 2) where a preliminary customs declaration was submitted to the customs for order delivery of goods;
- 3) where a general customs declaration for a composite object was submitted to the customs;
- 4) where products are carried from a licensed warehouse out of Ukraine or to another licensed warehouse, the customs regime of such products remaining unchanged;
- 5) in other situations envisaged in legislation and international agreements of Ukraine.

Part I of this article shall not be applicable if goods and vehicles are cleared in places other than the location of the customs authority performing customs control and customs clearance including the customs control zones and the territory and facilities of enterprises storing such goods and vehicles. Part I of this article shall not be applicable if goods and vehicles are cleared in time other than the working time of the customs authority.

#### **Article 348. Procedure for the calculating of customs fees for keeping goods under customs control.**

Where goods are taken from the customs territory of Ukraine, the date the customs declaration was accepted by the customs shall be the date the goods came under the customs control.

Where goods are brought in of the customs territory of Ukraine by road the date indicated in the consignment documents as the term for arriving to the relevant customs checkpoint shall be considered the date the goods came under the customs control. Where goods arrived to the customs checkpoint earlier than the date in indicated in the consignment documents such earlier date shall be considered the date the goods came under the customs control.

Where goods are brought in the customs territory of Ukraine by rail the date that the railroad informs the customs of the arrival of the consignment and the consignment

documents are stamped "under the customs control" shall be considered the date the goods came under the customs control.

Where goods are brought in the customs territory of Ukraine by water the period of keeping products under the customs control shall be calculated as follows:

a) where customs clearance is performed by a customs authority whose area of activity includes a port:

if the destination of the product is located in the area of activity of the relevant customs authority, the date the customs authority receives from the port information that the products arrived shall be considered the date the goods came under the customs control;

if the destination of the product is located in the area of activity of other customs authority, the date this other customs authority receives from the port information that the products arrived or that the customs issues card of rejection of application for customs clearance shall be considered the date the goods came under the customs control.

b) where customs clearance is performed by a customs authority whose area of activity does not include the port of entry of the product, the date the goods came under the customs control shall be the date indicated in the delivery note as the date of delivery to the destination customs. Where products are delivered earlier than the date indicated in the delivery note, the date the goods are actually delivered to the destination customs shall be considered the date the goods came under the customs control.

Where goods are brought in the customs territory of Ukraine by air the period of keeping products under the customs control shall be calculated as follows:

a) where customs clearance is performed by a customs authority whose area of activity includes the airport the date that the airport informs the customs of the arrival of the consignment and the consignment documents are stamped "under the customs control" shall be the date the goods came under the customs control;

b) where customs clearance is performed by a customs authority whose area of activity does not include the airport, the date indicated in the delivery note as the date of delivery to the destination customs shall be the date the goods came under the customs control. Where products are delivered earlier than the date indicated in the delivery note, the date the goods are actually delivered to the destination customs shall be considered the date the goods came under the customs control.

The Cabinet of Ministers of Ukraine shall establish the procedure for calculation of customs fees for keeping goods carried by other types of transport under customs control.

The last day of the term for calculation of customs fee keeping goods under customs control shall be the date the customs clearance of such goods is completed.

#### **Article 349. Time not Included in the period of keeping products under the customs control.**

The following time periods are not included in the period of keeping products under the customs control:

- the time necessary for loading and reloading as determined in the appropriate regulations;
- the term of postponement of payment of the customs fee;

- the time necessary for the examination of products by the customs for the purpose of classification in accordance with the Ukrainian Classification of Products for Foreign Economic Activity and the Customs Value;
- the time spent by the customs authority to obtain from another customs authority information necessary for the customs clearance;
- the time spent by the importer to obtain permits from authorized state bodies to import products and present such permits to the customs, where such permits are required for examination of the product and they could not be obtained prior to the moment the goods cross the customs border of Ukraine;
- the time the customs clearance was suspended due to the customs authority;
- the time force majeure circumstances continue to occur;
- the time required to verify certificates of origin of products;
- the period of time of carrying out procedures for hearing the case on violation of customs rules where such procedures do not result in confiscation of products seized by the customs in accordance with Articles 449-450 of this Code;
- the period of time where an appeal for decision, acts or omission by customs authorities or officials related to customs clearance of goods entering or leaving the customs territory of Ukraine if the appeal was satisfied.

**Article 350. Exemption from payment of and reduction of the sums payable to the customs for damaged, destroyed or lost products.**

Products entering or leaving the customs territory of Ukraine may be exempt from customs fee fully or in part where such products are under the customs control and are subject to customs duties, fees and (or) other charges and where such products are damaged, destroyed or lost as a result of crash or force majeure.

At the request of interested persons the remains of the products referred to in Part I of this article may be:

- 1) released into free circulation as they are;
- 2) released for transportation out of the customs territory of Ukraine;
- 3) transformed into state not suitable for commercial use under the control of the customs authority.

**Article 351. Exemption from customs fee for keeping products under the customs control.**

The customs fee for keeping products under the customs control shall not be charged:

- 1) where the imported products are intended for official and personal use by persons eligible for privileges in accordance with Articles 318-322, 324-326 of this Code;
- 2) where a preliminary customs declaration is submitted for order delivery of goods;
- 3) where a general customs declaration is submitted for delivery of composite objects;
- 4) where the goods are stored at customs licensed warehouses, at duty-free shops or stay in customs free areas;
- 5) where the goods are imported as humanitarian or technical aid according to the procedure set forth by the legislation of Ukraine;
- 6) where the goods are temporarily imported into the customs territory of Ukraine, for example transited through Ukraine, or temporarily exported from this territory;
- 7) in other cases envisaged in the legislation of Ukraine and international agreements of Ukraine.

## **CHAPTER 58. Calculation and Collection of Customs Fees.**

### **Article 352. Determination of the amount of customs charges.**

The amount of the customs charges shall ensure the compensation of expenses made as a result of activities, which according to this Code require the payment of such charges.

The Cabinet of Ministers of Ukraine shall establish the rates of customs charges.

### **Article 353. Payers of customs fees and terms for payment thereof**

The persons submitting the customs declaration shall make all the required payments. The payment shall be made either by transferring the relevant sums on accounts of the customs authorities or by issuing guarantee by a bank or of other financial institution included in the list of guarantors kept by the State Customs Service of Ukraine.

The customs charges are paid to the customs authority, as a rule, before or simultaneously with accepting by the customs authority of the customs declaration, with taking the relevant action or rendering the appropriate service.

### **Article 354. The procedure for the payment of customs fees.**

The customs fees shall be payable by transferring the relevant sums to accounts of the customs authorities, by order cheque or in cash to the cashier's office of the appropriate customs authority.

The customs fees shall be payable to the customs authorities. The rule does not apply to goods sent in international mail deliveries.

Where products are sent in international mail deliveries the customs fees shall be payable to postal service enterprises. Such enterprises shall transfer the received sums to the accounts of the customs authorities. Such sums must be further transferred to the state budget of Ukraine. The State Customs Service and the State Committee for Telecommunication and Informatization of Ukraine shall approve the procedure for transferring such sums by postal service enterprises to the customs authorities.

Customs charges for goods sent abroad in international mail deliveries shall be payable in advance to the customs authority whose area of activity includes the permanent or temporary place of residence of senders.

### **Article 355. The currency for payment of customs fees**

Residents must pay the customs fees in the currency of Ukraine, whereas non-resident must pay such fees in the currency of Ukraine foreign currency bought by the National bank in accordance with the legislation of Ukraine.

The rate for conversion of the foreign currency into the currency of Ukraine shall be the official exchange rate of the National Bank as of the date the customs authority accepts the customs declaration.

### **Article 356. Postponement of deadline for and restructurization of customs payments.**

The head of the customs authority performing the customs clearance of goods and vehicles may postpone the deadline for customs payments and restructure customs payments according to the conditions and procedures established in the legislation of Ukraine on taxation.

Postponement of deadline for and restructurization of customs payments is not applicable to persons who had committed violations of customs rules envisaged in this Code.

If the deadline for customs payments is postponed or customs payments are restructured by way of issue of a promissory note to the customs authority and the promissory note is not repaid in time the customs authority may present such promissory note to a bank immediately. Such promissory note must be repaid as soon as possible. No protest due to refusal to accept or refusal to make payment shall be required.

#### **Article 357. Institutions authorized to issue written guarantees**

Only banks and other financial institutions included at their request in a register of guarantors kept by the State Customs Service of Ukraine may issue written guarantees of payment of customs charges.

The State Customs Service of Ukraine shall establish the procedure for considering applications of banks and other financial institutions for inclusion in the register of guarantors.

A fee shall be charged for inclusion of banks and other financial institutions in the register of guarantors.

Where a bank or other financial institution does not abide with the conditions of the guarantee and the rules of this code such bank or other financial institution may be excluded from the register by the State Customs Service of Ukraine. Written guarantees already issued shall retain effect. Wherever such exclusion takes place the fee for inclusion in the register is not repayable.

### **CHAPTER 59. Control of Due Payment of Customs Charges**

#### **Article 358. Control of adding the collected sums to the Budget**

The customs authorities shall be responsible for control of due payment of customs charges in cases of import and export of goods and vehicles and timely adding the collected sums to the state budget.

#### **Article 359. Retrieval of customs fees not paid on time**

Where customs fees are not paid timely, they shall be retrieved unconditionally from bank accounts or accounts in other financial or loan institutions.

Where customs fees are not paid timely, the debtor must pay a penalty for the amount of 0.5 percent of the sum in arrears for each day, including the day of payment or unconditional exacting of customs fees.

Where a payee does not have funds to pay fees, his/her/its property may be used for payment of such fees in accordance with laws of Ukraine.

Where a payee attempts to evade the payment of customs fees, the State Customs Service of Ukraine may order banks or other financial institutions to suspend transactions on the payee's accounts until the latter actually effects payment. Such resolution shall be binding upon such banks or other financial institutions.

The National Bank shall at the request of the State Customs Service take measures of influence towards banks or other credit institutions that failed to execute orders of the State Customs Committee of Ukraine on unconditional exacting of customs fees, or suspension of transactions on payee's accounts, or more than once delayed such execution unreasonably.

**Article 360. Repayment of excessively paid or exacted customs fees at the request of the applicant or its duly authorized representative.**

Amounts of excessively paid or exacted customs charges shall be repaid to the payer if such payer so requests the State Customs Service within one year from the moment of payment or retrieval of such fees. The State Treasury of Ukraine must repay such amounts at the request of the customs authorities. The Cabinet of Ministers must approve the procedure for such repayment.

Where customs fees are repaid, interest on such fees shall not be payable, and the inflation rate shall not be taken into account. The currency of repayment shall be the same as the currency of the initial payment.

Sums due to be repaid to subjects of foreign economic activities may be added to further payments if such subjects so concede.

**Article 361. Repayment of excessively paid or exacted customs fees on the basis of a court or Arbitration Court decision**

Within one year after customs fees were paid or exacted the payer may file a suit with a court or an arbitration court requiring the repayment of such fees.

The State Treasury of Ukraine must repay excessively paid or exacted customs fees on the basis of a court or arbitration court decision from the state budget of Ukraine with no execution fee being payable.

Sums due to be repaid to subjects of foreign economic activities may be added to further payments if such subjects so concede.

Where customs fees are repaid, interest on such charges shall not be payable, and the inflation rate shall not be taken into account. The currency of repayment shall be the same as the currency of the initial payment.

Decisions of courts or arbitration courts can be appealed by the customs authority according to the procedure established by law.

**SECTION XVI.  
Customs Statistics.**

## **Chapter 60. Customs Statistics**

### **Article 362. Objectives of the Customs Statistics**

The State Customs Service of Ukraine shall provide for the following:

- 1) impartial and verifiable collection of data on import and export of goods; collection, formation, improvement, generalization, comprehensive analysis and storage of statistical information on customs matters and foreign trade in goods;
- 2) supply of statistical, research and analytical information on customs matters and foreign trade in goods to superior state bodies and other government agencies envisaged in legislation;
- 3) protection of statistical information not subject to disclosure according to the legislation of Ukraine.

### **Article 363. The system of customs statistics.**

The customs statistics is a component part of the national system of statistics and accounting of Ukraine.

The statistics information that is formed, generalized and analyzed by customs authorities shall be used to strengthen the foreign economic relations, improve tariff and non-tariff regulations, further integration Ukraine with the world system of economic relations.

No statistical information shall be required from the customs authorities if it is envisaged in the rules of state statistic, this Code and other legislative acts of Ukraine.

Customs statistics shall consist of customs statistics of foreign trade and special customs statistics.

### **Article 364. Customs Statistics of Foreign Trade**

The customs statistics of foreign trade is generalized and systematized in an appropriate manner information on movement of goods across the customs border of Ukraine.

The relevant customs authorities shall use data of customs statistics of foreign trade to control the payment of taxes, fees and other obligatory charges to the state budget of Ukraine, to exert currency control, to analyze the foreign trade of Ukraine, its trade and payment balance and the economy as a whole. Such use of data shall take place in accordance with the procedures established in the current legislation.

Customs statistics shall be based on methodology making it possible to compare the data of customs statistics of foreign trade of Ukraine with the data of state statistics of other countries.

The state customs service of Ukraine shall arrange for regular publication of data of customs statistics of foreign trade.

### **Article 365. Special customs statistics.**

To ensure the fulfillment of tasks assigned to the customs authorities by the Supreme Rada of Ukraine, President of Ukraine, the Cabinet of Ministers of Ukraine, the customs authorities shall form, generalize and analyze special customs statistics. The State Customs Service of Ukraine shall approve the procedures of keeping special customs statistics.

### **Article 366. Documents and information used to compile the customs statistics**

Documents and information submitted by natural and legal entities as prescribed by the rules of this Code regulating the procedures of customs control and customs clearance shall be used to compile the customs statistics.

### **Article 367. Use of information supplied to the customs authorities by State bodies and officials**

Statistical and other information supplied to the customs authorities by state bodies and officials according to this Code and other acts of legislation of Ukraine shall be used for customs purposes only.

Information about amounts of exports and imports of specific products shall only be supplied to bodies responsible for the state statistics. Information about export and import transactions of a specific subject of entrepreneurial activity shall only be granted to investigators if such information is required to investigate a criminal case.

Information that constitutes state, commercial, banking or other secret protected by the law as well as undisclosed information shall not be disclosed or used by customs officials of Ukraine for their personal purposes. Such information shall not be transferred to state bodies and local government bodies, officials thereof, enterprises and individuals. Exception to these rules can only be established in a law.

