

THE LAW OF THE REPUBLIC OF MOLDOVA

On Customs Tariff

No. 1380-XIII of November 20, 1997

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The Parliament hereby adopts this law.

Chapter 1

GENERAL PROVISIONS

Article 1. Area of application of the law

(1) This law establishes the manner of forming and applying the customs tariff on goods brought into or taken out of the territory of the Republic of Moldova, the rules for subjecting of such goods to customs duties, and the methods for determining value at customs and determining the country of origin of the goods.

(2) Purpose of application of the customs tariff:

- a) optimizing the structure of importation of goods;
- b) balancing imports and exports of goods, protecting domestic producers of goods;
- c) creating favorable conditions for integration of the economy of the Republic of Moldova into the world economy.

Article 2. Basic concepts

(1) The following are concepts expressed in the context of this law, and the definitions of their meanings as used herein:

customs tariff—a catalogue containing the list of goods brought into or taken out of the customs territory, as well as the amount of the customs duty on these goods;

customs border—the national border of the Republic of Moldova;

customs territory—the territory over which the Republic of Moldova has the exclusive right of jurisdiction in matters of customs activity;

transportation of goods across the customs border—bringing goods into or taking them out of the customs territory, as well as conveying them in transit by any method;

goods—any movable commodity, including all types of energy. Means of transportation that are used in international transport are not considered goods;

List of Goods—the list that contains the codes, names and descriptions of goods corresponding to the systems of classification applied in international practice;

customs value of goods—the value of the commodity brought into or taken out of the customs territory, established for the purpose of collecting customs duties and other taxes;

customs duty—obligatory payment collected by the customs authority when goods are brought into or taken out of the customs territory;

declarant—the individual or legal entity declaring their goods to the customs authority;

country of import—the country or customs territory into which goods and services are imported;

identical goods—goods which are similar in all respects to the commodity to be evaluated, including its physical characteristics, quality and market reputation. Nonessential differences in external appearance cannot constitute an impediment to considering identical those goods corresponding to all the other characteristics of the definition;

similar goods—goods which, although they are not similar in all respects, have similar characteristics and are produced from similar materials, and are thus capable of performing the same function and being used interchangeably from a commercial point of view. The quality of the goods, their reputation and the existence of a trademark for production or commerce are factors to be taken into consideration in determining the similarity of the commodity;

goods of the same class or the same type—goods included, according to the List of Goods of the Republic of Moldova, approved by the government, in a group or category of goods produced by a particular branch of production or a particular sector of production, comprising identical or similar goods;

royalties—payments made for patents, manufacturing or commercial trademarks, and copyrights.

Chapter II

CUSTOMS DUTIES. TYPES OF CUSTOMS DUTIES, AND THE MANNER OF ESTABLISHING AND APPLYING THEM

Article 3. Types of customs duties

The following types of customs duties shall be applied:

- 1) ad valorem—calculated as a percentage of the customs value of the commodity;
- 2) specific—calculated on the basis of the tariff established per commodity unit;

3) combined—a combination of the types of customs duties specified in points 1) and 2);

4) exceptional—a duty which, in turn, is divided into:

a) special duty—applied for the purpose of protecting goods of domestic origin, when foreign-produced goods are brought into the customs territory in quantities and under conditions that cause or may cause considerable material losses to domestic producers of goods;

b) antidumping tax—collected in the case of introduction of goods into the customs territory at prices lower than their value in the exporting country at the moment of importation, if interests are harmed or a danger arises of causing material losses to the domestic producers of identical or similar goods or if obstacles arise for the domestic organization or expansion of production of identical or similar goods;

c) compensatory duty—applied in the case of introduction into the customs territory of goods in whose production or exportation, directly or indirectly, subsidies were used, if interests are harmed or a danger arises of causing material losses to the domestic producers of identical or similar goods or if obstacles arise for the domestic organization or expansion of production of identical or similar goods.

Article 4. Manner of establishing and applying customs duties

(1) Customs duty rates and the list of goods subject thereto shall be established by the Parliament.

(2) Customs duty rates shall be applied in conformity with the legislation and with the international agreements to which the Republic of Moldova is a party.

(3) Customs duty rates shall be uniform and cannot be modified, with the exception of the cases specified by legislation and by the international agreements to which the Republic of Moldova is a party.

