

The Act on Customs Duties and Movement of Goods (Customs Act)

21. December 2007 No. 119

Cf. the previous Act of 10 June 1966 No. 5 on Customs (Customs Act).

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Chapter 1 General provisions

Section 1-1 Definitions

In this Act the following definitions shall apply:

- a) *Vessel*: Any means of transport by water.
- b) *Internal transit*: Forwarding of goods not cleared for free circulation within the customs territory.
- c) *Clearance for free circulation*: Customs treatment whereby goods not cleared for free circulation are released from the supervision of the customs authorities and may be disposed of freely
- d) *Person in charge*: The person who in each individual case is in command of a means of transport.
- e) *Aircraft*: Any means of transport by air.
- f) *Customs duty*: Mandatory payment to the Treasury as provided by the Storting resolution on customs duties and by this Act.
- g) *Customs warehouse*: Place approved by the customs authorities for storage of goods not cleared for free circulation
- h) *Customs clearance*: Any customs treatment whereby the customs authorities grant permission for:
 - 1. goods to be cleared for free circulation,
 - 2. the internal transit of goods,
 - 3. the external transit of goods,
 - 4. the exportation of goods, or
 - 5. goods to be otherwise disposed of without being cleared for free circulation.
- i) *Customs territory*: The Norwegian mainland and appurtenant territorial waters, but not Svalbard, Jan Mayen or Norwegian dependencies.
- j) *Customs debtor*: Any person liable for payment of a customs debt in respect of goods that have or have not been cleared for free circulation.
- k) *External transit*: Carriage of goods under the control of the customs authorities between two places, where at least one national border is crossed in the course of such carriage.
- l) *Means of transport*: Any device that can be used for the carriage of goods.
- m) *Goods*: Any items that are treated as goods pursuant to the Storting resolution on customs duties.
- n) *Movement of goods*: The act of importing goods to, or exporting goods from the customs territory.

Section 1-2 The scope and extent of the Act – obligation to pay customs duty and other taxes

- (1) This Act shall apply to any goods imported to or exported from the customs territory.
- (2) When goods are imported, customs duty shall be payable to the Treasury in accordance with the provisions laid down in this Act, and the rates determined in the Storting resolution on customs duties.
- (3) When goods are imported, taxes shall be payable to the Treasury in accordance with the provisions laid down in:
 - a) the Act of 19 June 1969 No. 66 on Value-Added Tax and the Storting resolution on value-added tax, and
 - b) the Act of 19 May 1933 No. 11 on special taxes and the Storting resolution on special taxes.

Section 1-3 *Territorial extent of the Act*

- (1) This Act shall apply in the customs territory.
- (2) The provisions of the Act regarding controls and customs border cooperation shall also apply in the contiguous zone beyond Norway's territorial waters.
- (3) The Ministry may make regulations concerning the applicability of the Act pursuant to subsections (1) and (2), including the extent to which the individual provisions shall apply:
 - a) to traffic to and from drilling platforms, extraction facilities and the like at sea, in connection with the exploration for and exploitation of undersea natural deposits, and
 - b) in areas established pursuant to Chapter 14 that are subject to special controls.

Section 1-4 *Application of the Act's control provisions in foreign territory*

- (1) The provisions of the Act regarding control may be applied in the territory of another state to the extent allowed by treaty with the state concerned.
- (2) Application of the Act in foreign territory shall be made known by the Ministry in regulations.
- (3) The Ministry may make regulations concerning the application of the Act in foreign territory pursuant to this section, including determining that the customs authorities shall make the contents of the regulations known to the public by means of posted notices or in another manner, at customs offices located in or near the border area in question.

Section 1-5 *Responsibilities of the customs authorities under this Act*

(1) The customs authorities shall:

- a) calculate and determine customs duty in accordance with this Act and pursuant to applicable customs duty rates,
- b) calculate and determine other taxes to the extent that this follows from a statute or instructions,
- c) control the movement of goods to and from the customs territory, and compliance with applicable statutory provisions regarding the movement of goods.

(2) The Ministry may make regulations concerning the organisation of the customs service and the responsibilities of the customs authorities pursuant to this Act, including in regard to the cooperation of the customs authorities with other administrative agencies.