### **Article 368. Using Customs Statistics of Foreign Trade**

Statistical information about foreign trade shall be used:

- 1) to determine strategy, tactics and the main directions of development of foreign economic activity;
- 2) to analyze and forecast foreign economic policy and situation that exists or will exist in the world market;
- 3) to conduct negotiations on trade and economic issues;
- 4) to apply tariff and not-tariff regulation measures;
- 5) to calculate the balance of payments of Ukraine, to develop and implement monetary and financial policies;
- 6) to determine markets for goods;
- 7) to form the statistics of foreign economic ties of Ukraine.

## **Article 369. Departmental Classifiers**

The State Customs Service of Ukraine shall develop, introduce and keep departmental

The State Customs Service of Ukraine shall approve the procedure for keeping the classifiers referred to in section 1 of this article.

The classifiers referred to in section 1 of this article shall be used for customs purposes only.

The State Customs Service of Ukraine shall inform state bodies and subjects of foreign economic activity about amendments and additions to classifiers referred to in section 1 of this article.

## **SECTION XVI. Ukrainian Commodity Nomenclature of Foreign Economic Activity**

### **CHAPTER 61. Keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity**

#### **Article 370. The structure and application of the Ukrainian Commodity Nomenclature of Foreign Economic Activity**

Normative acts on tariff and non-tariff regulation of foreign economic activities, keeping the statistics of foreign trade customs control and customs clearance of goods moving across the customs border of Ukraine shall be developed on the basis of the Ukrainian Commodity Nomenclature of Foreign Economic Activity.

The Ukrainian commodity description of foreign economic activity shall be formed on the basis of the Harmonized Commodity Description and Coding System.

The Ukrainian Commodity Nomenclature of Foreign Economic Activity shall consist of chapters, groups, commodity positions, commodity sub-positions. The titles thereof and digital codes thereof must be uniform with the Harmonized Commodity Description and Coding System.

The seventh, eighth, ninth and tenth digits shall be used for more detailed classification of goods.

The structure of the ten digit code description of goods in the Ukrainian Commodity Nomenclature of Foreign Economic Activity shall include the code of group, commodity position, commodity category (eight digits), commodity subcategory (ten digits).

#### **Article 371. The procedure for keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity**

Keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity shall include the following measures:

keeping record of amendments and additions to the international basis of the Ukrainian Commodity Nomenclature of Foreign Economic Activity, interpretation and other decisions to explain this basis approved by the World Customs Organization;

detailization of the Ukrainian Commodity Nomenclature of Foreign Economic Activity at the national level and introduction of additional measurement units;  
development of explanations and recommendations to ensure uniform interpretation and implementation of the Ukrainian Commodity Nomenclature of Foreign Economic Activity;  
making decisions on the classification and coding of goods according to the Ukrainian Commodity Nomenclature of Foreign Economic Activity;  
keeping and storing the sample copy of the Ukrainian Commodity Nomenclature of Foreign Economic Activity (in electronic and paper format);  
arrangement for publication and distribution of the Ukrainian Commodity Nomenclature of Foreign Economic Activity and explanatory notes thereto;  
discharge of other functions that are necessary to keep the Ukrainian Commodity Nomenclature of Foreign Economic Activity.

The State Customs Committee of Ukraine shall keep the Ukrainian Commodity Nomenclature of Foreign Economic Activity. The Cabinet of Ministers shall approve the procedure for keeping the Ukrainian Commodity Nomenclature of Foreign Economic Activity.

#### **Article 372. Classification of goods**

Customs authorities shall classify goods, i. e. they shall refer goods to the classification groups indicated in the Ukrainian Commodity Nomenclature of Foreign Economic Activity.

Decisions of customs authorities on classification of goods for customs purposes is binding for enterprises and individuals.

#### **Article 373. Submission of product samples in the process of classification of goods**

With the aim of finding reliable information on goods and their conformity with the description of the classification groups of the Ukrainian Commodity Nomenclature of Foreign Economic Activity, the customs authorities shall request businesses and individuals to supply samples of goods, technical and technological documentation for such goods in order to carry out expertise of such products.

The State Customs Service of Ukraine shall approve the procedure of submission of products samples and technical and technological documentation thereto, the terms and procedures of conducting such expertise as well as the procedures for use of goods and documentation.

### **SECTION XVIII.**

#### **Verification of Certificates of Origin of Goods in Ukraine**

#### **CHAPTER 62. Verification of Certificates of Origin of Goods in Ukraine**

#### **Article 374. Verification of certificates of origin**

Customs authorities shall verify the certificates of origin of goods in Ukraine. The State Customs Committee of Ukraine shall approve the procedure for such verification.

Bodies authorized to issue certificates of origin of goods in Ukraine shall at the request of customs authorities supply the necessary information related to the issue of such certificates and necessary for the verification of certificates of origin of goods in Ukraine.

#### **Article 375. Supply of documents in the process of verification of certificates of origin of goods in Ukraine**

To establish the reliability of data indicated in a certificate of origin of goods the customs authority may require the producers of such goods to supply the documents necessary for verification of data indicated in such origin. To this aim the customs authorities may also inspect the production locations and the primary documents related to such production.

The State Customs Service of Ukraine the procedure for the issue of samples of products and documents the term and the procedure for arranging the expertise and the procedure of use of product samples.

### **SECTION XIX.**

#### **Smuggling. Investigation and Search Activity of Customs Authorities.**

#### **CHAPTER 63. Smuggling as a Crime.**

##### **Article 376. Smuggling**

Smuggling is an illegal transfer of goods through the customs border of Ukraine, made out of the customs control, or concealed from the customs control, if such transfer is for large amounts or is made by a group organized for smuggling activities. Smuggling is also illegal import or export of historical and cultural values, poisonous, drastic or radioactive substances, explosives, arms and ammunition (except for smooth-bore hunting arms and ammunition thereto), narcotic substances, psychotropic substances or precursors.

The Criminal Code shall establish responsibility for smuggling.

Unfinished smuggling, i. e. preparation or attempt of smuggling, is considered smuggling.

#### **CHAPTER 64. Inquest in Customs Bodies.**

##### **Article 377. Customs authorities as subjects of inquest**

The State Customs Service of Ukraine, regional customs and customs authorities shall be subjects of inquest in cases of smuggling.

##### **Article 378. Inquest in cases of smuggling**

Inquest in cases of smuggling shall be conducted in accordance with the Criminal Procedural Code of Ukraine and this Code.

Inquisitors or other persons authorized by head of customs authority may perform inquest in cases of smuggling.

The procurator shall control the abiding the law in performing inquests in cases of smuggling.

### **Article 379. Powers of Head of the customs authority as a subject of inquest**

Head of the customs authority, as the body of inquest, shall initiate criminal cases on smuggling through an adoption of an appropriate resolution. He/she shall provide general guidance of inquiry, give written instructions to inquisitors to this effect, as well as certain instructions to other subjects of inquest in criminal cases processed by customs authorities.

Copy of a resolution on the initiation of a criminal case shall be transferred to the procurator within 24 hours.

Head of the customs authority, within his/her competence, shall ensure the implementation of instructions of procurator and investigator in cases processed by them as to search and investigative activities.

### **Article 380. Appeal of actions and resolutions of customs authorities as subjects of inquest**

Action and resolutions of customs authorities as inquest body, can be appealed to procurator.

## **CHAPTER 65. Operative and Search Activity of Custom Authorities.**

### **Article 381. Operative and search function of customs authorities**

Operative and search function of customs authorities are a system of open and secret measures taken to prevent and detect incidents of smuggling, detection and taking under control of persons related to smuggling, as well as measures to ensure security of customs authorities and officials.

Such activity must be in accordance with the current legislation of Ukraine and international agreements of Ukraine.

Direct operative search measures are exercised by the Department for Combat of Smuggling and the Department of Safety and Control of the Customs of the State Customs Service of Ukraine and the relevant departments in regional customs authorities. Other departments of customs authorities shall not take operative search measures.

### **Article 382. Rights of departments of customs authorities carrying out operative search activities**

Departments of customs authorities carrying out operative search activities shall have the rights envisaged in items 1, 3, 4, 6, 11, 12, 13, 14, 15, 17 and 18, Section 1, Article 8 of the Law of Ukraine "On Operative Search Activities".

### **Article 383. Controlled deliveries of narcotic substances, psychotropic substances and precursors**

To cease international illicit traffic of narcotic and psychotropic substances and precursors and detection of persons participating in such traffic, the customs authorities of Ukraine shall together with other law enforcement bodies of Ukraine, or without participation of such other bodies, with an agreement with the customs or other authorities of foreign

countries on the basis of international agreements of Ukraine, may use the method of controlled delivery. Controlled delivery is import into Ukraine, export out of Ukraine or transit across the territory of Ukraine of narcotic and psychotropic substances and precursors.

Only the Head of the State Customs Service or His/Her First Deputy is authorized to permit such controlled delivery. This Code and the appropriate normative act approved by the State Customs Service of Ukraine, the Ministry of Interior of Ukraine, the State Security Service of Ukraine, the State Committee on Protection of the State Border of Ukraine. Such acts must be preliminary approved by the Procurator General' Office of Ukraine and the Ministry of Justice of Ukraine.

#### **Article 384. Controlled movement of goods.**

With the aim to detection and holding responsible of persons engaged in smuggling as well as to seize products moved across the customs border of Ukraine illicitly, such goods may be transferred under secret control of customs authorities approved by other law-enforcement authorities with participation of the latter or without such participation.

Only Head of the State Customs Service of Ukraine, his/her first deputy and Head of the Department for Fighting with Smuggling and Violation of Customs Rules of the State Customs Service of Ukraine are authorized to permit secret control of traffic of goods. In exclusive cases, the head of the regional customs is authorized to permit such movement.

Where the goods under the secret control are those excluded from the circulation, such permission must be notified to the relevant procurator.

### **SECTION XX.**

#### **Violations of Customs Rules and Responsibility Therefor. Responsibility of Persons Participating in Cases on Violations of Customs Rules.**

#### **CHAPTER 66. General Provisions.**

#### **Article 385. Definition of violation of customs rules.**

Violation of customs rules is an administrative violation which is an illegal, guilty (malice prepense or negligence) act or omission infringing upon the procedure of movement of goods and vehicles through the customs border of Ukraine and which results in administrative responsibility.

Administrative responsibility occurs only if the respective act or omission does not result in criminal responsibility.

#### **Article 386. Responsibility for Violation of Customs Rules**

This Code shall establish the responsibility for violation of customs rules.

Only individuals aged 16 or older and legal entities may be held liable for violations of customs rules.

Legal entities are not made liable unless their heads or other officials commit violations of customs rules when discharging their permanent or temporary functions that require them

to adhere to the procedure of transfer of goods across the customs border of Ukraine established in the legislation.

Holding persons responsible for violations of customs rules does not cancel their obligation to declare goods and vehicles moving across the customs border of Ukraine and to pay the relevant customs fees.

**Article 387. Special responsibility for violation of certain customs rules.**

Violations envisaged in Articles 398, 399, 415, 416 and 417 of this Code, if they are result of crash or force majeure and the relevant documents confirm that such circumstances did occur, does not result in responsibility envisaged in this Code.

**Article 388. Applying sanctions less severe than those envisaged in this Code and relieve from administrative responsibility.**

A customs official or court considering a case on violation of the customs rules may take into consideration the nature and the degree of social danger of the violation and other circumstances mitigating the responsibility of the guilty person and determine the penalty lower than that envisaged in this Code or choose another and lower category of penalties or exempt the infringer from the administrative responsibility and warn him/her/it orally. Such customs official or court must give the reason for such decision.

**Article 389. Penalties for violation of customs rules.**

Infringers of customs rules are subject to the following penalties:

- 1) warning;
- 2) fine;
- 3) confiscation of products infringing the customs rules, goods with specially fabricated hiding-places used to conceal the goods infringing the customs rules from the customs control, vehicles used to transport goods infringing the customs rules across the border of Ukraine.

**Article 390. Main and additional penalties.**

Warning and fine may only be applied as a main penalty.

Confiscation of goods infringing the customs rules, goods with specially fabricated hiding-places used to conceal the goods infringing the customs rules from the customs control, vehicles used to transport goods infringing the customs rules across the border of Ukraine may be applied as a basic or additional penalty.

One violation of customs rules may only result in a basic penalty or both in basic and additional penalty. If the article establishing responsibility for violation of customs rules envisages both the basic and additional penalty, additional penalty must be applied together with the basic penalty. The only exception to this rule is envisaged in Part II of Article 395 of this Code.

**Article 391. Warning**

Warning as a penalty for violation of customs rules is an official admonition against recurring to the same activities in the future. Head or deputy head of the customs authority may decide to make such warning. Such warning must be made in the form of resolution and meet the requirements envisaged in Article 467 of this Code. The resolution must be announced to the infringer.

#### **Article 392. Fine**

Fine imposed for violation of customs rules is a monetary penalty. The amount of such penalty shall be established in the respective articles of this Code.

#### **Article 393. Confiscation**

Confiscation as a penalty for violation of customs rules is compulsory withdrawal of goods and vehicles determined in part III of Article 389 of this Code and uncompensated transfer thereof to the state ownership.

Confiscation of products and vehicles referred to in part III of Article 389 of this Code shall apply even if the relevant goods and vehicles are not the property of the infringer and even if the infringer is not detected.

Goods shall be confiscated only on the basis of a court decision in cases, amount and according to the procedures established in this Code and other legislative acts of Ukraine. Where confiscation of goods and vehicles referred to in part III of Article 389 of this Code is impossible or inappropriate, the value of these goods and vehicles must be transferred to the state ownership.

The confiscation of the value of goods and vehicles referred to in section III of Article 389 of this Code is a compulsory transfer to the state ownership of the sum equivalent to the market value of such goods and vehicles on the day the violation is detected.

#### **Article 394. Legitimacy of penalties for violations of customs rules.**

Nobody may be the subject to penalties for violation of customs rules other than on the basis and in accordance with the procedure established in this Code and other legislative acts of Ukraine.

With the aim to ensure legitimacy of penalties the superior customs authorities must exert systematic control over the activities of inferior bodies, the appropriate procurator's office must observe right of appeal, other measures established in the Ukrainian legislation.