(4) Customs duties shall be applied in conformity with annex No. 1, which is an integral part of this law.

(5) Fees for the performance of customs procedures shall be collected in conformity with annex No. 2, which is an integral part of this law. The fee for performance of customs procedures shall not be collected for samples and exhibits brought by domestic economic agents for international fairs and expositions organized within the territory of free economic zones.

Chapter III

CUSTOMS VALUE OF GOODS

Article 5. Systems for determination of the customs value of goods

(1) The system for determining the customs value of goods shall be applied for all goods brought into or taken out of the customs territory.

(2) The manner of applying the system for determining the customs value of goods shall be established by the government on the basis of the provisions of this law and those of the international agreements to which the Republic of Moldova is a party.

Article 6. Declaration of the customs value of goods

(1) When the commodity crosses the customs border, the declarant shall state its value to the customs authority.

(2) The mode and conditions of declaring the customs value of goods brought into or taken out of the customs territory, as well as the form of the declaration, shall be established by the government in conformity with the legislation and with the international agreements to which the Republic of Moldova is a party.

Article 7. Rights and obligations of the declarant

(1) The customs value of the commodity as stated by the declarant and the supplementary data referring thereto must be truthful and confirmed by documents.

(2) In the event that it is necessary to confirm the stated customs value of the commodity, the declarant, upon request of the customs authority, shall be required to present the pertinent data. If the customs authority questions the authenticity of these data, the declarant shall have the right to determine the customs value of the commodity by the methods specified by this law.

(3) In the event that it is found necessary to clarify the customs value of the declared commodity, the declarant shall have the right to ask the customs authority to release the declared commodity to him against a deposit of certain goods as collateral, or under a bank's guaranty, or to pay the customs duty established by the customs authority.

(4) In the event that he does not agree with the decision of the customs authority regarding the customs value of the commodity, the declarant may protest this decision in the manner established by the legislation, before the customs authority as well as in a court of first instance, without penalty.

(5) Additional expenses related to the clarification of the customs value of the commodity, or related to the submission of additional information regarding that value, shall be covered by the declarant in the event that the customs authorities discover that the data stated in the declaration are false. Expenses associated with the performance of further investigation demanded by the customs authority, in the event that the results thereof confirm the information initially presented by the declarant, shall be covered by the customs authority.

Article 8. Rights and obligations of the authority

(1) The customs authority shall exercise control over the accuracy of the determination of the customs value of the commodity.

(2) The customs authority shall have the right to make decisions regarding the accuracy or inaccuracy of the customs value of the commodity as stated by the declarant.

(3) In the event that there are no data to prove the accuracy of the customs value of the commodity as stated by the declarant or there are grounds for considering the data presented by the declarant not to be truthful and/or sufficient, the customs authority shall have the right to determine independently the customs value of the commodity, applying in proper sequence the methods specified by this law.

(4) The information presented by the declarant in stating the customs value of the commodity shall constitute a commercial secret, and may be used by the customs authority exclusively for customs purposes and shall not be transmitted to third parties, with the exception of the cases specified by the legislation. For disclosure of information that constitutes a commercial secret, the customs authority shall bear responsibility in conformity with the legislation.

(5) In the event that the responsible official of the customs authority makes the decision regarding the impossibility of accepting the customs value of the commodity as stated by the declarant, the customs authority, at the declarant's request, shall inform him in writing of the reasons for not accepting the values given, offering to him, or to any other person responsible for payment of the customs duties and other taxes, the opportunity to file an appeal without penalty.

(6) After the final decision is made regarding the impossibility of accepting the customs value of the commodity as stated by the declarant, the customs authority, at the declarant's written request, shall be required to explain to him in writing, with one month, the reasons for not accepting the customs value of the commodity as stated by him as a basis for computing the customs duty.

(7) In the context of articles 7 and 8 of this law, the expression "without penalty" means that the declarant shall not be subject to a fine or to any other form of penalty for actions of contestation.

Article 9. Computation and collection of the customs duty

(1) The customs duty shall be computed and collected on the basis of the customs value of the commodity up to or at the moment of submission of the customs declaration, if the legislation does not specify otherwise.

(2) The customs duty received shall be paid into the state budget.