Section 1-6 *Publication of customs duty rates, etc.*

(1) The Ministry shall in a suitable manner publish:

- a) the ordinary customs duty rates and preferential duty rates that apply for the budget year, as determined by the Storting,
- b) administrative decisions in the budget year regarding general changes in the customs duty rates determined by the Storting. This shall apply correspondingly to the allocation of import rights by auction or in another manner pursuant to Chapter 9, and
- c) new or amended tariff classifications.

(2) Publication in the Norwegian Law Gazette pursuant to section 38 of the Public Administration Act may be waived in the case of information published pursuant to this section.

(3) The Ministry may make regulations concerning the publication of customs duty rates and tariff classifications. Chapter VII of the Public Administration Act on Regulations shall not apply.

Section 1-7 *Dating of customs duty rate*

(1) Unless otherwise provided in this section, customs duty shall be payable in accordance with the customs duty rate that applies at the date a fully completed declaration is received by the customs authorities.

(2) In the case of goods released prior to clearance for free circulation, customs duty

shall be payable in accordance with the customs duty rate that applied at the date the goods were released.

(3) In the case of goods declared before they are imported, customs duty shall nonetheless be payable in accordance with the customs duty rate that applied at the date of importation.

(4) In the case of illegally imported goods, customs duty shall be payable in accordance with the customs duty rate that applied at the date of importation.

(5) In the event of illegal disposal of goods that have been exempted from customs duty pursuant to Chapter 6, customs duty shall be payable in accordance with the customs duty rate that applied when the exemption was granted. In other cases of illegal disposal of goods, customs duty shall be payable in accordance with the customs duty rate that applied when the illegal disposal commenced. However, the customs duty rate shall not be lower than the rate that would have been applied in the event of lawful action.

(6) The Ministry may make regulations with supplementary provisions regarding dating pursuant to this section.

Section 1-8 *Relationship to the Public Administration Act*

The Public Administration Act shall apply to the activities of the customs authorities unless otherwise provided in this Act.

Chapter 2 Customs debt

Section 2-1 *Customs debt*

(1) Customs debt is an obligation to pay customs duty.

(2) A customs debt in respect of goods being cleared for free circulation is incurred when:

- a) the goods are cleared for free circulation, or
- b) the conditions for relief from or reduction of customs duty are no longer fulfilled.

(3) In the case of goods not cleared for free circulation, a customs debt is incurred when:

- a) the conditions for temporary relief from customs duty are no longer fulfilled, or
- b) the obligations imposed by the Act in connection with the importation, transport, storage or other disposal of the goods are not complied with.

(4) The Ministry may make regulations concerning when a customs debt is incurred pursuant to this section.

Section 2-2 *Customs debtor in the case of goods cleared for free circulation*

(1) In the case of goods being cleared for free circulation, the declared consignee of the goods is the customs debtor.

(2) Where the declared consignee represents another legal or physical person, the person represented is also a customs debtor.

(3) Any person who in connection with the declaration of goods has provided information that leads to non-collection of all or part of a customs debt is a customs debtor in addition to the consignee, if the person concerned knew or ought to have known that the information was incorrect.

(4) The Ministry may make regulations concerning who is a customs debtor pursuant to this section.

Section 2-3 *Customs debtor in the case of goods not cleared for free circulation*

(1) If the conditions for temporary relief from customs duty pursuant to Chapter 6 are not fulfilled, the person responsible for fulfilling the conditions is a customs debtor.

(2) If the obligations imposed by this Act in connection with importation, transport, storage or other disposal of goods are not complied with, the person responsible for complying with the obligations is a customs debtor.

(3) Any person who has abetted the failure to comply with the obligations or conditions is also a customs debtor, if the abetter knew or ought to have known of the non-compliance.

(4) Any person who has acquired or stored the goods is also a customs debtor if, at the time the goods were received, the person concerned knew or ought to have known of the non-compliance with the obligations or conditions.

(5) The Ministry may make regulations concerning who is a customs debtor pursuant to this section.

Section 2-4 *Joint and several liability for customs debt*

(1) Where several customs debtors have incurred one and the same customs debt, they shall be jointly and severally liable to the customs authorities.

(2) The Ministry may make regulations concerning joint and several liability for customs debt pursuant to this section.

Section 2-5 *Customs debt in respect of goods forwarded in accordance with international treaties on the simplification of customs procedures*

(1) In the case of goods not cleared for free circulation which are permitted to be forwarded in accordance with international treaties on the simplification of customs procedures to which Norway has acceded, the guarantor has an obligation to pay customs duty if the goods are disposed of in breach of the permit.