#### **Article 395. Time limits for imposing penalties for violations of the customs rules.**

Warning and fine may be imposed not later than within two month after date the violation of customs rules is detected.

There are no time limits for confiscation of goods and vehicles referred to in section III of Article 389 of this Code. It does not matter if such confiscation is a main or additional penalty.

Where a criminal case was not initiated or where a criminal case was ceased but where the suspect committed the violation of customs rules, warning or fine may be applied not later

than within one month after the customs authority receives materials stating that the case was ceased.

## **CHAPTER 67. Types of Violations of Customs Rules. Responsibility for the Violations.**

### **Article 396. Violation of the regime of the customs control zone.**

Transfer of vehicles and goods or movement by persons, including state officials (except for customs officials), through the border of the customs control zone and within its borders and production and other commercial activity within such zone without the permission of the customs authority of Ukraine or any other actions violating the regime of the customs control zone, -

shall be the reason for imposing penalty for the amount up to twenty minimum incomes. The same acts, if there are goods or vehicles infringing the customs rules are present, shall be the reason for imposing a fine for the amount of up to 150 per cent of the value of such items.

### **Article 397. Failure to submit the documents necessary for the customs control to the customs authority.**

Failure to submit the documents necessary for the customs control to the customs authority, regardless as to whether the written declaration was submitted, -

shall be the reason for imposing a penalty of up to five minimum incomes to natural persons and a penalty of up to thirty minimum incomes to legal entities;

### **Article 398. Release of goods and vehicles without permission of the customs authority or loss thereof.**

Release of goods and vehicles retained under the customs control without permission of the customs authority, or loss thereof, -

shall be the reason for imposing a penalty for the amount of up to 150 percent of the value of such goods and vehicles.

### **Article 399. Failure to deliver goods, vehicles and documents to the customs authority.**

Failure to deliver goods and vehicles retained under the customs control and transported from one customs authority to another or taken for presentation to the customs authority of documents for such goods and vehicles, -

shall be the reason for imposing penalty of up to 150 percent of the value of such goods and vehicles.

### **Article 400. Failure to stop a vehicle.**

Failure to stop a vehicle moving across the customs border of Ukraine, -

shall be the reason for imposing penalty of up to five minimum incomes to natural persons and penalty of up to thirty minimum incomes to legal entities.

**Article 401. Dispatch of vehicle without permission of the customs authority.**

Dispatch of a vehicle retained under the customs control without permission of the customs authority, -

shall be the reason for imposing penalty of up to five minimum incomes to natural persons and penalty of up to thirty minimum incomes to legal entities.

**Article 402. Mooring to ships retained under the customs control.**

Mooring to ships retained under the customs control by other ships or other vessels without permission of the customs authority, -

shall be the reason for imposing penalty of up to twenty minimum incomes to natural persons and penalty of up to fifty minimum incomes to legal entities.

**Article 403. Improper operations with goods and vehicles retained under the customs control, changing of their state, use and disposal of them.**

Operations with vehicles, goods and articles that are under customs control, namely changing their state, use and disposal of them, without permission of the customs authority, except for the situations provided for in Articles 398 and 404 of this Code, -

shall be the reason for imposing penalty of up to 100 per cent of the value of such goods or vehicles or confiscation thereof, where the infringer is natural person;  
shall be the reason for imposing penalty of up to 150 per cent of the value of such goods or vehicles or confiscation thereof, where the infringer is a legal entity.

**Article 404. Loading and other operations carried out without permission of the customs authority.**

Loading, unloading, reloading, repairing of damages of package, unpacking, repackaging of item retained under the customs control or changing the identification marks such item or their package bear without permission of the customs authority, -

shall be the reason for imposing penalty of up to ten minimum incomes to natural persons and penalty of up to thirty minimum incomes to legal entities.

**Article 405. Damage to customs instruments or loss thereof.**

Damage to or loss of seals, stamps or other customs instruments, referred to in shipment documents, -

shall be the reason for imposing penalty of up to ten minimum incomes to natural persons and penalty of up to thirty minimum incomes to legal entities.

**Article 406. Violations of the procedure of the customs control in simplified customs control areas ("Green Corridors")**

Violations of the procedure of the customs control in a simplified customs control area ("green corridor"), i. e. the situation where a natural person who chose "green corridor" as a form of customs control carries goods forbidden or restricted for transfer across the customs border of Ukraine or in quantities exceeding quantities not subject for taxation,-

shall be the reason for imposing penalty from 50 to 200 per cent of the value of goods infringing customs rules or confiscation of such products.

**Article 407. Failure to declare goods or vehicles.**

Failure to declare goods and vehicles transferred across the customs border of Ukraine, including those transited across the territory of Ukraine, i.e. failure to declare exact information (presence, name or title, quantity, etc.) about goods and vehicles subject to obligatory declaration if transferred across the customs control of Ukraine, -

shall be the reason for imposing penalty from 20 to 150 per cent of the value of infringing goods or vehicles or confiscation thereof, where the infringer is natural person;

shall be the reason for imposing penalty from 30 to 200 per cent of the value of infringing goods or vehicles or confiscation thereof, where the infringer is a legal entity.

**Article 408. Sending goods and items, transfer of which through the customs border of Ukraine is prohibited, in International mail**

Sending goods and items, transfer of which through the customs border of Ukraine is prohibited, in international mail, as well as for transit through the territory of Ukraine, -

shall be the reason for confiscation of such products.

**Article 409. Preventing the access of customs officials to items and documents .**

Preventing the access of customs officials to goods, vehicles and documents or failure to present goods, vehicles and documents to a customs official or a reviser or specialist appointed by such customs official, where this occurred during the customs control or in proceedings on smuggling, -

shall be the reason for imposing penalty of up to thirty minimum incomes.

**Article 410. Failure to submit to the customs authority a report concerning the items retained under the customs control.**

Failure by persons referred to in Article 386 of this Code, to submit to the customs authority a report required by legislation concerning the items retained under the customs control or located in the special customs zones and are imported, exported, stored, processed, produced, purchased or sold without a preliminary permission of the customs authority as well as violation of the procedure of reporting about such items,-

shall be the reason for imposing penalty from three to thirty minimum incomes, where the infringer is natural person;

shall be the reason for imposing penalty of up to one hundred minimum incomes, where the infringer is a legal entity.

**Article 411. Failure to submit documents and product samples for examination (analysis, expertise)**

Failure to submit the appropriate documents and product samples required for examination (analysis, expertise), -

shall be the reason for imposing penalty for the amount of up to thirty minimum incomes

**Article 412. Transfer of goods infringing intellectual property rights across the border.**

Import into the customs territory of Ukraine, or export from this territory of goods and articles infringing intellectual property rights, for commercial purposes, -

shall be the reason for imposing penalty for the amount from ten to one hundred minimum incomes and confiscation of pirated goods, where the infringer is natural person;

shall be the reason for imposing penalty for the amount from fifty to two hundred minimum incomes and confiscation of pirated goods, where the infringer is a legal entity.

**Article 413. Violation of the procedure of storing goods at customs licensed warehouses and the procedure for operations with such goods.**

Violation of the procedure of storing goods at the customs licensed warehouses, failure to adhere to the terms, conditions and procedure for storing such goods, as well as carrying out transactions with goods stored in licensed customs warehouses without the permission of the customs authorities, -

shall be the reason for imposing penalty for the amount of up to 50 per cent of the value of such goods.

**Article 414. Violation of the procedure of destruction of goods.**

Violation of the established procedure of destruction of goods retained under the customs control, i.e. failure to meet the established requirements, restrictions and conditions as regards the destruction of such goods,-

shall be the reason for imposing penalty for the amount from fifty to two hundred minimum incomes.

**Article 415. Violation of the obligation to re-export or re-import goods.**

Failure to re-export from the customs territory of Ukraine goods that must be re-exported, or failure to re-import into the customs territory of Ukraine goods that must be re-imported, within the periods established in the appropriate obligations of exporters or importers,-

shall be the reason for imposing penalty of up to 100 per cent of the value of such goods or vehicles or confiscation thereof, where the infringer is natural person;

shall be the reason for imposing penalty of up to 200 per cent of the value of such goods or vehicles or confiscation thereof, where the infringer is a legal entity.

**Article 416. Violation of the obligation on transit.**

Failure to export from the customs territory of Ukraine of goods and vehicles imported with the purpose of transit in the customs territory of Ukraine within the periods defined by the customs body,-

shall be the reason for imposing penalty of up to 200 per cent of the value of such goods or confiscation of such goods.

**Article 417. Violation of the prescribed route for movement of goods.**

Violation of the route prescribed by the customs authority for movement across the territory of Ukraine of goods imported into Ukraine with the purpose of transit,-

shall be the reason for imposing penalty for the amount of up to ten percent of the value of such goods or confiscation of such goods.

**Article 418. Movement of goods and vehicles through the customs border of Ukraine out of the customs control.**

Movement of goods and vehicles through the customs border of Ukraine out of the customs control, i.e. movement thereof through the customs border of Ukraine in places other than the location of a customs authority or in time other than the time for the customs clearance, or unlawful exemption of goods from the customs clearance where such exemption was granted as a result of abuse of position by officials of a customs authority or making preparatory actions for such infringement, where such acts do not constitute a criminal offence, -

shall be the reason for imposing penalty for the amount from 50 to 200 percent of the value of infringing goods, or confiscation of such infringing goods and articles, as well as confiscation of vehicles used for transportation of infringing goods through the customs territory of Ukraine.

**Article 419. Transfer of goods through the customs border of Ukraine concealed from the customs control.**

Transfer of goods through the customs border of Ukraine concealed from the customs control, i.e. by using hiding places and other means and ways impeding disclosure of such articles or by making one goods look like other goods, or submission of forged documents or documents obtained illegally or documents containing false information or making preparatory actions therefor, -

shall be the reason for imposing penalty for the amount from fifty to two hundred per cent of the value of infringing goods or confiscation of such goods, as well confiscation of goods with hiding places and confiscation of vehicles used to carry infringing goods through the customs border of Ukraine

**Article 420. Storage, carriage or purchase of goods and vehicles brought in the customs territory of Ukraine out of the customs control or concealed from the customs control.**

Storage, carriage or purchase of goods and vehicles brought in the customs territory of Ukraine out of the customs control or concealed from the customs control, -

shall be the reason for imposing penalty for the amount of up to 100 per cent of the value of such goods and vehicles or confiscation of such goods and vehicles.

**Article 421. Use of goods subject to privileges on customs charges for purposes other than the purpose of such privilege.**

Use of goods subject to privileges on customs charges for purposes other than the purpose of such privilege, -

shall be the reason for imposing penalty for the amount from 100 to 200 per cent of the sum of customs charges that would be due if such privileges were not used.

**Article 422. Activities directed at illegal exemption from customs fees or taken to understate their amounts due.**

Activities directed at illegal exemption from customs fees or taken to understate their amounts or failure to pay such fees for the amount established by the customs authority or other illicit activities that brought about underpayment of customs fees, -

shall be the reason for imposing fine for the amount of up to fifty per cent of the value of fees underpaid, where the infringer is a natural person,

shall be the reason for imposing fine for the amount of up to two hundred per cent of the value of fees underpaid, where the infringer is a legal entity.

**CHAPTER 68. Responsibility of Persons Participating in Proceedings on Violation of Customs Rules.**

**Article 423. Responsibility of an expert and interpreter for refusal or evasion from participation in cases on violations of customs rules.**

Refusal or evasion by expert from rendering his/her conclusion or by an interpreter from participation in a case on violation of customs rules, from participation in proceedings of such case, without valid ground therefor, as well as knowingly false conclusion by an expert or knowingly false interpretation by an interpreter, -

shall be the reason for warning or for imposing fine for the amount of up to ten minimum incomes.

**Article 424. Refusal or evasion from explanation or knowingly false testimony.**

Refusal or evasion from explanation by a person subject to interrogation on the violation of customs rules with no valid grounds, except for the cases of self-testimony or testimony

about spouse or close relatives included in the list approved by legislation, as well as knowingly false testimony, -

shall be the reason for imposing fine for the amount of up to ten minimum incomes.

## **SECTION XXI. PROCEEDINGS ON VIOLATIONS OF CUSTOMS RULES**

### **CHAPTER 69. The Proceedings on Violation of Customs Rules.**

#### **Article 425. Definition of proceeding on violations of customs rules.**

Proceedings on violation of customs rules shall include procedural measures envisaged in Article 443 of this Code, consideration of the case and making order or decision with regard thereto.

#### **Article 426. Legal rules for proceedings on violation of customs rules.**

This Code shall establish legal rules for proceedings on violation of customs rules. The legislation on administrative infringements shall establish legal rules for situations not provided for in this Code.

#### **Article 427. Initiation of a case on violation of customs rules.**

The moment a protocol on violation of customs rules is signed shall be the moment a case is initiated.

#### **Article 428. Officials authorized to sign protocols on violation of customs rules.**

The following persons are authorized to sign protocols on violation of customs rules:

- 1) officials authorized to take measures of control and of customs clearance and to release goods and vehicles into and out of Ukraine who directly detected a violation of the customs rules;
- 2) officials of the Department on Combat of Smuggling and Violations of Customs Rules of the State Customs Service, the departments on combat of smuggling and violations of customs rules of regional customs and other customs bodies authorized to sign such protocols;
- 3) other officials authorized by head of the State Customs Service or by head of a regional customs authority.

#### **Article 429. Reasons and grounds to bring a case on violation of customs rules.**

There shall be the following reasons to bring a case on violation of customs rules:

- 1) direct discovery of violation of customs rules by customs officials;
- 2) notification of customs bodies of a violation of customs rules;
  - 3) information about violations of customs rules obtained from customs and other law-enforcement bodies of foreign countries and international organizations.

### **Article 430. Language of Proceedings in Cases on Violation of Customs Rules**

Proceedings in cases on violation of customs rules shall be in Ukrainian.

The persons participating in a case on violation of customs rules who do not speak and (or) write Ukrainian, can make declarations, explanations and petitions in their native language, if such language is one of those widely used in the world as well as use the services of an interpreter.

### **Article 431. Customs Officials Conducting Proceedings in Cases on Violations of Customs Rules**

Officials of departments on combat of smuggling and violations of customs rules of the regional customs where such violation is committed or detected shall conduct proceedings in cases on violations of customs rules.

Officials of departments on combat of smuggling and violations of customs rules of the regional customs may conduct proceedings in any case on violation of customs rules initiated by a customs authority subordinated to the regional customs authority.