Chapter IV

METHODS FOR DETERMINING THE CUSTOMS VALUE OF THE ARTICLE, AND THE MANNER OF APPLICATION OF THOSE METHODS

Article 10. Methods for determining the customs value of the commodity

(1) The customs value of the commodity brought into the customs territory shall be determined by the following methods:

a) based on the transaction value of the commodity or on the price that was actually paid or is payable;

b) based on the transaction value of an identical commodity;

c) based on the transaction value of a similar commodity;

d) based on the unit price of the commodity;

e) based on the calculated value of the commodity;

f) by the alternative method.

(2) The principal method among those specified in Paragraph (1) shall be the method of determining the customs value of the commodity based on the transaction value of that commodity. In the event that the principal method cannot be applied, other methods shall be used. Each of the successive methods shall be applied only in the event that the customs value of the commodity cannot be determined by the preceding method. The methods specified in lines d) and e) may be applied in any sequence, as the declarant may wish.

Article 11. The method for determining the customs value of the commodity based on the transaction value of that commodity or on the price actually paid or payable

(1) In determining the customs value of the commodity based on the transaction value of that commodity or on the price actually paid or payable, the following components shall be included in the transaction value in the event that they have not been included beforehand in the value of the commodity:

a) expenses for transporting the commodity to the airport or to another location from which to bring the commodity into the customs territory;

- insurance expenses;

- the cost of transport;

- the cost of loading, unloading and transferring the commodity

b) expenses borne by the buyer:

- commissions and bonuses for brokers, with the exception of commissions for acquisition of the commodity;

- the cost of the containers and/or other reusable packing, if, in correspondence with the List of Goods, these are considered parts of a whole, along with the commodity itself;

- the cost of the packing, including the cost of the packing material and packing operations;

c) the appropriately calculated value of the following goods and services offered directly or indirectly by the purchaser, free or at a reduced price, for the purpose of use in production or exportation of the commodity being evaluated, to the extent that this value has not been included in the price paid or payable:

- materials, components, parts and other similar elements incorporated in the commodity;

- instruments, dies, molds and other similar components utilized in production of the commodity;

- materials expended in production of the commodity;

- works of engineering, of development, works of art and design, plans and sketches, made outside of the country, that are necessary for production of the commodity;

d) royalties and fees for licenses, which the buyer must pay directly or indirectly as a condition of sale of the commodity being evaluated, to the extent that these royalties and fees for licenses have not been included in the price actually paid or payable, with the exception of royalties and fees for licenses paid by the buyer for the right to reproduce and distribute motion picture productions;

e) that part of the revenue from any resale, transmission or subsequent use of the commodity, which would be received directly or indirectly by the seller

(2) Any addition to the price actually paid or payable shall be made in conformity with the provisions of this article, only on the basis of objective and quantifiable data.

(3) In determining the value of the commodity, no addition to the price actually paid or payable shall be allowed, with the exception of those specified in this article.

(4) The method in question cannot be applied if:

- a) restrictions exist with regard to the buyer's rights to the commodity being evaluated, with the exception of restrictions:

- established by the legislation;

- regarding the geographic region in which the commodity can be resold;

- which do not influence the price of the commodity;

- b) the sale of the commodity and the transaction value depend on compliance with conditions whose action cannot be taken into consideration;

- c) the information used by the declarant in stating the customs value of the commodity is not truthful or is not confirmed by means of documents;

d) the participants in the transaction are interdependent persons, with the exception of cases in which their interdependence does not influence the transaction value and it is accepted for customs purposes in conformity with the provisions of Paragraph (5).

(5) a) In determining the acceptability of the transaction value for the purpose of applying the provisions of Paragraph (4), the interdependence of the buyer and the seller, in conformity with Paragraph (6), shall not constitute sufficient grounds for considering the transaction value unacceptable. In such a case, the circumstances of the sale are examined and the transaction value is accepted with the condition that their interdependence does not influence the price. If, considering the information provided by the declarant or obtained from other sources, the customs authority has reason to believe that interdependence has influenced the price, the authority informs the declarant of its reasons, giving him the opportunity to justify the transaction value. At the declarant's request, the reasons are communicated in writing.

b) In the event that the participants in the transaction are interdependent persons, the transaction value shall be accepted and the commodity is evaluated in conformity with the provisions of Paragraph (4), if the declarant demonstrates that such a value is very similar to one of the values registered at almost the same time or at the same time, such as:

- the transaction value of identical or similar goods from the same export country, between persons who are not interdependent;

- the customs value of identical or similar goods, determined in conformity with the provisions of Article 15;

- the customs value of identical or similar goods, determined in conformity with the provisions of Article 16;

c) In applying the aforementioned criteria, consideration shall be given to the level of commerce, the quantity, the components enumerated in this article, and the difference in expenses in identical transactions between persons who are not interdependent and those between interdependent persons.

d) The criteria specified in Subsection b) shall be applied at the declarant's initiative and only for purposes of comparison.