(2) The liability of the guarantor pursuant to subsection (1) shall apply regardless of the other provisions regarding customs debt in this chapter.

(3) The Ministry may make regulations concerning the obligation of the guarantor to pay customs duty pursuant to this section.

Chapter 3 Traffic to and from the customs territory

Section 3-1 *Obligation of notification and presentation*

(1) Any person who brings goods into or out of the customs territory has an obligation to give the customs authorities pre-arrival or pre-departure notification.

(2) Any person who brings goods into or out of the customs territory has an obligation to notify the customs authorities of this, and to present the goods, or submit a statement of goods, for examination. The same applies to the obligation to register the goods.

(3) The obligation to give notice of, present, submit a statement of and register goods pursuant to subsection (1) shall not, however, apply to any person who is merely bringing goods that:

- a) at the time of importation are duty-free and tax-free luggage pursuant to section 5-1 (1) (a), and section 6-1 (1) (a), and that may be imported without special permits, or
- b) at the time of exportation are exempt from the obligation of declaration pursuant to section 4-11, and that may be exported without special permits.

(4) The customs authorities may introduce simplified procedures in respect of the obligations pursuant to subsections (1) and (2) at border crossing points, ferry terminals, airports and other points of entry, if the circumstances permit.

(5) The customs authorities may authorize enterprises. Authorized enterprises may be subject to lesser duties in subsection (1) and relief from customs control.

(6) The Ministry may make regulations concerning the obligations pursuant to this section, including exemptions from the obligations. The Ministry may also make regulations concerning authorization of enterprises, including conditions to get authorized and regarding revocation of authorizations, and concerning relief from the obligations in subsection (1) and customs control in subsection (5).

Section 3-2 *Destination upon arrival in the customs territory*

(1) The person in charge of a means of transport that arrives in the customs territory en route to a place in the realm has an obligation to ensure that the means of transport goes directly to a place where the customs authorities are stationed, unless the permission of the customs authorities to go somewhere else has been obtained in advance.

(2) The customs authorities may order the person in charge of a vessel or an aircraft to follow specific flight paths or navigation fairways, and may order the person in charge of a motor vehicle en route to or from the customs territory to follow specific routes.

(3) The Ministry may make regulations concerning obligations for the person in charge of a means of transport pursuant to this section, including in regard to procedures for obtaining permits, flight paths and navigation fairways, and exemption from such obligations.

Section 3-3 *Obligation of notification upon arrival at the destination*

(1) The person in charge of a vessel or an aircraft that arrives at a place in the customs territory has an obligation to notify the customs authorities of his arrival as soon as possible. A corresponding obligation of notification may be imposed on the person in charge of a motor vehicle or a train. Notification may be given by other persons on behalf of the person in charge.

(2) The Ministry may make regulations concerning the notification obligation pursuant to subsection (1), including in regard to when and how notification shall be given, the contents of such notification and exemption from the notification obligation.

Section 3-4 *Unloading*

(1) Goods must not be unloaded or otherwise removed from a means of transport that has arrived in the customs territory until the customs authorities have given permission to do so. If goods are unloaded in an emergency, the person in charge has an obligation to notify the customs authorities of the unloading as soon as possible.

(2) The person in charge of a means of transport that arrives in the customs territory, or the person acting on his behalf, has an obligation to immediately register any goods that he has brought with him pursuant to applicable provisions.

(3) The Ministry may make regulations concerning unloading and registration pursuant to this section, including prescribing that unloading may only take place at specific places, at specific times or in specific areas, and regarding the exemption from the obligation to obtain permission prior to unloading pursuant to subsection (1).

Section 3-5 *Loading*

(1) Without the permission of the customs authorities, no one may load goods into a vessel bound for a destination outside the customs territory. A corresponding obligation to obtain permission may be imposed on the person in charge of other means of transport. A loading permit is not required for fishing and trapping products that are taken aboard a vessel in fishing and trapping grounds.

(2) If the goods have nonetheless been loaded without the permission of the customs authorities, the person in charge of the means of transport has an obligation to unload the goods if the customs authorities deem it necessary in order to inspect the goods.