Officials of the Department on Combat of Smuggling and Violations of Customs Rules of the State Customs Service may conduct proceedings in any case on violation of customs rules initiated by any customs authority.

### **Article 432. Protocol on Violation of Customs Rules**

An authorized person of the customs authority that detected a violation of customs rules must draft and sign a protocol stating such violation.

Such protocol must include the following information:

- 1) the date and place the protocol is signed;
- 2) the first, middle and last name of the person who drafted and signed the protocol;
- 3) the information about the person made liable necessary for considering the case, where such person is identified;
- 4) place, time and nature of violations of customs rules;
- 5) reference to the article of this Code establishing responsibility for such violation;
- 6) last names and addresses of witnesses, where such witnesses exist;
- 7) information about goods seized in accordance with Article 449 of this Code;
- 8) other information necessary for resolution of the case.

The protocol must be signed by the official that drafted it. Where a person made liable for violation of customs rules is present when the protocol is signed, such person must also sign the protocol. Where witnesses exist, they must also sign the protocol.

Where the person made liable for violation of customs rules refuses to sign a protocol the appropriate note is made in the protocol. The person made liable for violation of customs rules can make explanations and express objections to the contents of the protocol. Such

person may also express the reasons for refusal to sign the protocol in writing. Such explanations written personally shall be added to the protocol. A note must be made in the protocol stating that such explanation is added to the protocol and indicating the number of pages such explanation occupies.

The rights envisaged in Article 435 of this Code of the person made liable for violation of customs rules must be explained to such persons wherever such protocol is drafted and signed.

Where necessary the protocol must also include information about the place and time of consideration of the case on violation of the customs rules.

Where the person made liable for violation of customs rules refuses to receive a copy of the protocol, an appropriate note must be made in the protocol signed by the person who drafted or signed the protocol and witness where the latter exist. Such copy must be sent to the address declared by such person or available at the customs authority (place of residence or stay). The protocol shall be regarded as received by such person even if the person did not stay at the address notified by him/her or if such person gave false information about the address of his/her residence or stay.

Protocol as well as the goods seized and objects indicated in the protocol, must be transferred to the customs authority where the violation of customs rules was detected.

### **Article 433. Proceedings in Cases on Violations of Customs Rules on the Basis of Materials Obtained from other Law-Enforcing Authorities**

Where a criminal case on smuggling is terminated with regards to a specific person and the actions of such person violated customs rules, the materials of such criminal case must be transmitted to the customs authority so that such person should be made liable for administrative infringements.

Resolution (decision) on such case shall be made within one month after the customs authority receives the resolution about the termination of the criminal case.

### **Article 434. Persons Participating in Cases on Violations of Customs Rules**

The following persons participate in cases on violations of customs rules:  
persons made liable for violations of customs rules;  
representatives of persons made liable for violations of customs rules (representatives acting by virtue of law, representative acting by virtue of power of attorney, attorneys);  
witnesses;  
experts;  
interpreters.

### **Article 435. Rights of Persons Made Liable for Violations of Customs Rules**

Persons made liable for violations of customs rules shall have the right to access the materials of the case, make excerpts therefrom, make copies of decisions, resolutions and other documents included in the case, attend the consideration of cases at the customs

authority and participate in court proceedings, submit evidence, participate in examination of evidence, make petitions and require replacement of participants of proceedings, make oral and written explanations, present their arguments, speculations and objections, make appeals to resolutions and decisions of the customs authority and decisions of court. Such persons may also enjoy other rights provided for in laws. The persons referred to in this article must use their procedural rights in good faith.

#### **Article 436. Representatives of Persons Made Liable for Violations of Customs Rules**

Heads of legal entities made liable for violations of customs rules act on behalf of such legal entities within the limits of their powers established in law, charter or regulation.

Other representatives of legal entities act on behalf of such persons on the basis of a power of attorney issued by such legal entity.

The following persons may be representatives of individuals made liable for violations of customs rules:

1) representatives by virtue of law: parents, adopters, guardians, who act on the basis of documents certifying their powers. Such representatives participate in cases of minors or persons who due to their physical or mental deficiencies are unable to exercise their rights personally. Representatives by virtue of law may authorize other person selected by them to act as representative.

2) attorney who act on the basis of a warrant issued by a legal consultancy.

3) other persons who act on the basis of a power of attorney certified by a notary.

Individuals may also have their power of attorney certified at the enterprise where they work or at the department for management of buildings where they reside. Military officers may also have such powers of attorney certified at the relevant military detachment.

Persons residing in towns or villages where there are no notaries may have such powers of attorney certified at the executive department of town or village council of people's deputies. Persons undergoing medical treatment may have such powers of attorney certified at the relevant medical establishment.

Personal participation of individuals in the consideration of cases does not affect their right to have representatives.

Representatives by virtue of law and heads of legal entities shall enjoy all the rights referred to in article 435 of this Code. The powers of other persons to participate in a case shall give them the right to commit on behalf of persons they represent all the acts referred to in Article 435 of this Code except for the right to transfer of rights to another, to appeal a resolution or decision of customs authority or court, to receive goods or money where such goods or money are returned. The power of a representative to commit each of the acts must be provided for in the power issued to such representative.

The following persons may not be representatives:

- minors;
- persons under guardianship;
- attorneys who did not comply with the rules established in the legislation of Ukraine on bar when they undertook to render legal assistance, persons excluded from bar.

Officials of the State Customs Service of Ukraine, as well as judges, investigators and procurators may not represent persons made liable. The rule shall not apply to situations where such officials, judges, investigators or procurators act as parents or guardians of persons made liable.

#### **Article 437. Expert**

Only individual possessing the knowledge required for making an appropriate conclusion may be an expert.

An expert shall be appointed by a customs official conducting proceedings on violation of customs rules, where special knowledge is required.

Expert must give his unbiased conclusion on the matter of the expertise.

Expert shall have the right to:

access the materials of the case dealing with the subject matter of the expertise;

make petitions for additional materials necessary to make conclusions;

if a customs authority conducting proceedings on the violation of customs rules so permit he/she shall have the right to attend the consideration of the case and ask witnesses and persons made liable for violation of customs rules questions related to the subject matter of the expertise.

An expert shall be made liable in accordance with this Code if he/she refuses to give his conclusion or evades making such conclusion without any valid reasons.

#### **Article 438. Interpreter**

Only a citizen who knows the language required for interpretation in the proceedings on violation of the customs rules may be an interpreter.

An interpreter must interpret the required information exactly and comprehensively. Where necessary he/she must take part in procedural activities on violation of customs rules.

An official of the customs authority may serve as an interpreter.

An interpreter shall be made liable in accordance with this Code if he/she refuses to give his conclusion or evades making such conclusion without any valid reasons, if he/she refuses to take part in procedural activities on violation of customs rules, if he/she knowingly interprets certain information incorrectly.

#### **Article 439. Witness in case on violation of customs rules**

Any citizens may be a witness if there are reasons to believe that he/she is aware of circumstances that must be discovered during proceedings on violation of customs rules.

Witness, if summoned by the customs authority conducting proceedings on violation of customs rules, must arrive to the customs authority at the time appointed by the latter and

give detailed and truthful testimony, disclose all he/she knows about the case and answer all the questions asked.

A witness shall be made liable in accordance with this Code if he/she refuses to make the necessary explanations or evades making such explanations.

#### **Article 440. Witnesses in cases on violation of customs rules.**

Witnesses are individuals invited to participate in procedural activities in cases on violation of customs rules.

Only persons having an interest in the case may be invited to act as witnesses. Relatives of the person made liable for violation of customs rules, relatives of representative of such person as well as customs officials may not be witnesses.

Witnesses attending procedural activities shall certify that the information included in the protocol corresponds to the actual facts by signature of the protocol.

#### **Article 441. Circumstances precluding custom officials from conducting proceedings on violation of customs rules.**

A customs official may not carry out case proceedings if he/she is a relative of the person made liable for violation of customs rules, his/her representative, other persons participating in case proceedings and if there are other circumstances that give reasons to believe that this official may be interested in a case outcome.

Head or deputy head of department for combat of smuggling and violations of customs rules may select other person to conduct proceedings on violation of customs rules.

Where head of department for combat of smuggling and violations of customs rules of the customs authority conducting proceedings on violation of customs rules is a relative of the person made liable for violations of customs rules, representative of such person, other persons participating in proceedings, as well as if there are other circumstances giving reasons to believe that head of such department may have personal interest in a case, the case proceedings must be carried out by other customs authority as provided for in Article 464 of this Code.

### **CHAPTER 70. Administrative Detention.**

#### **Article 442. The purpose of and procedure of administrative detention.**

In order to stop violations of customs rules, to detect persons violating customs rules and to draft and sign a protocol on administrative infringement, where it is impossible to draft and sign such protocol on the spot of infringement, administrative detention may be applied to an individual who committed such infringement, for the period of up to three hours.

Customs official may invoke the right to administrative detention of infringers of customs rules if permitted by the following persons: head of customs authority, deputy head of customs authority - head of department of combat of smuggling and violations of customs rules of the customs authority, head or deputy head of customs post. Where all of these

persons are absent (at night time, on days off and holidays, etc.) commander of the customs post currently on duty or head of the shift currently on duty may permit administrative detention.

Where faced with resistance or attempted escape the customs official performing administrative arrest may request that the Ministry of Interior and Border Forces officers on duty should render assistance. Rendering such assistance is an obligation for the Ministry of Interior and Border Forces officers.

The term for administrative detention shall start running from the moment the person arrested gets to the official premises of the customs authority or to other premises where the obligatory measures aimed at the objectives referred to in Part I of this article can be taken. Where the individual is intoxicated such term shall start running from the moment he/she gets sober.

An individual staying in official premise of the customs authority or other premises for the purpose of the customs control or customs clearance the term of administrative detention shall start running from the moment such customs control or clearance is completed.

A protocol on administrative detention must be drafted and signed. The form of the protocol shall be approved by the State Customs Service of Ukraine. Where physical force or special appliances were used the note thereof must be included in the protocol. The copy of the protocol must be handed to the detained individual.

## **CHAPTER 71. Procedural Actions in Cases on Violations of Customs Rules and Procedure Therefor**

### **Article 443. The objective of procedural actions.**

Procedural actions in cases on violation of customs rules are taken in order to gather evidence required for correct resolution of the case.

Procedural actions include:

- 1) preparation and signature of a protocol on violation of customs rules;
- 2) interrogation of persons made liable for violation of customs rules, witnesses, other persons;
- 3) requisition of documents necessary for proceedings in case on violation of customs rules;
- 4) seizure of goods, vehicles and documents;
- 5) customs examination;
- 6) survey;
- 7) presentation of goods, vehicles and documents for identification;
- 8) requisition of information necessary for proceedings in case on violation of customs rules;
- 9) revisions, inspections and stock taking in cases on violation of customs rules;
- 10) prescription of an expertise;
- 11) taking samples for examination (analysis, expertise).

In taking the procedural actions referred to in items 2, 4, 5, 6, 7, 9, 11 of section II of this article protocols must be drafted and signed. The State Customs Service of Ukraine shall approve sample form of such protocols.

#### **Article 444. Summons for interrogation.**

A customs official carrying out procedures on violations of customs rules, may interrogate the person made liable for that violation of customs rules, as well as witnesses and other persons.

Persons summoned for interrogation, must show up in accordance with such summons and supply truthful information about everything they are aware of the circumstances related to the case on violation of customs rules.

Persons subject to interrogation on the case shall receive summons handed to them in exchange for their written confirmation of receipt of such summons.

Where the person summoned to the customs authority is temporary absent the summons must be handed to one of the grown up members of the family of such person or to an employee of municipal department for house management, the local executive body of the place of residence of such person, manager at the place of employment, education or recreation of such person. In all situations summons must be handed to such person in exchange for their written confirmation of receipt of the summons

Where head or deputy head of an enterprise or other officials summoned as person related to movement of goods infringing customs rules through the customs border are temporary absent, summons must be handed to an employee of such enterprise in exchange for his/her written confirmation of receipt of such summons.

The summons must indicate the person summoned, place, day and time the person must show up and the official the person summoned must apply to. The summons must also include a warning about the responsibility for failure to show up.

Person subject to interrogation may also be summoned by telegram, phone or by other media.

Summons for persons under 16 shall be handed to their parents or their substitutes.

Where a person is unable to appear at the customs authority summoning him/her because of illness, old age, disability or other valid reasons, such person may be interrogated at his/her place of residence.

#### **Article 445. The procedure for interrogation in cases on violation of customs rules.**

Persons summoned for interrogation in the same case must be interrogated separately. Before interrogation the customs official carrying proceedings or considering the case on violation of customs rules must identify the person under interrogation and inquire if such person knows Ukrainian or needs services of an interpreter, explains to the person under interrogation the rights and obligations of the latter.

If the person under interrogation is a witness, he/she must be warned of the responsibility for refusal to give testimony or evasion of testimony, as provided for in Article 424 of this Code.

Before interrogating head or deputy head or a person subordinated thereto of an enterprise or of an individual entrepreneur directly related to movement through the customs border of goods infringing customs rules, the customs official must identify them.

For interrogation of a person below 16 a pedagogue, psychologist or close relatives of the person under interrogation must be called. Before interrogation their rights and responsibilities must be explained to such persons and the note thereof must be included in the protocol of interrogation.

#### **Article 446. Requirements to the protocol of interrogation.**

If the person under interrogation is unable or unwilling to give his/her own explanation of the nature of the case personally, the customs official must include oral explanations of such person in the protocol. Where possible, customs official must write down such explanations word for word.

Where necessary, information on specific questions posed to the person under interrogation and answers to such questions.

Where interrogation takes place in the presence of an interpreter, the protocol must include the note that rights and obligations of the interpreter were explained to the latter.

After the protocol is prepared the person under interrogation must examine it and sign it to show that all the explanations made by him/her in writing and orally are correct. The person under interrogation has the right to demand that the text of her oral explanations should be supplemented or amended. Such supplements or amendments must be included in the protocol. If the protocol consists of more than one page, the person under interrogation must sign each separate page and the document as a whole.

If the person under interrogation uses interpreting services the latter must sign the protocol thus certifying that the oral interpretation corresponds to the explanations made by the former.

If the protocol of interrogation was translated, the person under interrogation and the interpreter must sign each separate page of the translated text and the protocol as a whole.