6) In the context of this law, persons shall be considered interdependent if:

- one of them belongs to the other's board of directors or monitoring board, or vice versa;

- they are legally recognized as partners;

- one of them is an employer and the other an employee;

- some person owns, controls or holds, directly or indirectly, at least 5% of the voting stock shares issued by them;

- one of them, directly or indirectly, exercises control over the other;
- both are subject to a third party's direct or indirect control;
- together they exercise direct or indirect control over a third party;
- both are members of the same family.

(7) Persons associated in business, in the event that one is the other's exclusive agent, distributor or concessionaire, shall be considered interdependent, in the context of this law, in the event that they fall under the provisions of Paragraph (6).

(8) Expenses borne by the buyer for services of pre-shipment inspection of import goods shall not be included in the customs value of the imported goods.

Article 12. Method of determining the customs value of the commodity based on the transaction value of an identical commodity

(1) In using this method, the transaction value of an identical commodity shall be used as a basis. Those goods are considered identical which are similar in all respects to the commodity being evaluated, including:

- a) physical characteristics;
- b) the quality of the commodity and its market reputation;
- c) the country of origin;
- d) the producer.

(2) Nonessential, external differences cannot constitute grounds for inclusion of goods in the category of the nonidentical, if in all other respects these goods shall correspond to the requirements specified in Paragraph (1).

Article 13. Method of determining the customs value of the commodity based on the transaction value of a similar commodity

(1) In using this method, the transaction value of a similar commodity shall be used as a basis. Those goods shall be considered similar which, although they are not identical, have similar characteristics and are constituted of similar materials and thus can perform the same function as the commodity being evaluated and can be used interchangeably from a commercial point of view.

(2) In determining similarity of goods, the following characteristics shall be taken into consideration:

- a) quality, existence of a trademark, market reputation;
- b) the country of origin;
- c) the producer.

Article 14. Additional principles regarding determination of the customs value of the commodity based on the transaction value of an identical or similar commodity

(1) The commodity shall not be considered identical or similar to the one being evaluated if:

a) it was not produced in the same country as the commodity being evaluated;

b) the planning operations, experimental construction operations, those of esthetic adaptation, the design, sketches and technical drawings for it were done in the territory of the Republic of Moldova.

(2) The commodity produced by a person other than the producer of the commodity being evaluated shall be considered identical or similar to the one being evaluated only in the event that identical or similar goods do not exist which are manufactured by the producer of the commodity being evaluated.

(3) The method of determining the customs value of the commodity based on the transaction value of an identical or similar commodity shall be applied in the event that the identical or similar commodity:

a) is sold to be brought into the territory of the Republic of Moldova;

b) is brought in at the same time or not more than 90 days before the commodity to be evaluated is brought in;

c) is brought into the territory in approximately the same quantity and/or under the same commercial conditions. If the identical or similar commodity has been brought into the territory in a different quantity and/or under different commercial conditions, the declarant must appropriately rectify the customs value of the commodity declared by him, taking these differences into account, and confirm the submitted data by means of documents.

(4) In the event that the expenses specified in Article 11, Paragraph (1), Subsection a) are included in the transaction value, this value shall be adjusted, taking into account the significant difference that may exist between such expenses related to the goods being evaluated and the identical or similar goods, as determined by the differences in distance and in means of transport.

(5) In the event that, in determining the customs value of the commodity, the value of one of several transactions with identical or similar goods can be used as a basis, the lowest transaction value is applied.