(3) The Ministry may make regulations concerning loading pursuant to this section, including in regard to whether loading may only take place at specific places, at specific times, or in specific areas and prescribing that the obligation to obtain permission shall also apply to other specific means of transport and regarding exemption from the obligations.

Section 3-6 *Permission, notification obligation, etc. in respect of onward transport in the customs territory*

(1) As long as there are goods on board a vessel which have not been cleared for free circulation, including provisions, the person in charge must not allow the vessel to proceed to another place in the customs territory until the customs authorities have granted permission for this. Sections 3-2 to 3-4 shall apply correspondingly upon the vessel's arrival at another place in the customs territory. A corresponding notification obligation may be imposed on the person in charge of other means of transport.

(2) The Ministry may make regulations concerning permission and the obligation to give notice of onward transport in the customs territory pursuant to this section, including in regard to the fact that the obligation to obtain permission also applies to other specific means of transport and regarding exemption from the notification obligation.

Section 3-7 *Obligation of notification upon leaving the customs territory*

(1) Before a vessel or an aircraft leaves the customs territory, the person in charge has an obligation to notify the customs authorities of the departure. A corresponding notification obligation may be imposed on the person in charge of a land-based means of transport.

(2) If the means of transport is carrying goods that are covered by export control legislation, the person in charge has an obligation to make sure that the necessary export permit has been granted before the means of transport leaves the customs territory.

(3) The Ministry may make regulations concerning the notification obligation pursuant to this section, including in regard to when and how notice shall be given, what the notice shall contain, the fact that the obligation to obtain permission also applies to other specific means of transport and regarding exemption from the notification obligation.

Chapter 4 Customs treatment

I Common provisions regarding customs treatment

Section 4-1 *Obligation to submit goods for customs treatment*

(1) Goods that are imported to the customs territory shall be:

- a) cleared through customs immediately,
- b) placed in a customs warehouse,
- c) placed in a free zone,
- d) destroyed, or
- e) Abandoned to the customs authorities.

(2) Subject to the approval of the customs authorities, and upon provision of security, if relevant, the goods may nonetheless be left temporarily at the unloading site or stored in another way.

(3) The Ministry may make regulations concerning customs treatment pursuant to this section, including in regard to exemption from the obligation of customs treatment, the time-limit for customs clearance and the power of the customs authorities to demand payment of warehousing costs and to demand security.

Section 4-2 *Detention, storage and forced sale, etc.*

(1) At the expense of the customs debtor, the customs authorities may detain or collect goods that are not cleared through customs within the stipulated time limits.

(2) Goods that are detained or collected under subsection (1) may be sold pursuant to the provisions for forced sale laid down in section 14-10 of the Tax Payment Act.

(3) The customs authorities may decide that the goods, instead of being sold, shall be dealt with in another manner, including being destroyed. The goods may be destroyed where the customs debtor abandons the goods to the customs authorities or the goods are perishable or are spoiling, and destruction is deemed to be necessary. The customs debtor shall as far as possible be notified in advance that the goods are to be destroyed.

(4) If the goods are destroyed, the customs debtor has an obligation to cover the costs of destruction and any expenses incurred prior thereto.

(5) The Ministry may make regulations concerning the power of the customs authorities to detain, collect, store, sell or destroy goods pursuant to this section, including in regard to the power of the customs authorities to demand that the costs related to such action be covered and regarding notification.

Section 4-3 *Opening and business hours – special fee for customs services provided*

(1) The customs authorities shall keep border crossing points open when the traffic load so warrants, except in cases where a prohibition is imposed on traffic.

(2) Customs services shall be provided during the prescribed opening and business hours.

(3) The customs authorities may allow customs services to be provided also outside of opening and business hours and outside the customs office. A special fee may be charged for such customs services. The fee shall not exceed the actual costs incurred.

(4) The Ministry may make regulations concerning the number and location of border crossing points, including in regard to the opening and business hours of the various border crossing points, regarding the obligation to pay a special fee for certain customs services and regarding the calculation and amount of the fee.

II Obligation to declare goods

Section 4-10 *Obligation to declare goods upon importation*

(1) Any person wishing to dispose of goods that have not been cleared for free circulation has an obligation to obtain the permission of the customs authorities in advance.

(2) An application for such permission as is mentioned in subsection (1) is submitted by declaring the goods. The declarant shall provide such information as the customs authorities deem to be necessary in order to be able to clear the goods.