#### **Article 447. Registration of refusal to sign the protocol or unfeasibility of signature of the protocol.**

Where a person made liable for violation of customs rules or some other person refuses to sign the protocol of procedural action or other protocols envisaged in this Code, the appropriate note is made in the protocol. Such note must be signed by the customs official who drafted and signed the protocol as well as by witnesses of the relevant procedural action.

The person who refused to sign a protocol shall have opportunity to explain the reasons therefor. Such explanation must be included in the protocol or appended thereto as a separate explanation.

Where the person referred to in part I of this article, due to his/her physical deficiencies or other reasons is unable to sign the protocol of a procedural action or other protocols envisaged in this Code, the relevant note is made in the protocol. Such protocol must be signed by the customs official who drafted it, as well as by witnesses.

**Article 448. Requisition of documents necessary for proceedings in case on violation of customs rules.**

Customs official conducting proceedings on violation of customs rules shall have the right to request that juridical and natural persons should supply documents necessary for case proceedings and consideration of a case.

The person that the request addresses must forward such documents to the customs authority within five days.

The original documents must be supplied. If the customs official so permits, copies of such documents can be made. Such documents must be certified according to the established procedure. If only part of the document is required for proceedings on violation of customs rules, an excerpt certified according to the established procedure must be submitted. After the deadline for appeal of the resolution in the case on violation of customs rules has expired, the originals of such documents must be returned to the person that supplied such documents if he/she so requests. In such situation copies of the documents certified by the customs officials that carried out proceedings on violation of customs rules shall remain with the materials of the case.

Where the documents necessary for proceedings on violation of customs rules requested by the customs official are not supplied, such documents must be seized in accordance with the procedure established in this Code.

**Article 449. Seizure of goods, vehicles and documents.**

Goods infringing customs rules, goods with special hiding-places used for movement through the customs border of Ukraine of goods concealed from the customs control, vehicles used to carry infringing goods through the customs border of Ukraine, as well documents relevant to the case, are subject to seizure.

Where goods and vehicles, referred to in part I of this article, cannot be seized, other goods and vehicles may be seized where the value of such goods and vehicles corresponds to the value of goods and vehicles subject to confiscation.

Also, goods and vehicles may also be seized to secure the payment of a fine.

The seized goods, vehicles and documents must be listed in the protocol on violation of customs rules, protocol of seizure or protocol of personal examination. Such protocols must also include the quantity of goods, vehicles and documents, specific traits thereof, and, where possible, the value of seized goods and vehicles.

**Article 450. The procedure for seizure of goods, vehicles and documents .**

Customs officials shall have the right to seize goods, vehicles and documents referred to in Article 449 of this Code.

Goods may be seized in the course of customs control, in the course of personal examination or in the course of drafting the protocol on violation of customs rules or taking a specific procedural action in a case on violation of customs rules.

The person subject to seizure of goods, vehicles and documents must participate in the procedure of seizure, which is a separate procedural action. Where such person is temporary absent the seizure must be witnessed by members of family of such person or by an employee of municipal department for house management, manager at the place of employment, education or recreation of such person, representative of the relevant local executive body. Where head or deputy head of an enterprise is temporary absent the seizure must be witnessed by other employees of the same enterprise or representatives of the body that carried out the state registration of that enterprise.

Where necessary an expert is invited to participate in the procedure of seizure, which is a separate procedural action.

The rights of the persons participating in the procedure of or witnessing the seizure of goods, vehicles, documents must be explained to them.

Goods, vehicles and documents may not be seized at night time except for situations where such seizure takes place in the course of the customs control or customs clearance or where such seizure must be urgent.

The officials of the customs authority shall propose that the person possessing goods, vehicles or documents subject to seizure, or other persons referred to in part III of this article, should voluntarily present such goods, vehicles or documents. Where such persons refuse to open the premises, vessels or other places containing or possibly containing goods, vehicles or documents subject to seizure, the customs official shall have the right to do so by themselves, where possible, without damaging bolts, locks, doors, etc.

Documents containing secret information not detected in the course of customs control and customs clearance may be seized only if head or deputy head of the customs authority and the procurator so permit. If such documents belong to a state body or state-owned enterprise the procedure for seizure of such documents must be approved by head or deputy head of such enterprise.

#### **Article 451. Customs examination and the procedure therefor.**

Customs officials who have valid sufficient reasons to believe that goods infringing customs rules or goods with specially manufactured hiding-places used to carry goods infringing customs rules through the customs border of Ukraine and conceal such goods from the customs control, vehicles or other goods constituting a material evidence, as well as documents, necessary for proceedings on violation of customs rules or for consideration of a case on violation of customs rules, shall have the right to examine such locations, premises or vehicles. A resolution on examination containing the reasons for such decision must be approved wherever such examination takes place.

The person whose location, premises or vehicles are being examined must participate in such examination.

Where such person is temporary absent the examination must be witnessed by grown-up members of family of such person or by an employee of municipal department for house management, manager at the place of employment, education or recreation of such person, representative of the relevant local executive body. Where head or deputy head of an enterprise is temporary absent the seizure must be witnessed by other employees of the same enterprise or representatives of the body that carried out the state registration of that enterprise.

Where necessary, an expert must be invited to participate in customs examination.

The rights of the persons participating in the procedure of or witnessing the customs examination must be explained to them.

Customs examination must not take place at night time except for situations where such examination takes place in the course of the customs control or customs clearance or where such examination must be urgent.

Before customs examination begins the customs officials performing the customs clearance must present to the person whose location, premises or vehicles are to be examined, the resolution authorizing such examination must be handed to such person for review in exchange for his/her written confirmation that he/she has reviewed such resolution. Where such person is temporary absent, the resolution must be handed to another person from those listed in part III of this article.

Customs officials shall propose to the person whose location, premises or vehicles are subject to examination or other persons referred to in part III of this Article that they should voluntarily submit such goods, vehicles or documents or open the premises, vessels or other locations containing or possibly containing such goods, vehicles or documents. Where the person whose location, premises or vehicles are subject to examination refuses to do so, the customs official shall have the right to do so by themselves, where possible, without damaging bolts, locks, doors, etc.

Goods, vehicles or documents relevant to the case and detected in the course of customs examination shall be seized. A note thereof shall be included in the protocol of the customs examination.

In the course of the customs examination objects can be measured, photographed, recorded on tape and on video. Special search instruments may be applied.

In the course of the customs examination a protocol shall be drafted and signed by persons who took part in such examination. Where the person who participated in customs clearance refuses to sign the protocol of examination, an appropriate note shall be included in the protocol and such person shall have the right to give his/her written explanations of the reasons for such refusal. Such written explanations shall be appended to the case on violation of customs rules.

#### **Article 452. Customs survey and the procedure therefor.**

In order to detect the traces of an infringement, find evidence and clarify circumstances relevant to the case, a survey of location, goods, vehicles and documents relevant to the case on the violation of customs rules.

Such survey may take place in the course of the customs control as well as a separate procedural action.

Survey of goods, vehicles and documents relevant to the case, as a separate procedural action, may take place where the customs officials obtained such goods, vehicles and documents as a result of customs control or customs clearance or as a result of procedural actions taken previously. Otherwise survey of goods, vehicles and documents relevant to the case, as a separate procedural action may only take place if the owner of such goods, vehicles and documents so permits.

The person made liable for violation of customs rules and witnesses must be invited to participate in the survey as a separate procedural action.

Where necessary, objects shall be measured, photographed, recorded on tape and on video, traces shall be recorded, documents shall be copied.

Where survey is carried out as a separate procedural action a protocol thereon shall be drafted and signed.

#### **Article 453. Presentation of goods, vehicles and documents for identification**

Where necessary, a customs official conducting proceedings on violation of customs rules may present goods, vehicles and documents relevant to the case for identification to the person made liable for violation of customs rules and other persons involved in the case on violation of customs rules.

Such persons are first asked questions about the circumstances involved when they have seen such goods, vehicles and documents referred to in part I of this Article. Afterwards the features of such goods that make it possible to identify them shall be described by such persons.

Goods, vehicles and documents shall be presented for identification within a group of similar goods, vehicles and documents. Witness must attend such presentation for identification.

Wherever goods, vehicles and documents are presented for examination, a protocol thereon shall be drafted and signed.

#### **Article 454. Requisition of information necessary for proceedings in case on violation of customs rules.**

A customs official may request in writing that any natural and legal entities supply free of charge any information necessary to consider a case, including the information intended for official use or information protected by law as trade or other secret.

The person such request addresses must supply the appropriate information to the customs official within five days.

Where such information is not supplied a customs official may seize the documents containing the information necessary for the case to be considered. Such seizure must follow the procedure established in this Code.

The customs official must ensure that the information he/she got access to the information obtained in the course of proceedings on violation of customs rules should be kept undisclosed. Customs official shall only use such information for the purpose of consideration of cases on violation of customs rules.

Customs authorities shall not use such information for their personal purposes, forward it to third parties or other government authorities except for situations provided for in the legislation of Ukraine.

#### **Article 455. Revisions, inspections and stock taking in cases on violation of customs rules**

Where other ways of gathering evidence in cases on violation of customs rules are exhausted, the customs authority conducting proceedings or considering a case may carry out revisions, inspections of financial and business activities of persons made liable for violations of customs rules and stock taking of their products.

Head of the customs authority making decision to take measures referred to in part I of this Article shall determine the person subject to inspection as well the revisers and specialists authorized to carry out revisions, inspections or stock taking.

A resolution approved by head or deputy head of the customs authority shall be the basis for revision, inspection or stock taking.

The results of revision, inspection or stock taking must be notified to the person subject to such measures within five days after such measures are completed.

The legislation of Ukraine shall establish the procedure for such revision, inspection or stock taking.

#### **Article 456. Conclusion by an expert**

Experts shall be invited to participate in proceedings wherever there is a need for special knowledge in certain areas of science, technology, art, religion, etc.

Experts of customs laboratories or other institutions or individual experts appointed by the customs authority conducting proceedings on violation of customs rules shall conduct an expertise.

The questions posed before an expert and his/her conclusions must not fall beyond the special knowledge of an expert. An expert shall give his/her conclusions in writing on his own behalf. The conclusion must include the information about the nature of the research carried out by the expert and the basis for the answers given in reply to the questions posed before an expert.

Wherever an expert shall detect circumstances not cover by the questions posed before him/her, such expert shall have the right to give his/her answers in his/her conclusion. The customs official is not required to act in compliance with the conclusion of an expert.

Where the customs official acts not in compliance with such conclusion, he/she must include in the resolution on the case the reasons for such non-compliance.

Where the conclusion of an expert is of insufficient quality or is not comprehensive, a re-expertise shall be required with other expert (experts) carrying out such expertise.

The acts, certificates and other documents submitted to the customs authority and dealing with the subject matter of the research carried out that contain the relevant conclusions shall not be regarded as conclusions of an expert if such conclusions were prepared without an appropriate instruction by the customs authority.

#### **Article 457. The Procedure for carrying out an expertise.**

Wherever the customs authority conducting proceedings on violation of customs rules decides that an expertise is necessary, such customs authority must approve a resolution. Such resolution must include the reasons for such expertise, the last name of the expert or the name of the customs laboratory or other appropriate institution where such expertise is to be carried out. Such resolution must also include the questions that must be answered to in the course of the expertise. Such resolution must also indicate what materials must be transmitted to the expert.

Before appointment of an expert necessary information on his professionalism and competence must be obtained.

The decision to appoint an expert is obligatory for an expert as well as for the officials of the institution where such expert works.

#### **Article 458. Taking samples for expertise to be carried out .**

The customs official conducting proceedings on violation of customs rules shall have the right to take from persons made liable for violation of customs rules samples of their signature and handwriting as well as product samples necessary for expertise to be carried out.

Where necessary, such samples may be taken from persons other than those referred to in Part I of this Article, if the testimony of such persons and their participation in the examination and evaluation of circumstances of violation of customs rules may be substantially important for case proceedings and consideration of the case.

The customs official conducting proceedings or considering a case on violation of customs rules shall approve a resolution on taking samples.

An expert may be invited to participate in taking samples where necessary.

A protocol on taking samples shall be drafted and signed.

#### **Article 459. Instruction to perform certain procedural actions.**

Customs official conducting proceedings on violation of customs rules shall have the right to instruct a customs official of other customs authority to perform certain procedural actions.

Such instruction must be implemented within five days after it is received.

#### **Article 460. Expenses in cases on violation of customs rules.**

Expenses in cases on violation of customs rules shall consist of expenses for stock taking, storage, transportation (mail delivery) of material evidence and of expenses made by the customs authority in connection with the proceedings or consideration of the case.

Such expenses shall also include the sums paid to an expert for performing his/her obligations and for the work performed in accordance with instructions of the customs authority, payment of daily fees and reimbursement of transportation costs made in order

to go to the customs authority and from the customs authority, reimbursement of premise rent payments.

The workers and employees summoned to the customs authority as witnesses, experts and interpreters shall continue to receive their average wage at the place of their main employment. Persons who are neither workers nor employees and who are summoned by the customs authority shall receive monetary reimbursement paid by the customs authority in connection with such summons.

The legislation of Ukraine shall establish the procedure of payments and the sums to be paid.

#### **Article 461. Reimbursement of expenses in cases on violation of customs rules.**

The person that the resolution on the application of sanctions applies to shall reimburse the expenses made in case on violation of customs rules. The requirement shall not apply to expenses made to pay the interpreting services. The latter shall be reimbursed at the cost of the State Budget of Ukraine.

The customs official carrying out the proceedings on violation of customs rules as well the customs official considering the case, must gather and append to the case the documents about the costs of the case proceedings.

The expenses subject to reimbursement shall be indicated in a resolution of the customs authority or a decision of court on the case on violation of customs rules.

#### **Article 462. The bodies authorized to consider cases on violation of customs rules.**

Customs authorities shall consider cases on violation of customs rules provided for in Articles 396, 397, 398, 399, 400, 401, 402, 404, 405, 406, 409, 410, 411, 413, 414, 421 and 422 of this Code.

Raion (city) courts located in the area of the customs authorities that initiated the proceedings shall consider cases on violation of customs rules provided for in Articles 403, 407, 408, 412, 415, 416, 417, 418, 419 and 420 of this Code, as well all cases on violations of customs rules committed by persons aged from sixteen to eighteen.