Article 15. Determination of the customs value of the commodity by the unit-cost method

(1) If the commodity brought into the customs territory (the commodity to be evaluated) shall be sold in the import country in the condition in which it was imported, the customs value of this commodity, in conformity with the provisions of this article,

shall be based on the unit price corresponding to the sale of this commodity or the sale of the commodity identical or similar to it in the largest shipments, at the same time or nearly the same time at which the commodity to be evaluated is being imported, to persons who are not in relations of interdependence with the seller, and with the condition of deduction of:

- a) commissions paid ordinarily or as agreed, or of the margin customarily applied to the profits and general expenses related to sales of goods of the same class or of the same type;
- b) customary expenses for transport and insurance, as well as the associated expenses incurred in the territory of the Republic of Moldova;
- c) the expenses specified in Article 11, Paragraph (1), Subsection a);
- d) taxes and duties payable in connection with the importation or sale of the goods.

(2) If neither the commodity brought into the customs territory (the commodity to be evaluated) nor the identical or similar commodity is sold at the moment or almost at the moment at which the commodity to be evaluated is brought in, the customs value shall be based, in the event that Paragraph (1) does not specify otherwise, on the unit price at which these goods are sold in the condition in which they have been brought into the customs territory on the subsequent date nearest to the time at which the commodity to be evaluated was brought in, but not later than 90 days from said date.

(3) If neither the commodity brought into the customs territory (the commodity to be evaluated) nor the identical or similar commodity is sold in the condition in which it was imported, at the declarant's request the customs value shall be based on the unit price at which, after subsequent processing, the largest shipment of goods brought in was sold by persons who are not in relations of interdependence with the seller, the appropriate adjustments being made at the same time due to the added value associated with processing, and the deductions specified in Paragraph (1).

Article 16. Method of determining the customs value of the commodity based on calculated value

(1) The customs value of the commodity, in conformity with the provisions of this article, shall be based on its calculated value, including:

- a) the value or price of the materials and manufacturing operations or other work done to produce the commodity;
- b) the volume of profits and general expenses, equal to that customarily included in the amount of sales of goods of the same class or the same type as the commodity to be evaluated, manufactured by the producers for shipment to the import country;
- c) any expenses specified in Article 11, Paragraph (1), Subsection a).

(2) The customs authority shall not have a right to ask or require a nonresident person to present documentary records for verification or to allow access to them for the

purpose of determining the calculated value of the commodity. At the same time, information given by the producer of the commodity for the purpose of determining its customs value, in conformity with the provisions of this article, may be verified in another country by the customs authority, with the producer's consent and with the condition that the government of the country involved is notified in advance and does not object to the inquiries.

Article 17. Alternative method

(1) In the event that the customs value of the commodity cannot be determined by the declarant by means of the sequential application of the methods specified in articles 11, 12, 13, 15, and 16 or the customs authority is of the reasoned opinion that these methods cannot be utilized, the customs value of the commodity shall be determined by the alternative method, by means reasonably compatible with the provisions of this law and with the general principles of the international agreements to which the Republic of Moldova is a party, and on the basis of the available data.

(2) Upon his request, the declarant shall be informed in writing of the customs value of the commodity as determined in conformity with the provisions of this article, and about the method used in the determination.

(3) In determining the customs value of the commodity by means of the alternative method, the following may be used as a basis:

- a) the sale price of the commodity in the domestic market of the Republic of Moldova;
- b) the price of the commodity in the domestic market of the exporting country;
- c) the arbitrarily established price of the commodity, or fictitious price;
- d) the system which, for customs purposes, calls for application of the higher of two possible values of the commodity;
- e) the production cost of the commodity, other than the calculated value of the identical or similar commodity, determined in conformity with the provisions of Article 16, Subsection a);
- f) the value of the commodity marketed for export to a country other than the importing country;
- g) the customs value of the minimal commodity.

Article 17/1. The method of determining the customs value of export goods

The customs value of export goods shall be determined on the basis of their contractual value, taking into consideration D.A.F. terms ('Delivered at frontier').

DETERMINATION OF THE COUNTRY OF ORIGIN OF THE COMMODITY

Article 18. Purpose and manner of determining the country of origin of the commodity

(1) The country of origin of the commodity shall be determined for the purpose of implementing certain measures pertaining to the tariff, and certain other measures, oriented towards regulation of the entry of goods into the customs territory and the removal of goods from this territory.

(2) The manner of determining the country of origin of the commodity shall be established by the government on the basis of the provisions of this law and the international agreements to which the Republic of Moldova is a party.

Article 19. Country of origin of the commodity

(1) The country in which the commodity was wholly manufactured, or in which it underwent sufficient processing according to the criteria established by this law and by the international agreements to which the Republic of Moldova is a party, shall be considered the country of origin of the commodity.