(3) Customs declarations pursuant to subsection (2) may be made electronically or on paper. Travellers may declare luggage for personal use orally.

(4) Any such documentation as the customs authorities may deem necessary shall be submitted along with the customs declaration. The documents shall be appended to the declaration, or made available in the manner decided by the customs authorities. The customs authorities may reject a declaration until all the requisite documents or information have been submitted.

(5) The Ministry may make regulations concerning the obligations of the declarant pursuant to this section, including the method of declaration, documents and other information required to be submitted, and regarding simplified procedures that entail exemption from or relaxation of the obligation to declare goods.

Section 4-11 *Obligation to declare goods upon exportation*

(1) Any person wishing to export goods has an obligation to obtain the permission of the customs authorities prior to exporting the goods. An application for such permission is submitted by declaring the goods. Section 4-10 shall apply correspondingly.

(2) The declaration shall be made early enough for the goods to be inspected before they are loaded into the means of transport.

(3) The Ministry may make regulations concerning the obligation to declare goods pursuant to this section, including in regard to the method of declaration, documents and other information required to be submitted, and regarding simplified procedures that entail exemption from the obligation to obtain an export permit.

Section 4-12 *Retention of notifications, declarations, documents, etc.*

(1) Any person who submits a mandatory notification to the customs authorities, including a declaration, shall retain the notification or a copy thereof. This shall apply whether the notification was given on paper, by means of electronic data interchange, or in another manner. The same shall apply to documents, statements, etc. that are submitted pursuant to Chapter 3.

(2) The Ministry may make regulations concerning where, in what way, and how long notifications or copies thereof and documents and other information that are required to be submitted shall be retained pursuant to this section, and regarding exemption from the retention obligation.

Section 4-13 *Permission to use electronic data interchange to declare goods, etc.*

(1) Where a person pursuant to this Act or to other statutes shall or may notify the customs authorities, including submitting a declaration, the customs authorities may give permission for the submission of such notification by means of electronic data interchange. The provisions regarding declaration in this Act shall apply correspondingly to other computer-assisted communication with the customs authorities in so far as they are appropriate.

(2) Any person who has been granted permission to give notification by means of electronic data interchange pursuant to subsection (1) may be ordered not to use any other method of transmitting information to the customs authorities than that which is specified in the permit.

(3) The permit may be amended or revoked if the permit holder commits significant or repeated breaches of the conditions for the permit or corresponding breaches of customs and movement of goods legislation.

(4) The Ministry may make regulations concerning the conditions that must be fulfilled in order for permission to be granted for the use of electronic data interchange, the procedure for amending or revoking the permit, which types of notification may be transmitted electronically, how the transmission shall be made, when electronic notifications shall be deemed to have been submitted, which obligations may be imposed on the user in order to ensure the security of the notification, the obligations of the network provider in connection with the interchange and the other contents of the permit.

III Customs clearance

Section 4-20 *Release of goods not cleared for free circulation – clearance for free circulation*

(1) The right to dispose freely of goods not cleared for free circulation is subject to the permission of the customs authorities. Such permission is granted by virtue of the goods being cleared by customs.

(2) The Ministry may make regulations concerning the release of goods not cleared for free circulation pursuant to this section, including in regard to customs clearance, clearance for free circulation and simplified clearance procedures.

Section 4-21 *Forwarding of goods not cleared for free circulation to a place in the customs territory – internal transit*

(1) Goods not cleared for free circulation may be sent in internal transit to a specified place in the customs territory subject to the permission of the customs authorities. Permission for internal transit shall be given on conditions that follow from the internal transit procedure that is used.

(2) Any person who has been granted permission for internal transit, and the person in charge of the means of transport carrying the goods, have an obligation to bring the goods to the destination without undue delay. Upon arrival, the goods shall immediately be presented to the customs authorities in the same quantity and in an unaltered state.

(3) The Ministry may make regulations concerning internal transit procedures pursuant to this section, including in regard to the provision of security, the locking and sealing of goods, the use of and costs relating to a customs guard and liability in the event of a breach of the conditions laid down in the internal transit permit.