#### **Article 463. Powers of customs officials in considering cases on violations of customs rules.**

Heads or deputy heads of regional customs departments and customs units shall consider cases on violation of customs rules on behalf of such customs departments and customs units. The officials of the Department of Combat of Smuggling and Violations of Customs Rules shall consider cases on violation of customs rules on behalf of the State Customs Service of Ukraine if so authorized by head or deputy head of the State Customs Service of Ukraine.

#### **Article 464. Situations where cases are handed over from one customs authority to another.**

Head of or deputy head of the regional customs department shall have the right to hand over a case on violation of customs rules for further proceedings from one customs authority subordinated thereto to another such customs authority. Head of or deputy head of the regional customs department shall also have the right to authorize the department of combat of smuggling and violations of customs rules of the relevant regional customs authority to conduct proceedings on the case on violation of customs rules.

An official of the Department of Combat of Smuggling and Violations of Customs Rules of the State Customs Service of Ukraine shall have the right to hand over a case on violation of customs rules from a regional customs departments or customs unit to another regional customs department or customs unit or carry out such proceedings directly.

**Article 465. The time limits for considering the case on violation of customs rules .**

The case on violation of customs rules shall be considered within fifteen days from the moment a customs official or a judge receives the materials necessary for the case to be considered.

**Article 466. Attending by the person made liable for violation of the customs rules or a representative thereof of hearing of the case**

The person made liable for violation of customs rules or representative thereof shall attend the procedure of hearing of the case.

The customs authority shall notify the person made liable for violation of customs rules of the time and place that the case on violation of customs rules is to be heard. Such notification shall be as a rule in writing, if the person made liable for violation of customs rules was not notified thereof in the course of handing the protocol on violation of customs rules to such person.

Where a case hearing takes place before a court, the court must notify the person made liable for violations of customs rules and the customs authority of the time and place of hearings.

Where the person made liable for violation of customs rules or representative thereof is absent the case may be heard:

- 1) where information is available that such person has been notified of the time and place of hearings and such person has not submitted a petition for adjournment of hearings;
- 2) where information is available that person made liable for violation of customs rules is abroad;
- 3) where the person who committed violation of customs rules is unidentified;
- 4) where international postal consignments infringe customs rules.

**Article 467. Types of resolutions (decisions) in cases of violation of customs rules.**

The body considering the case shall make one the following resolutions (decisions):

- 1) on additional examination;
- 2) on the imposition of administrative penalty;
- 3) on suspension of proceedings;
- 4) on the initiation of a criminal case.

Resolution of the suspension of proceedings can only be made if the infringer is relieved of responsibility due to reasons referred to in Article 388 of this Code or if there are circumstances precluding further case proceedings.

A resolution (decision) on additional examination must indicate specific measures to be taken.

**Article 468. Special rules for courts to consider cases on violation of customs rules.**

A sole judge shall consider a case on violation of customs rules.

Where the hearing of the case at the court premises is impossible or inappropriate, the judge may decide to hear the case in the premises of the customs authority or other premises. Technical support of the hearing of the case in the premises of the customs authority shall be entrusted to head or deputy head of such authority.

In cases on violations of customs rules a judge shall make one of the decisions provided for in part I of Article 467 of this Code.

After the court has completed the consideration of the case and made the relevant decision, the materials of the case on violation of customs rules shall be returned to the customs authority.

If as a result of verification of legal and factual grounds for a court decision, the sanctions are changed or decision is canceled, confiscated goods, vehicles, fines or the relevant part thereof must be returned to persons made liable or representatives thereof. If it is impossible to return confiscated goods or vehicles in kind, the value thereof must be returned. The sums of the customs fees due shall be deducted from such value. Such sums shall be calculated at the rates valid on day of confiscation. The State Treasury of Ukraine shall return the sums from the State Budget of Ukraine.

Where sums of fines paid, confiscated goods, vehicles or value thereof are returned, no execution fee shall be payable.

## **CHAPTER 72. Appeals to Resolutions and Decisions of Customs Authorities in Cases on Violation of Customs Rules**

### **Article 469. Appeals of resolutions and decision of customs authorities.**

A resolution of the customs authority on imposition of penalty for violation of customs rules may be appealed to by the person such resolution applies to or his/her representative.

A resolution of the customs unit subordinated to a regional customs department may be appealed to the relevant regional customs department or raion (city) court at the location of the customs unit that made the resolution.

Decisions of regional customs authority on appeals to a resolution of customs unit subordinated thereto can be appealed to the State Customs Services of Ukraine or to the raion (city) court at the location of such regional customs department.

Resolution of regional customs departments, customs units subordinated directly to the State Customs Service of Ukraine, can be appealed to the State Customs Services of Ukraine or to the raion (city) court at the location of the relevant regional customs department or customs unit.

If in situations referred to in parts II, III and IV of this Article a resolution or decision of a customs authority is appealed to a superior customs authority and to a court and the court initiates proceedings on the basis of such appeal, the superior customs authority shall cease the consideration of such appeal.

A resolution of the State Customs Service of Ukraine on the case on violation of customs rules or its decision on an appeal to a resolution of other customs authority on such case may be appealed to the raion court at the location of the State Customs Service of Ukraine.

An appeal to a resolution or decision of a customs authority may be submitted not later than in ten days after the interested person receives a copy of resolution on the case or is notified of the decision taken. Where there are valid reasons for submission of such appeal later, the regional customs department, the State Customs Service of Ukraine or a court, as appropriate, may permit such submission, if the interested person so requests.

The legislation shall establish the procedure for appeals to resolutions or decisions of customs authorities by procurators.

**Article 470. Verification of legal and factual grounds for a resolution of the customs authority.**

A court or a superior customs authority may verify legal and factual grounds for a resolution of the customs authority on the basis of a submitted appeal. A superior customs authority may also verify legal and factual grounds for a resolution of the customs authority on the basis of a protest submitted by a procurator or in accordance with the procedure for control of adherence to requirements of legislation by customs officials.

A court or a customs authority may take one of the following decisions as a result of verification:

- 1) that the resolution should remain unchanged and the appeal or protest should be rejected;
- 2) that the resolution should be abolished and the case should be forwarded for review;
- 3) that the resolution should be abolished and the case should be terminated;
- 4) that the penalty should be changed within the limits established in this Code. Penalties must not be increased.

If the legal and factual grounds for a resolution of a customs authority are being verified by a court after such verification has been conducted by superior customs authorities, in addition to decisions referred to in parts 1, 2, 3 and 4 of part II of this Article, the decisions of customs authorities should remain effective or be abolished by a court or a customs authority, as appropriate.

Decisions referred to in parts II and III of this Article can be made by customs authorities in a form of a resolution.

When the verification is completed a written notification of the result thereof shall be transmitted to the person that the resolution under verification applies to. Where the verification was based on a protest of a procurator, such written notification must be forwarded to the procurator.

Where a resolution of the customs authority on the case on violation of customs rules the sums of fines paid shall be returned to persons made liable for violations of customs rules or his/her representatives. The State Treasury officials shall return such sums from the state budget on the basis of an application of customs authorities.

Where a court abolishes a resolution of the customs authority and sums of fines paid are returned, no execution fee shall be payable.

**Article 471. Grounds for abolishment or amendment of a resolution on the imposition of a penalty for violation of customs rules.**

There are grounds for abolishing resolution on the imposition of a penalty or suspension of further proceedings if:

- 1) the activities of a person made liable for violations of customs rules do not constitute a violation of customs rules;
- 2) proceedings are partial or incomplete or consideration of the case was partial;
- 3) conclusions made in the resolution are not consistent with the facts of the case;
- 4) the resolution was approved by unauthorized person, the person made liable for violation of customs rules or representative thereof was not permitted to participate in the consideration of the case with no valid reasons; the rights of participants of the proceedings on violation of custom rules were restricted and such restriction impeded comprehensive consideration of the case and influenced or could influence the resolution on the basis of such consideration;
- 5) the violation committed was not qualified correctly or the qualification of the violation is incomplete;
- 6) a penalty was imposed that is not envisaged in this Code.

There may be other reasons for abolishment or amendment of a resolution on imposition of a penalty or on suspension of further proceedings.

**Article 472. The time limits for considering by superior customs authorities of an appeal or of a Procurator's protest to a resolution of a customs authority.**

Appeal to a resolution of a customs authority on the case on violation of customs rules shall be considered within a month after the superior body receives such appeal. Where the appeal does not require additional examination and verification such appeal must be considered within fifteen days after the superior body receives such appeal.

The time limits for considering such appeal may be extended by head or deputy head of a superior customs authority. If the State Customs Service is considering the appeal, head of Department of Combat of Smuggling and Violations of Customs Rules may extend such time limits. Such time limits may not extended for more than two months. The applicant shall be notified of such extension of the time limit.

The procurator's protest must be considered within the time limits established in the legislation. The procurator must be notified of the results of consideration of the protest.

**Article 473. Consequences of submission of appeal or protest.**

Submission of an appeal or a procurator's protest shall suspend the implementation of a resolution of a customs authority in cases on violation of customs rules until the verification of such resolution is completed.

## **CHAPTER 73. Execution of Resolutions of Customs Authorities and Decisions of Judges in Cases on Violations of Customs Rules.**

### **Article 474. Binding nature of resolutions of customs authorities and court decisions on imposition of penalties in cases on violations of customs rules.**

Resolutions of customs authorities and court decisions on imposition of penalties in cases on violations of customs rules are binding.

### **Article 475. General provisions on the procedure for implementation of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules.**

Resolution of a customs authority on imposition of a penalty for violation of customs rules must be implemented after the deadline for appeal provided for in Article 469 of this Code has expired.

Court decision on imposition of a penalty for violation of customs rules must be implemented immediately.

The customs authority that approved a resolution on imposition of a penalty for violation of customs rules must execute it directly or through a state executor.

Where a customs authority approved several resolutions or a court made several decisions on imposition of penalties for violation of customs rules, each resolution or decision must be executed separately.

### **Article 476. Limitation period for execution of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules.**

Resolutions of customs authorities or court decisions on imposition of penalties for violations of customs rules may be executed within six months after such decisions or resolutions were made. When six months has expired execution procedure may not be commenced.

### **Article 477. Control of execution of a resolution of a customs authority or court decision on imposition of a penalty for violation of customs rules.**

The customs authority that approved the resolution must control correct and timely execution of a resolution of a customs authority on imposition of a penalty for violation of customs rules.

The court that made a decision must control correct and timely execution of a court decision on imposition of a penalty for violation of customs rules.

### **Article 478. The procedure for execution of a resolution of a customs authority or a court decision on warning.**

A resolution of a customs authority or a court decision on imposition of warning as a penalty for violation of customs rules must be executed by the customs authority that made

such resolution or the court that made such decision by way of declaring such resolution or decision to the infringer and handing a copy of such resolution or decision to the infringer.

Where a resolution of a customs authority or a court decision on imposition of warning as a penalty for violation of customs rules is made with the infringer being absent, the copy of such resolution or decision shall be handed to the infringer or forwarded thereto within three days after they are made.

**Article 479. The procedure for execution of a resolution of a customs authority or a court decision on imposition of a fine**

The person who committed a violation of customs rules must pay a fine within fifteen days after a resolution of the customs authority or a court decision on imposition of a fine are handed to such person. Where such resolution or decision are appealed or protested, such person must pay the fine within fifteen days after the appeal or protest is rejected.

The person who committed a violation of customs rules must transfer the sum of the fine to the account of the customs authority whose officials executed case proceedings, either in the currency of Ukraine or in foreign currency at the official exchange rate of the National Bank of Ukraine on the date of payment.

The procedure for payment of a fine in accordance with a court decision shall be the same.

**Article 480. Compulsory execution of a resolution of a customs authority or a court decision on the imposition of a fine**

Where the fine is not paid by the person who committed a violation of the customs rules within the time limits established in Article 479 of this Code, the customs authority shall exact such fine from the value of goods seized to secure such exaction or exact such fine from incomes or funds of the person who committed a violation of the customs rules by forwarding a notification of the execution of a resolution of the customs authority or a court decision to the financial body, bank or other financial institution possessing a license of the National Bank of Ukraine.

Where exaction of the sums of the fine from the funds of a natural person or a legal entity is impossible, the relevant resolution or decision is executed through exaction of property of the person who committed a violation of the customs rules.

If the execution of a resolution or a court decision is complete, an appropriate note must be made in such resolution or decision and such resolution or decision must be returned to the customs authority.

The State Customs Service must transfer the sums of fines to the state budget of Ukraine.

**Article 481. The procedure for execution of a court decision on confiscation**

If goods and vehicles subject to confiscation were not seized by the customs authority, the person made liable for violation of customs rules must bring them to the customs authority within fifteen days after a copy of the court decision on confiscation is handed to such person. If a copy of such decision is sent by mail, it is presumed that such copy is received by such person at the date it is sent.

Where goods and vehicles subject to confiscation have not been brought to the customs authority within the established time limits, the confiscation shall be executed compulsorily by a state executor at the place of residence or stay of the infringer. When the court decision on confiscation is executed an appropriate note shall be made in such decision and the latter shall be sent to the customs authority.

Where according to a decision of raion (city) court goods and vehicles must be confiscated, but such confiscation is impossible, the value of such objects shall be executed from the person who committed violation of customs rules in accordance with the procedure envisaged in articles 479 and 480 of this Code.

**Article 482. Execution of a resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules to persons residing or staying outside the territory of Ukraine**

Resolution of a customs authority or a court decision on imposition of a penalty for violation of customs rules to persons residing or staying out of the territory of Ukraine shall be executed at the cost of the property of such persons located in the territory of Ukraine.

If no property of persons referred to in part I of this Article is located in Ukraine, the procedure for execution of resolutions of customs authority or court decisions on imposition of penalties to such persons shall be established in the legislation of Ukraine and international agreements with countries where persons made liable for violations of customs rules reside or stay.

**Section XXII. Officers of Customs Authorities, Specialized Customs Bodies and Organizations of Ukraine**

**CHAPTER 74. Officers and Officials of the Customs Service of Ukraine**

**Article 483. Officers of the Customs Service of Ukraine**

Employees of the customs authorities, specialized customs bodies and organizations of Ukraine, who have been awarded special ranks, shall be the customs officers of Ukraine.

**Article 484. Officials of the Customs Service of Ukraine**

Employees of customs authorities, specialized customs bodies and organizations of Ukraine, who are charged, under this Code and other legislative acts of Ukraine, with law enforcement, organizational-administrative and consulting-advisory functions and direct implementation of customs practice, shall be the customs officials of Ukraine.