(2) A group of countries, a customs union of countries, or a part of a country may be considered the country of origin of the commodity in the event that it is necessary to indicate them for the purpose of determining the origin of the commodity.

Article 20. Commodity wholly manufactured in a particular country

The following shall be considered goods wholly manufactured in a particular country:

- a) mineral deposits mined within its territory or within its territorial waters;
- b) vegetable products cultivated or harvested within its territory;
- c) live animals which were born or raised in that country;
- d) products obtained from animals raised in the particular country;
- e) products of hunting and fishing, obtained in that country;
- f) products of sea fishing, caught or produced from international ocean waters by the ships of the particular country or by ships leased (chartered) by that country;
- g) products obtained through application of advanced technologies on space ships which belong to the particular country or are leased by it;
- h) secondary raw material and waste formed in the process of production operations and other operations performed in that country;

i) goods manufactured in that country exclusively from products specified in subsections a)-h).

Article 21. Criteria defining sufficient processing of the commodity

(1) If two or more countries participated in the manufacturing of the commodity, its origin shall be determined on the basis of the criteria defining sufficient processing of the commodity.

(2) The criteria defining sufficient processing of the commodity shall be established and applied in conformity with this law and with the international agreements to which the Republic of Moldova is a party, in the manner established by the government.

(3) The criteria defining sufficient processing of the commodity in the particular country shall be:

a) a change in the position of the commodity (classification code) on the List of Goods, at the level of any of the first four signs, after processing of the commodity;

b) performance of production operations or technological operations sufficient for the country in which these operations were performed to be considered the country of origin;

c) a change in the value of the commodity in the event that the percentage of the value of the materials utilized in its manufacture is not less than 45 percent (the ad valorem rate rule).

(4) The following shall be considered not to correspond to the criteria defining sufficient processing of the commodity:

a) operations to ensure its integrity during storage or transport;

b) operations to prepare the commodity for sale and transport (division of lots, formation of lots for shipment, sorting, repacking);

c) simple assembly operations;

d) putting different goods (components) together without attributing to the product thus obtained any characteristics that would distinguish it essentially from the initial goods (components).

(5) In the event that the corresponding documents do not expressly stipulate the data relative to the concrete commodity or its country of origin, the criterion specified in Paragraph (3), Subsection a), defining sufficient processing of the commodity, shall be applied.

Article 22. Determination of the country of origin of the commodity when it is delivered in lots

(1) At the declarant's request, a commodity in a disassembled or incomplete condition, delivered in several lots, must be considered a single commodity, in the event that, for reasons of production or transport, it is impossible to ship it in a single lot, as well as a commodity divided into lots by mistake.

(2) The conditions for application of the provisions of Paragraph (1) shall be:

a) prior notification of the customs authority regarding the division of the commodity into lots, indicating the reasons for this division and specifying each lot by indicating the classification code of the commodity according to the List of Goods, and the data regarding its value in the country of origin;

b) documentary confirmation of the incorrectness [sic] of the division of the commodity into several shipments;

c) delivery of all the lots of goods from one country by a single exporter;

d) entry of all the lots of goods through one and the same customs point;

e) delivery of all the lots of goods within a maximum of six months after the date of the customs authority's acceptance of the customs declaration, or from the date of expiration of the time limit for submission of such declaration pertaining to the first lot.

Article 23. Confirmation of the origin of the commodity

(1) For confirmation of the origin of the commodity, the customs authority shall have the right to ask the declarant for the certificate of origin of the commodity.

(2) When the commodity is brought into the customs territory, its certificate of origin must be presented if:

a) the country of origin of the commodity enjoys preferential conditions granted by the Republic of Moldova with respect to the customs tariff;

b) the importation of goods from that country is regulated by quantitative restrictions or other regulatory measures pertaining to foreign trade activity;

c) this is stipulated by the legislation in matters of environmental protection, health care, protection of consumers' rights, assurance of public order, state security, and in other areas of vital importance, as well as by the international agreements to which the Republic of Moldova is a party.

d) the documents presented for customs approval do not contain data regarding the origin of the commodity or the customs authority has reason to assume that the data declared with regard to the origin of the goods are false.