Section 4-22 *Transborder forwarding of goods not cleared for free circulation – external transit*

(1) Goods not cleared for free circulation may be sent through or to a place in the customs territory if the customs authorities so permit. Permission for external transit shall be granted on conditions that follow from the external transit procedure that is used, and in accordance with international treaties that Norway has entered into regarding such forwarding of goods.

(2) The Ministry may make regulations concerning external transit procedures pursuant to this section, including in regard to the implementation of procedures, electronic external transit systems, authorisation procedures and conditions related thereto, and liability in the event of a breach of the external transit permit.

Section 4-23 *Permission to export goods*

(1) The exportation of goods is subject to the permission of the customs authorities. Such permission is granted by virtue of the goods being cleared by customs. Where permission to export goods has been granted, the person who has been given the permission has an obligation to ensure that the goods are exported.

(2) The Ministry may make regulations concerning permission to export goods pursuant to this section, including in regard to the fact that the customs authorities may, upon application, permit goods that have not been cleared for free circulation by customs to be delivered for sale or use on board a vessel or an aircraft that is to leave the customs territory, and regarding the time limit for exporting the goods.

Section 4-24 *Other disposal of goods not cleared for free circulation*

(1) The customs authorities may grant permission for goods not cleared for free circulation to be disposed of in a manner other than that which is mentioned in sections 4-20 to 4-23.

(2) The Ministry may make regulations concerning the power of the customs authorities to grant permission pursuant to subsection (1).

Section 4-25 *Right to dispose of goods that have been cleared by customs, etc.*

(1) When goods have been cleared by customs, they may be disposed of in accordance with the customs clearance.

(2) Any person who wishes to dispose of goods that have been cleared by customs in a manner other than that specified at the time of clearance must in accordance with sections 4-10 to 4-13 present a special declaration to that effect.

(3) The customs authorities may refuse to clear goods until the requisite information or statements relating to the goods have been communicated.

(4) The Ministry may make regulations concerning customs clearance pursuant to this section, including in regard to postponement of, or exemption from, the obligation to declare goods.

Section 4-26 *Right to re-export, abandon goods, etc.*

(1) If, when goods are being cleared by customs, the consignee does not wish to accept the goods or wishes to dispose of the goods in another manner, the person concerned may, regardless of what is stated in the declaration regarding the customs clearance method, re-export the goods under a separate declaration.

(2) The goods may be abandoned to the customs authorities, who may sell the goods for the benefit of the Treasury or destroy them as provided in section 4-2.

(3) The right to re-export or abandon goods without incurring liability to pay customs duty shall not apply to goods that have been imported or disposed of in contravention of customs legislation or the decisions of the customs authorities. The customs authorities may nonetheless permit the goods to be re-exported or abandoned without liability for customs duty when there are special circumstances connected with the importation or disposal.

(4) The Ministry may make regulations concerning the procedures for re-exportation and abandonment pursuant to this section, including in regard to the power of the customs authorities to demand reimbursement for the costs of storage and to demand security.

Section 4-27 *Detention in the event of disposal in breach of customs clearance*

At the expense of the customs debtor, the customs authorities may detain or collect goods that have been disposed of in contravention of what was specified at the time of customs clearance . Section 4-2 (2) to (5) shall apply accordingly.

IV Storage of goods not cleared for free circulation

Section 4-30 *Permission to establish and operate a customs warehouse*

- (1) The customs authorities may grant permission for the establishment and operation of a customs warehouse.
- (2) If the conditions laid down are not complied with or the customs warehouse keeper is otherwise guilty of misuse, the permission may be suspended or revoked.
- (3) The Ministry may make regulations concerning permission for customs warehouses pursuant to this section.

Section 4-31 *Period of storage, etc. in a customs warehouse*

- (1) The customs authorities may determine how long goods may be stored in a customs warehouse or by the customs authorities.
- (2) If the goods have not been removed by the time the period expires, the customs authorities may sell the goods by forced sale pursuant to the provisions of section 14-10 of the Tax Payment Act.
- (3) The Ministry may make regulations concerning the period of storage pursuant to this section.

Section 4-32 *The customs warehouse keeper's claim for storage fees, etc.*

- (1) The customs warehouse keeper has a lien on the goods for his claim for storage fees. This lien shall not however prevent the customs authorities from selling the goods in pursuance of section 4-31.
- (2) The Ministry may make regulations concerning the customs warehouse keeper's claim pursuant to this section.