Customs officials shall be the civil servants.

Only citizens of Ukraine may be customs officials.

**Article 485. Legal Status of the Customs Officials of Ukraine**

The legal status of customs officials, their obligations and rights shall be governed by the Constitution of Ukraine, the Law of Ukraine “On the Civil Service”, this Code and other legislative acts of Ukraine.

**Article 486. Binding nature of the lawful orders and requirements by the customs officers of Ukraine**

Lawful orders and requirements by Ukrainian customs officers shall be of a binding nature.

**Article 487. Service and special ranks of the customs officers of Ukraine.**

Procedures and conditions for the recruitment to serve in customs authorities, specialized customs bodies and organizations of Ukraine, promotion of officers, compensation and incentives for their work is determined by Ukrainian legislation.

The Regulation on Procedures and Conditions for Customs Service in Ukrainian Customs Authorities, Specialized Customs Bodies and Organizations of Ukraine and the Disciplinary Statute of the Customs Service of Ukraine are approved by the Cabinet of Ministers of Ukraine.

Ukrainian customs officers shall be subject to attestation. Attestation procedures shall be prescribed by the Chairman of the State Customs Service of Ukraine.

Ukrainian customs officers shall be given the special ranks pursuant to their positions and a prescribed number of years of service in each rank.

There shall be the following special ranks in the customs service of Ukraine:

General of the customs service of Ukraine;  
Colonel General of the customs service;  
Lieutenant General of the customs service;  
Major General of the customs service;  
Colonel of the customs service;  
Lieutenant Colonel of the customs service;  
Major of the customs service;  
Captain of the customs service;  
Senior Lieutenant of the customs service;  
Lieutenant of the customs service;  
Junior Lieutenant of the customs service;  
Senior Warrant Officer of the customs service;  
Warrant Officer of the customs service;  
Cadet.

The special rank “General of the customs service of Ukraine” shall be given by the President of Ukraine upon submission of the Cabinet of Ministers of Ukraine.

The special rank “Colonel General of the customs service”, “Lieutenant General of the customs service”, “Major General of the customs service” shall be given by the President

of Ukraine upon submission by the Chairman of the State Customs Service of Ukraine in the manner specified by the Cabinet of Ministers of Ukraine.

The special rank “Colonel of the customs service”, “Lieutenant Colonel of the customs service”, “Major of the customs service”, “Captain of the customs service”, “Senior Lieutenant of the customs service”, “Lieutenant of the customs service” and “Junior Lieutenant of the customs service”, “Senior Warrant Officer of the customs service”, “Warrant Officer of the customs service” shall be given by the Chairman of the State Customs Service of Ukraine.

The special rank “Cadet” shall be given by heads of relevant customs colleges.

The procedure for giving special ranks specified in Paragraphs 8 and 9 of this Article shall be prescribed by the State Customs Service of Ukraine.

Special ranks of the customs service of Ukraine, except for the rank of “Cadet”, shall be for life. The words “in retirement” shall be added to ranks of persons who have retired from the customs service.

Customs officers shall wear a single type uniform with appropriate insignia. Models of the uniform, uniform provision rules and use terms shall be approved by the Cabinet of Ministers of Ukraine, and uniform wear rules shall be prescribed by the State Customs Service of Ukraine. Uniform shall be provided to the customs officers on a free-of-charge basis for the duration of service. Customs officers may be discharged from the customs service with the right to wear the uniform.

#### **Article 488. Business hours of the customs officers of Ukraine .**

The business hours for customs officers shall be prescribed by Ukrainian labor legislation.

For the purposes of implementing urgent customs control measures, customs clearance, prevention of contraband and violations of customs rules, and fulfillment of other official tasks, the officers of customs authorities of Ukraine may be engaged, by order of the head or deputy head of a customs authority, to work overtime, during night hours, on holidays and weekends. For working overtime, during night hours, on holidays and weekends, customs officers shall be compensated pursuant to the labor legislation.

#### **Article 489. Recruitment for the service in customs authorities, specialized customs institutions and organizations of Ukraine.**

Citizens of Ukraine, who have attained the age of 18 and are able, considering their business and moral traits, education and health, to accomplish the goals the customs service of Ukraine is charged with, shall be recruited to serve in customs authorities, specialized customs institutions and organizations. A trial period of up to six months may be applied upon admittance to the service.

Persons who have non-expunged convictions for willful crimes may not be recruited to serve in customs authorities, specialized customs bodies and organizations Ukraine.

Officers of the customs service of Ukraine, who have been found guilty of a felony by a court verdict that has entered into force, shall be discharged from the service at customs authorities, specialized customs bodies and organizations of Ukraine.

#### **Article 490. Oath and solemn commitment by customs officers of Ukraine**

Persons who are admitted to the civil service positions at customs authorities, specialized customs bodies and organizations of Ukraine for the first time shall take the Oath of the Civil Servant.

Employees who are conferred special ranks of the customs service of Ukraine for the first time shall take the following solemn commitment:

"Entering the customs service, I solemnly swear to be devoted to the Ukrainian people, the cause of Ukrainian Statehood, to unalterably abide by the requirements of the Constitution of Ukraine, the Customs Code of Ukraine and Ukrainian law. I promise to actively protect the interests of Ukrainian State, its economic sovereignty and security, to strictly follow discipline rules, thoroughly fulfill my official duties and responsibilities, preserve the state secrets, and protect the rights, freedoms and legitimate interests of citizens".

The solemn commitment procedure shall be prescribed by the State Customs Service of Ukraine.

#### **Article 491. Prohibition of membership of Ukrainian customs officers in political parties**

Officers of the customs service of Ukraine may not be members of political parties and other politically oriented associations of citizens.

Customs officers shall not implement the decisions of such parties and associations and organize strikes and participate therein, undertake actions that interfere with the normal functioning of customs authorities, specialized customs bodies and organizations.

#### **Article 492. Restrictions on outside employment and business activity.**

Officers of the customs service of Ukraine shall not have the right to:

- 1) engage in any business activity, directly or through the intermediate or supposititious person, and have any outside employment (except for scientific research, teaching, creative work and medical practice);
- 2) be a member of, or act through an intermediate or supposititious person, in management boards and other executive bodies of enterprises, financial and credit institutions, business companies etc., organizations, societies, associations, cooperatives, which are engaged in business activities;
- 3) act as a fiduciary of third parties in customs matters;
- 4) use their official position for providing any assistance to the unspecified by Ukrainian law individuals and legal entities in their foreign economic and other business activities in order to illegally receive rewards, services and benefits therefor.

### **Article 493. Restrictions on activity connected with control of work of close relatives.**

Officials of customs authorities can not hold positions which envisage the adoption of decisions regarding the activities of businesses – customs brokers, customs carriers, owners of customs licensed warehouses and temporary storage warehouses, - as well as have official relations with such businesses, if close relatives of such officials are the officers of these businesses.

## **CHAPTER 75. Training, Retraining and Executive Development Courses for the Employees of the Customs System of Ukraine**

### **Article 494. The system of training, retraining and executive development courses**

The system of training, retraining and executive development courses for employees of the customs system of Ukraine shall consist of:

- 1) the Academy of Customs Service of Ukraine;
- 2) Institute of Personnel Executive Development and Re-training;
- 3) Center of Personnel Executive Development and Re-training.

The system of training, retraining and executive development courses for employees of the customs service of Ukraine shall ensure:

- 1) training of scientists, researchers and teachers;
- 2) training of customs specialists with a university education;
- 3) retraining of employees of customs authorities, specialized customs bodies and organizations;
- 4) executive development courses for the employees of customs authorities, specialized customs bodies and organizations;
- 5) internships for young specialists, newly hired employees and the personnel reserve;
- 6) self-education of officers of the customs service of Ukraine.

The State Customs Service of Ukraine shall also ensure that employees of the customs service of Ukraine undergo training, re-training and executive development courses in certain disciplines in higher educational institutions of the Ministry of Education and Science of Ukraine and other central agencies of executive power on the basis of government contracts. Curricula and programs for training, re-training and executive development courses shall be determined by the State Customs Service of Ukraine, based on the needs of customs authorities, specialized customs bodies and organizations and requirements to the level of education and qualifications of employees, and shall be approved by the authorized agencies.

### **Article 495. Customs educational institution.**

A customs educational institution is a specialized customs establishment under the jurisdiction of the State Customs Service of Ukraine, which trains and re-trains, as well as provides the executive development courses for the employees of the customs system of Ukraine pursuant to this Code and other legislative acts of Ukraine.

#### **Article 496. Faculty members, heads and specialists of educational institutions**

Faculty members, heads and specialists of customs educational institutions shall be employed according to the procedures proscribed by this Code and other legislative acts of Ukraine. Faculty members may be employed on a competitive basis.

Obligations, rights and benefits provided to and for the officers of the customs service of Ukraine shall extend onto faculty members, heads and specialists of customs educational institutions.

Faculty members shall be subject to attestation in an order prescribed by the State Customs Service of Ukraine, as agreed with the Ministry of Education and Science of Ukraine.

Specialists of customs authorities, specialized customs bodies and organizations may be involved in teaching at customs educational institutions.

#### **Article 497. Cadets (students) and auditors of customs educational institutions and other higher educational establishments, which prepare specialists for the customs system of Ukraine**

Only citizens of Ukraine, who are admitted to studies pursuant to the effective legislation, and nationals of other countries, who are admitted to studies pursuant to the international agreements of Ukraine, may be cadets (students), auditors of customs educational institutions and other higher educational establishments, which prepare specialists for the customs system of Ukraine.

Cadets (students), auditors, graduate students of higher educational establishments of the Ministry of Education and Science of Ukraine and other central agencies of the executive power, who undergo training, retraining and executive development courses for further work within the customs system of Ukraine, may be granted an additional social and financial support by the State Customs Service of Ukraine.

Cadets (students) who attend the daytime courses at the instruction shall be deferred from drafting into the Armed Forces of Ukraine for the entire course of training.

Graduates of customs educational institutions and other higher educational establishments, which prepare specialists for the customs system of Ukraine, shall be employed in an order determined by the effective legislation.

#### **Article 498. Financing of training, retraining of and executive development courses for employees of the customs service of Ukraine and provision of customs educational intuitions with funds and equipment**

Training, retraining and executive development courses for the employees of the customs service of Ukraine shall be financed by the State Budget of Ukraine, including the special Fund formed from the customs collections.

Budgetary allocations for education, including funds that are earmarked for these purposes out of the special Fund, shall be formed from the customs collections, that shall be designated for this purpose.

## **CHAPTER 76. Legal Protection of the Customs Employees**

### **Article 499. Guarantees of protection of life, health and property of the customs officers of Ukraine.**

Officers of the customs service of Ukraine shall be protected by law.

The Law of Ukraine “On the State Protection of Employees of Courts and Law Enforcement Agencies” determines the measures on protection of life, health, honor, dignity and property of such officers and members of their families against criminal offenses and other illegal actions.

### **Article 500. Interference with the customs officers’ job.**

Any form of influence on the customs officers of Ukraine in order to interfere with their official duties or leading them to adoption of the wrong decisions, without attributes of a felony, shall -

entail imposition of a penalty onto individuals – in the amount from 10 to 30 nontaxable personal minimum incomes, and onto officials – in the amount from 30 to 100 nontaxable personal minimum incomes.

### **Article 501. Failure to obey a lawful order or demand of the customs officers.**

A failure to obey a lawful order or demand of a customs officer of Ukraine fulfilling his official duties shall -

entail an imposition of a penalty onto individuals in the amount from 10 to 50 nontaxable personal minimum incomes or an administrative arrest up to fifteen days.

### **Article 502. Insult of a customs officer of Ukraine.**

An insult of a customs officer of Ukraine during or in connection with fulfillment of his official duties, unless such action entails criminal prosecution, shall -

entail imposition of a penalty onto citizens in the amount from 10 to 50 nontaxable personal minimum incomes or an administrative arrest up to fifteen days.

### **Article 503. Threat against a customs officer of Ukraine**

A threat to inflict an injury to or commit other violent actions against an officer of the customs service of Ukraine fulfilling official duties shall, -

entail imposition of a penalty onto citizens in the amount from 10 to 50 nontaxable personal minimum incomes or an administrative arrest up to fifteen days.

### **Article 504. Proceedings in cases involving misdemeanors committed against officers of the customs service of Ukraine.**

Officials of internal security units of customs authorities, specialized customs bodies and organizations or internal affairs agencies shall draw up reports on misdemeanors specified

in Articles 500-503 of this Code and conduct proceedings in cases involving such misdemeanors.

Cases involving such misdemeanors specified in Articles 500-503 of this Code shall be tried by a raion (city) court at the place of location of a relevant customs authority, specialized customs body or organization.

## **CHAPTER 77. Application of Physical Force, Special Devices and Weapons by Offices of the Customs Service of Ukraine.**

### **Article 505. General provisions as to the application of physical force, special devices and weapons by the customs officers of Ukraine.**

Inviolability of a person, his protection against any violence, other cruel treatment shall be guaranteed by the State.

Physical force, special devices and weapons shall be used by customs officers of Ukraine exclusively in circumstances specified by the Code.

In order to ensure the lawful application of physical force, special devices and weapons by customs officers of Ukraine, special training exercises and periodic inspections of readiness for such action shall be conducted in accordance with this Code and orders of the State Customs Service of Ukraine.

### **Article 506. Application of physical force.**

Officers of the customs service of Ukraine shall have the right to use physical force in the following cases:

- 1) to stop violations of customs rules, detain persons who have committed such violations, overcome obstruction to lawful orders or demands by customs officers of Ukraine;
- 2) to gain entry to premises or locations where goods and transport vehicles, which are under customs control, are located;
- 3) to stop other actions that interfere with the discharge of duties imposed on customs officers of Ukraine, if non-violent methods of influence do not ensure the fulfillment of such duties.