(3) When the commodity is taken out of the customs territory, its certificate of origin, in cases in which this certificate is necessary according to the pertinent contracts or according to the rules of the importing country or the international agreements to which the Republic of Moldova is a party, shall be issued by the authorized agencies.

Article 24. Certificate of origin of the commodity

(1) The certificate of origin of the commodity must unequivocally confirm its origin from the country in question and contain:

a) the exporter's declaration confirming that the commodity meets the requirements specified in Article 20;

b) a statement by the competent authority of the exporting country that issued the certificate, confirming the authenticity of the data on the certificate.

(2) The certificate of origin of the commodity shall be presented together with the customs declaration and with all the other documents which must be validated by the customs authority. In case of loss of the certificate, a duplicate, officially authenticated by said authority, is presented.

(3) In the event that the authenticity of the certificate of origin of the commodity, or of the data contained therein, is questioned, the customs authority shall have the right to contact the authorities that issued the certificate, or the specialized organizations of the country mentioned as the country of origin of the commodity, in order to obtain additional data or clarifications.

(4) In the cases specified by this law, the origin of the commodity shall be considered established only if the certificate of origin of the commodity, appropriately validated, or additional data and clarifications, are presented.

Article 25. Additional provisions regarding determination of the country of origin of the commodity

(1) For goods from countries with which the Republic of Moldova has signed agreements regarding the granting of the "most favored nation" clause, the preferential rules with respect to the customs tariff may be applied (reestablished) if their certificate of origin is presented, at the latest, by the expiration of one year after the date of validation of the customs documents.

(2) In determining the country of origin of the commodity, the origin of the energy resources, machines, equipment and instruments used in its manufacture shall not be taken into consideration.

(3) The particularities of determining the country of origin of goods brought into the customs territory from third countries, as well as from free customs zones and free customs warehouses located in the territory of the Republic of Moldova, shall be established by the government.

(4) At the request of the declarant or of any interested person, the information regarding the country of origin or the preferential origin of the commodity shall be furnished as promptly as possible, but not later than 150 days after the date of the request for evaluation, with the condition that all the necessary information has been communicated to the appropriate authorities. Such requests may be accepted before and after the commodity involved is made available for sale. The data established with regard

to the country of origin shall be valid for 3 years, with the reservation that the facts on which they are based and the conditions under which they were obtained must remain comparable.

Article 26. Grounds for denial of permission to bring the commodity across the customs border

(1) The customs authority shall have the right to reject the request for permission to bring the commodity across the customs border only in the event that it has a well-grounded argument that this commodity has originated from a country whose goods cannot be authorized to cross the customs border according to the legislation or the international agreements to which the Republic of Moldova is a party.

(2) Failure to present the appropriately validated certificate of origin of the commodity, supplementary data, or clarifications regarding the origin of the commodity, cannot constitute grounds for denial of permission to bring the commodity across the customs border.

(3) Goods whose origin is not precisely established may be moved across the customs border only under the condition of payment of the customs duty at the maximum rates of the customs tariff.

Chapter VI

TARIFF FACILITIES

Article 27. Tariff facilities

(1) Tariff facilities shall be understood to be those facilities granted by the country, under conditions of reciprocity or unilaterally, for goods brought across the customs border of this country, in the form of establishment of tariff rates for the preferential importation or exportation of goods, a reduction in the customs duty, a fee exemption, reimbursement of the fee previously paid.

(2) Tariff facilities shall be established by means of this law and cannot be of an individual nature, with the exception of the cases specified in Article 28.

(3) Tariff facilities shall be granted in the manner specified by the legislation and the international agreements to which the Republic of Moldova is a party.

Article 28. Exemption from the customs duty

The following shall be exempt from the customs duty:

a) means of transport used in international transportation of passengers and baggage and commodities, as well as technical-material supply articles, equipment, fuel, and foods necessary for the operation of these means of transport during transit or purchased abroad in connection with the correction of defects, in the amount established by the corresponding legislative acts;

b) goods for official use, brought into or taken out of the customs territory by foreign citizens, in conformity with the legislation, as well as the international agreements to which the Republic of Moldova is a party;

c) the national currency, foreign currency (with the exception of that used for numismatic purposes), and securities certificates, in conformity with the legislation;

d) goods brought into or taken out of the customs territory as humanitarian aid, their destination being confirmed by a special state commission;

e) goods brought into or taken out of the customs territory as free aid (donations) or for philanthropic purposes on the state's line, their destination being confirmed by the authorized agency;

f) goods brought temporarily into or taken temporarily out of the customs territory under customs supervision within the framework of the pertinent customs rules;

g) goods with third countries as their destinations, taken across the customs territory under customs supervision and with "transit" status;

h) goods for personal use or consumption, imported by individuals, whose value or quantity does not exceed the limit established by the legislation in force;

i) goods that are imported temporarily into the free-enterprise zones to be processed and subsequently exported;

j) periodical publications, books related to the fields of education, science and culture, teaching materials for preschool institutions, books for instruction and for therapy.