Section 4-33 *Establishment of a free zone and a free port*

(1) If commercial and industrial considerations so warrant, the King may, with the consent of the Storting, grant permission for the establishment of free zones or free ports where goods not cleared for free circulation may be stored, divided up, repackaged or processed.

(2) Free zones or free ports are deemed to lie outside the customs territory in so far as the obligation to pay customs duty is concerned.

(3) The Ministry may by regulations lay down further provisions for individual free zones or free ports that are established pursuant to this section, including the extent to which industrial activities and trade shall be permitted.

Section 4-34 *Operation of free zones and free ports*

(1) The users shall cover the costs of operating free zones and free ports.

(2) Conditions may be set for the establishment and operation of free zones and free ports, including in regard to

(a) whether the Act or parts of the Act shall apply to such areas,

(b) approval of the person in charge of operating the area and the latter's responsibility for fencing in or in another way delimiting the area, monitoring the area and traffic to and from the area, and persons, means of transport and goods, and

(c) approval of enterprises that wish to establish activity in the area.

(3) The Ministry may make regulations concerning the operation of free zones and free ports pursuant to this section.

Chapter 5 Relief from customs duty

Section 5-1 *Goods for personal use*

(1) No customs duty shall be payable for the following goods:

(a) luggage for personal use,

(b) used gear belonging to Norwegian nationals who have died outside the customs territory,

(c) removal goods,

(d) prizes and gifts,

(e) inherited goods.

(2) Relief from customs duty pursuant to subsection (1) (a) to (d) is conditional on the goods only being used for personal purposes, and not being used commercially. Relief from customs duty pursuant to subsection (1) (e) is conditional on the goods having been used for personal purposes by the testator.

(3) The Ministry may make regulations concerning conditions for, and the extent of, relief from customs duty pursuant to this section.

Section 5-2 *Goods for use etc. in means of transport in commercial activity*

(1) No customs duty shall be payable on:

- (a) provisions and consumer goods that are brought along for consumption or sale on board vessels or aircraft on a journey to and from the customs territory and during a stay there,
- (b) provisions that are brought along and consumed on board a train,
- (c) consumer goods that are brought along and consumed on board a means of transport other than those mentioned in (a),
- (d) parts, fixtures and fittings and tools in a vessel or an aircraft that is rescued to the customs territory,
- (e) parts and fixtures and fittings for a vessel or an aircraft which are imported along with the latter and retained for use on board the same vessel or aircraft.

(2) Relief pursuant to subsection (1) (a) to (c) shall only apply if the means of transport is used in commercial activity, and shall cease to apply from such time as the means of transport is reassigned to domestic routes or remains in the customs territory for a long period of time. Relief shall only apply to the quantity that the customs authorities deem to be appropriate in relation to the type of vessel or aircraft, the size of the crew, the number of passengers, and the nature of the journey and duration of the stay.

(3) The Ministry may make regulations concerning conditions for and the extent of relief from customs duty pursuant to this section, including in regard to the quantity of provisions permitted if the means of transport remains in the customs territory, and regarding necessary control provisions.

Section 5-3 *Goods for the representative missions of foreign powers and international organisations etc.*

(1) No customs duty shall be payable for goods intended for use by:

- (a) the representative missions of foreign powers and their representatives,
- (b) military forces and commando units,
- (c) other international organisations,

(d) public funded cooperation projects with other nations.

(2) Relief from customs duty pursuant to subsection (1) shall only apply where the goods are used by the legitimate user, and they are not made over to other persons.

(3) The Ministry may make regulations concerning conditions for and the extent of relief from customs duty pursuant to this section.

Section 5-4 *Goods from special areas, goods that are re-imported, etc.*

(1) No customs duty shall be payable on:

(a) goods that are imported from Svalbard or Jan Mayen and appurtenant waters, and which have been caught, extracted or manufactured there,

(b) goods of Norwegian origin, or goods that have previously been cleared for free circulation, that are re-imported from Svalbard or Jan Mayen after processing or repair in the latter places, if the goods are imported directly therefrom, and no duty was refunded at the time of exportation,

(c) goods from whaling, sealing or fishing in the sea outside the customs territory or from uninhabited areas of polar regions, and which are imported directly therefrom,

(d) petroleum products from the Norwegian part of the continental shelf which are imported directly therefrom,

(e) goods that have been manufactured or cleared by customs for free circulation in Norway and which are re-imported in an unaltered state, provided that no duty was refunded at the time of exportation,

(f) goods that are imported by the frontier zone inhabitants,

(g) foals of a mare that was in foal at the time of exportation from the customs territory, if the foal is imported together with the mare after she has foaled.