### **Article 507. Application of special equipment.**

Customs officers of Ukraine shall have the right to use handcuffs, rubber sticks, tear gas, devices for the opening of premises, means for forced stopping of transport vehicles and other special tools in the following cases:

- 1) to repulse an assault on customs officers of Ukraine or other persons;
- 2) to repulse an assault on buildings, constructions, facilities and transport vehicles, in possession or used by the customs authorities, specialized customs bodies and organizations, as well as on goods and vehicles that are under customs control, and to free the mentioned objects in case of their capture;

- 3) to detain and take offenders to offices of a customs authority, a specialized customs body or organization if such persons resist and otherwise obstruct, or may inflict harm onto surrounding persons or themselves;
- 4) to stop physical resistance against customs officers of Ukraine;
- 5) to enter premises where contraband items and objects directly violating customs rules may be located;
- 6) to stop a transport vehicle whose driver has not fulfilled a demand by the customs officer of Ukraine to pull over;
- 7) in other cases of willful interference with the discharge by customs officers of Ukraine of their obligations.

It shall be prohibited to use special devices in respect of women, who have obvious signs of pregnancy, persons with obvious signs of disability and underage persons, except for cases of commitment by them of armed resistance, group assault endangering human life and health, storage of goods and transport vehicles that are under customs control.

The list of special devices that is used by officers of the customs service of Ukraine shall be approved by the Cabinet of Ministers of Ukraine.

#### **Article 508. Keeping, carrying and use of firearms by officers of the customs service of Ukraine**

Some categories of customs officers of Ukraine as specified by the State Customs Service of Ukraine shall have the right to keep, carry and use firearms.

Procedures of use of firearms by customs officers of Ukraine shall be governed by a Regulation that will be approved by the Cabinet of Ministers of Ukraine.

The list of kinds of firearms and ammunition therefor that are provided for use by customs officers of Ukraine shall be approved by the Cabinet of Ministers of Ukraine.

### **CHAPTER 78. Social Protection of Employees of Customs Authorities, specialized customs institutions and Organizations.**

#### **Article 509. Social guarantees for officers of the customs service of Ukraine.**

The State shall guarantee social protection for officers of the customs service of Ukraine. Every customs officer of Ukraine shall be subject to mandatory state insurance in the amount equal to 10-year wages at the position held by such an officer.

Procedures and conditions of insurance of customs officers of Ukraine shall be specified by the Cabinet of Ministers of Ukraine.

#### **Article 510. Guarantees of labor remuneration, financial and household support and social protection of officers of the customs service of Ukraine**

The State shall guarantee labor remuneration, financial and household support and social protection of officers of the customs service of Ukraine in order to create sufficient financial conditions for their independent and responsible discharge of official duties.

Conditions of labor remuneration and benefits that are granted to customs officers of Ukraine shall be determined on the basis of their status of employees of law enforcement agencies of Ukraine.

#### **Article 511. Wages of officers of the customs service of Ukraine**

Wages of customs officers of Ukraine shall consist of payment, which will include a position-based wage, monthly special rank and service length bonuses, wage increments and bonuses and other types of additional payments.

The amount of wages payable to customs officers shall have to provide for sufficient financial conditions for the independent discharge by such officers of their official duties.

Wages of customs officers of Ukraine shall be subject to the personal income tax pursuant to the conditions and procedures prescribed by Ukrainian law for officers and privates of law enforcement agencies.

Conditions of labor remuneration of customs officers of Ukraine, their position-based pay rates, wage bonuses and increases and other additional payments shall be determined by the Cabinet of Ministers of Ukraine.

#### **Article 512. Vacations of the customs officers of Ukraine.**

Every year, customs officers of Ukraine shall have a paid vacation not less than 30 calendar days, excluding the time of travel to and from the place of vacation, with compensation of travel expenses within Ukraine.

The right to compensation of travel expenses to and from the place of vacation within Ukraine, which has not been drawn upon in the current year, may be used next year for a trip of one accompanying member of a customs officer's family.

The duration of an extra vacation of customs officers, depending on the length of service, shall be specified by the Cabinet of Ministers of Ukraine.

#### **Article 513. Provision of housing to the customs officers.**

Officers of the customs service of Ukraine shall be provided with housing in an order determined by law.

Customs officers of Ukraine, who need better housing, shall enjoy a priority right to obtain such housing.

Customs authorities, specialized institutions and organizations may have a departmental pool of housing which is formed in the manner specified by the Cabinet of Ministers of Ukraine.

Officers of the customs service of Ukraine and members of their families shall enjoy, at the expense of the State Budget of Ukraine, a 50% discount in rent payments and a 50% discount in payments for utilities (water, electricity, gas etc.) within norms specified by Ukrainian law.

Customs officers of Ukraine, who have more than 20 years of service in the customs system of Ukraine, shall retain, upon retirement, the priority right to obtain housing and rent and utilities benefits within the norms specified by Ukrainian law.

In the event of death of a customs officer in line of duty, the family of the deceased shall retain the right to obtain housing under the same conditions and grounds which existed on the date of death of such an officer.

Customs officers of Ukraine shall have the right to obtain, at the place of residence or work, interest-free loans for the individual or cooperative construction of housing and acquisition of a home for a term up to 20 years, with repayment of 50% of the obtained loans with budgetary funds.

#### **Article 514. Pensions of employees of customs authorities, specialized customs bodies and organizations.**

Employees of customs authorities, specialized customs institutions and organizations shall be paid by the State.

Customs officers of Ukraine, who have attained the age: women – 50 years, men – 55 years and who have a general services history: men – not less than 25 years, women – not less than 20 years, including years of service in customs authorities: for men - not less than 12.5 years, for women - not less than 10 years, shall have the right to receive pensions on privileged conditions.

Pensions of officials of the customs service of Ukraine shall be provided pursuant to the conditions and procedures specified by the Law of Ukraine “On the Civil Service”.

Disability pensions payable to employees of customs authorities, specialized customs institutions and organizations shall be provided subject to the conditions and procedures specified for officers and privates of law enforcement agencies.

Officials of the customs service of Ukraine shall retain, upon discharge from service in connection with their retirement, the right to medical services in health care institutions they were registered in at the time of work in customs authorities, specialized customs institutions and organizations.

Pensions payable to employees of customs authorities, specialized customs institutions and organizations, who are not officials, shall be provided on the basis of general grounds in accordance to Ukrainian pension law.

**Article 515. Payments and compensation in case of crippling injury and disease, compensation of damages.**

Pursuant to Ukrainian law, the State Customs Service of Ukraine shall compensate employees of customs authorities, specialized customs institutions and organizations for damages sustained by them due to a crippling injury or other harm to health connected with their discharge of employment duties.

In the event of sustaining bodily injuries in connection with his discharge of employment duties, which has resulted in temporary disability, an employee of a customs authority, a specialized customs institutions or an organization shall be paid a lump sum in the amount of 1-year wages at the position held by such an employee on the day of sustaining the bodily injuries.

In the event of contracting an illness or sustaining a crippling injury in connection with his discharge of employment duties, which has resulted in permanent disability (disablement), the employee of a customs authority, a specialized customs institutions or organization shall be paid a lump sum, depending on the degree of disablement, in the amount ranging from 3-year to 5-year wages at the position he held on the day of contracting an illness or sustaining a crippling injury.

In the event that a person has become disabled upon his discharge from a customs authority, a specialized customs institution or organization, but as a result of disease or injury sustained in connection with his discharge of employment duties in such a customs authority, specialized customs institution or organization, he shall be paid a lump sum, depending on the degree of disablement, in the amount ranging from 3-year to 5-year wages at the last position he held in a such customs authority, institution or organization.

Lump sums shall not be subject to taxation.

**Article 516. Payments and compensation in the event of death of an employee of the customs authority, a specialized customs institution or organization**

In the event of death of an employee of a customs authority, a specialized customs institution or organization in the course of discharge of his duties, the family of the deceased shall be paid a lump sum insurance payment under the state compulsory individual insurance covering customs officers of Ukraine, in the amount of 10-year wages at the last position the deceased held.

Disabled family members who are dependents of the deceased shall be paid compensation in the amount of a difference between a portion of wages the deceased spent to provide for them and the survivor benefits awarded as a result of loss of the breadwinner, disregarding the lump sum payment.

**SECTION XXIII**

**Liability of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof, Procedures for Appealing their Decisions, Actions or Inaction**

## **Chapter 79. Liability of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof, Procedures for Appealing their Decisions, Actions or Inaction**

### **Article 517. The scope of application of this Chapter**

The provisions of this Chapter shall always apply to appeals brought against decisions, action or inaction of customs authorities, specialized customs institutions and organizations and officers thereof, except for appealing rulings by customs authorities in cases involving violations of customs rules and cases, in respect to which a different procedure for appealing said decisions, action or inaction is envisaged by Ukrainian law.

### **Article 518. Liability of customs authorities, specialized customs institutions and organizations and officers thereof**

Damages caused by illegal actions of customs authorities, specialized customs institutions and organizations and officers thereof in the course of discharging their services shall be compensated on general grounds as determined by law.

### **Article 519. Right to appeal**

Every person shall have the right to appeal decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof in court or at administrative bodies, if such a person believes that his rights and legal interests have been violated.

### **Article 520. Appeal of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof at administrative bodies**

Decisions, actions or inaction by certain officers of a customs authority, a specialized customs institution or organization shall be appealed to heads of these authorities, institutions and organizations.

Decisions, actions or inaction of heads of customs authorities, specialized customs institutions and organizations, except for those who are subordinated directly to the State Customs Service of Ukraine, shall be appealed to respective regional customs authorities.

Decisions, actions or inaction of heads of customs authorities, specialized customs institutions and organizations subordinated directly to the State Customs Service of Ukraine shall be appealed to State Customs Service of Ukraine.

Decisions, actions or inaction of the leadership of the State Customs Service of Ukraine shall be appealed to the Cabinet of Ministers of Ukraine.

Complaints shall be generally filed by persons on their own behalf and their own name. The following persons shall have the right to file complaints on behalf and in the interests of other persons:

- 1) parents, guardians and other legitimate representatives if dealing with interests of minors, incapable or partially capable persons;
- 2) attorneys (fiduciaries) on the basis of notarially certified powers of attorney;
- 3) attorneys at law pursuant to the procedure determined by law;
- 4) National Deputies of Ukraine and deputies of local Radas;
- 5) rights protection and other non-government organizations, if it is provided for in their foundation documents, in the manner determined by law;
- 6) diplomatic and consular representative offices of Ukraine in foreign countries if dealing with interests of Ukrainian citizens who reside permanently or temporary on the territory of these countries;
- 7) diplomatic and consular representative offices of foreign countries in Ukraine, as well as the Consular Division of the Ministry of Foreign Affairs of Ukraine if dealing with interests of foreign citizens.

The form and content of complaints and periods of filing thereof, as well as the procedures and terms of review thereof shall be determined by Ukrainian law.

**Article 521. Appeal of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof in the court.**

The procedure for appealing decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof in a court of general jurisdiction or an arbitration court shall be determined by law.

In the event that decisions, action or inaction of customs authorities, specialized customs institutions and organizations and officers thereof are challenged simultaneously in court or at an administrative body, and the court of general jurisdiction or the court of arbitration has accepted the complaint for trial, proceedings in the same case filed with the administrative body shall be terminated.

**Article 522. Specifics of Satisfying Complaints against Decisions, Actions or Inaction of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof**

If the satisfaction of complaints against decisions, action or inaction of customs authorities, specialized customs institutions and organizations and officers thereof is connected with the payment of money, it shall be paid out of the State Budget of Ukraine by bodies of the State Treasury of Ukraine upon submission by respective customs authorities, specialized customs institutions and organizations.

In the event that money is paid on the basis of a decision passed by a court of general jurisdiction or a court of arbitration, the decision enforcement fee shall not be charged.

**CHAPTER 80. Review of Legality and Validity of Decisions, Actions or Inaction of Customs Authorities, Specialized Customs Institutions and Organizations and Officers thereof under a Protest filed by the Prosecutor and under Supervisory Procedures**

**Article 523. Review of legality and validity of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof under a protest filed by the prosecutor.**

The legality and validity of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof under a protest filed by a prosecutor in respect to such decisions, actions or inaction shall be reviewed pursuant to the procedures specified by Ukrainian law.

**Article 524. Review of legality and validity of decisions, actions or inaction of customs authorities, specialized customs institutions and organizations and officers thereof under supervisory procedures.**

The State Customs Service of Ukraine and Regional customs authorities shall be vested with the power to repeal or amend, in the course of supervising activities of subordinated customs authorities, specialized customs institutions and organizations and officers thereof, their decisions, as well as take measures provided for by Ukrainian law in respect to illegal decisions, actions or inaction of customs authorities, specialized customs institutions and organizations or persons.

**SECTION XXIV. Final Provisions.**

1. This Code shall enter into force as of January 1, 2001.
2. Upon the entry into force of this Code the following shall become ineffective:  
The Customs Code of Ukraine (Vydomosty of the Supreme Rada of Ukraine, 1992 p., № 16, p. 203; № 35, p. 511; 1993 p., № 11, p. 91; № 12, p. 107; 1994 p., № 20, p. 116; 1995 p., № 13, p. 85; 1997 p., № 35, p. 218; 1999 p., № 34, p. 274; 2000 p., № 13, p. 109);  
The Law of Ukraine of June 25, 1991 № 1262-XII “On Customs Service in Ukraine” (Vydomosty of the Supreme Rada of Ukraine, 1991 p., № 44, p. 575; 1994 p., № 20, p. 116; 2000., № 13, p. 109);  
The Law of Ukraine of February 5, 1992 № 2097-XII “On Unified Customs Tariff” (Vydomosty of the Supreme Rada of Ukraine, 1992 p., № 19, p. 259; 1993 p., № 12, p. 107; № 24, p. 270; 1996 p., № 41, p. 192; 1997 p., № 20, p. 144; 1999 p., № 7, p. 48; № 15, p. 83; № 18, p. 140; № 31, p. 253; № 32, p. 264; № 38, p. 352; № 39, p. 356; 2000 p., № 2, p. 16; № 3, p. 20; № 13, p. 109; № 21, p. 163; Official Bulletin of Ukraine, 2000 p., № 16, p.p. 659, 661; № 22, p. 887; Uryadovy Kuryer, 27.06.2000);  
Resolution of the Supreme Rada of Ukraine of February 5, 1992 № 2099-XII “On Personal Ranks of the State Customs Service of Ukraine” (Vydomosty of the Supreme Rada of Ukraine, 1992 p., № 19, p. 261);  
Point 3 of Resolution № 162/96-VR of the Supreme Rada of Ukraine of May 5, 1996 “On the Draft Law of Ukraine On the procedure of Tax Imposition on Items moved by Citizens across the Customs Border of Ukraine” (the *Holos Ukrainy* newspaper, 14.05.96).