k) goods imported to be marketed under the customs rules of the duty-free shop (duty-free diplomatic).

l) goods (services) brought into the free economic zone from the rest of the customs territory of the Republic of Moldova, from outside of the customs territory of the Republic of Moldova, or from the territory of other free economic zones, as well as goods (services), including those originating from the free economic zone, that are exported outside of the customs territory of the Republic of Moldova and in other free economic zones.

m) goods going to light industry enterprises (with the exception of those that are subject to excise taxes), classified under the customs category "active improvement." The list of such enterprises is determined according to regulations approved by the government;

n) goods imported into the territory of the Republic of Moldova and paid for by loans and grants awarded to the government or awarded with state guarantees, and those paid for by loans granted by the international financial organizations (including from the government's share), for the purpose of carrying out the respective projects, as well as from grants awarded to the institutions financed by the budget, according to the list approved by the government;

o) apparatus, equipment and awards received as donations by the National Olympic Committee and by the national sports federations from the International Olympic Committee, from the European and international sports federations for the training of performance athletes and promotion of the Olympic movement, without any right to market these apparatus, equipment and awards.

Chapter VII

MODE OF REIMBURSEMENT OF CUSTOMS DUTIES PAID IN EXCESS

Article 29. Mode of reimbursement of customs duties paid in excess

(1) The amounts of customs duties paid in excess into the budget, as a result of the commission of errors in calculation, of early payments made in amounts exceeding those necessary or as a result of cancellation of payments after amendment of the customs declaration, shall be refunded to the payer's account or are credited towards other customs and tax payments if not more than one year has passed since the date of the overpayment.

(2) To obtain refunds of the sums specified in Paragraph (1) or to have them credited towards other payments, the payer submits an application to the customs authorities, indicating therein the overpayment in question. The territorial fiscal certificate confirming the payer's outstanding debts to the budget and the social fund, or the lack of such debts, is attached to the application.

(3) Examining the payer's application, the customs authority shall make its decision regarding the refund, credit towards other payments or denial of a refund of the customs duties collected, informing the payer in writing of the decision reached. A copy of the decision in question, as well as a copy of the record of verification of the situation of payments made, prepared on the day of the bank transactions, shall be attached to the documents which confirm the refund of the overpayment or that it has been credited towards other payments. The customs authority examines the application within 30 days.

(4) Said transactions of refunding or crediting of overpayments shall be done by the customs authorities, based on bank documents and payment records, by making the corresponding transfer from the treasury accounts.

(5) In the event that the payer has outstanding debts to the budgets at all levels, the overpayment shall not be refunded to him, but is used to settle the debts in question.

Chapter VIII

LIABILITY FOR VIOLATION OF THIS LAW

Article 30. Liability for violation of this law

Persons who violate this law shall incur liability in conformity with the legislation.

Chapter IX

INTERNATIONAL AGREEMENTS

Article 31. International agreements

In the event that the international agreement to which the Republic of Moldova is a party establishes other standards than those specified in this law, the standards of the international agreement shall apply.

Chapter X

APPLICATION OF THE PROVISIONS OF SOME ARTICLES

Article 32. Application of the provisions of some articles

The provisions of some articles shall be applied with consideration of the interpretative notes set forth in Annex No. 3.

Chapter XI

FINAL AND TRANSITORY DISPOSITIONS

Article 33.

This law shall enter into force on the date of publication.

Article 34.

Within six months, the government shall:

bring its normative acts into concordance with this law;

present to the Parliament proposals for:

- bringing the legislation now in force into concordance with this law;
- preparation of normative acts to ensure the enforcement of this law.

THE PRESIDENT
OF THE PARLIAMENT

Dumitru MOȚPAN

Chișinău, November 20, 1997.

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