(2) The Ministry may make regulations concerning the conditions for and the extent of relief from customs duty pursuant to this section.

Section 5-5 *Damaged goods*

(1) No customs duty shall be payable on goods that are damaged before the goods have been released from the control of the customs authorities.

(2) Relief from customs duty is conditional on the goods, at the importer's expense, being destroyed under the supervision of the customs authorities or another public authority.

(3) The Ministry may make regulations concerning the conditions for and the extent of relief from customs duty pursuant to this section.

Section 5-6 *Samples, etc.*

(1) No customs duty shall be payable on:

- (a) samples, models and patterns of a negligible value,
- (b) Advertising material and advertising films,
- (c) Information material from the tourist authorities of other countries,
- (d) Documents and printed matter from the authorities of other countries,
- (e) packaging and cargo pallets, and equipment for cargo protection in means of transport.

(2) The Ministry may make regulations concerning the conditions for and extent of relief from customs duty pursuant to this section.

Section 5-7 *Goods for technical and scientific use, etc.*

(1) No customs duty shall be payable on:

- (a) Replaceable moulds and machine tools,
- (b) Agricultural goods for technical use,
- (c) goods for teaching and scientific use at universities, colleges and the Meteorological Institute and its stations,
- (d) goods of an educational, scientific and cultural nature,
- (e) equipment for use in foreign scientific expeditions.

(2) Relief from customs duty pursuant to subsection (1) shall only apply where the goods are used by a legitimate user, and they are not made over to other persons.

(3) The Ministry may make regulations concerning the conditions for and the extent of relief from customs duty pursuant to this section.

Section 5-8 *Goods for the aviation industry*

(1) No customs duty shall be payable on:

- a) airport ground equipment, teaching material, aircraft simulators and parts for these,
- b) aircraft and equipment and parts for these.

(2) The Ministry may make regulations concerning the conditions for and the extent of relief from customs duty pursuant to this section.

Section 5-9 *Goods of lesser value*

(1) No customs duty shall be payable for goods of lesser value.

(2) The Ministry may make regulations concerning value thresholds, conditions for and the extent of relief from customs duty pursuant to this section.

Chapter 6 Relief from customs duty for goods that are to be re-exported

Section 6-1 *Relief from customs duty in connection with temporary importation, without provision of security*

(1) Relief from customs duty shall be granted without provision of security in respect of the temporary importation of:

- (a) luggage for personal use in connection with a temporary stay in the customs territory,
- (b) professional equipment of lesser value, provided the goods are owned and imported by a person residing or domiciled outside the customs territory, and the equipment is to be used for assignments in the customs territory by the importer himself or under the latter's direction. With the exception of hand tools, the relief shall not cover equipment intended for use in transportation in the customs territory, industrial production, packaging of goods, exploitation of natural resources, or for use in the erection, repair and maintenance of buildings, or in construction work and the like,
- (c) production and broadcasting equipment for radio and television, provided the goods are owned and imported by a person residing or domiciled outside the customs territory, if the equipment is to be used for assignments in the customs territory by the importer himself or under the latter's direction,
- (d) goods that are imported in connection with major accidents and natural disasters where there is a need for emergency assistance. The same applies to goods that are imported for use in emergency preparedness exercises for such situations as are mentioned in the first sentence. The customs authorities may waive the requirement regarding re-exportation pursuant to subsection (3) or payment of customs duty for goods that are consumed during the rescue operation or the exercise.

(2) Relief from customs duty shall be granted without provision of security in respect of the temporary importation of the following means of transport and equipment:

- (a) motor vehicles, trailers, vessels and aircraft, provided they are not registered in Norway, and are solely for personal use, and which are imported by a person who has a permanent residence in another country, or who has otherwise been given the opportunity for such importation,
- (b) motor vehicles and trailers, where the means of transport is registered abroad, provided that it is used for the commercial transportation of goods or persons, from a place abroad to a place in the customs territory, or from a place in the customs territory to a place abroad. Means of transport that are registered in another EEA country may nonetheless be used for the commercial transportation of goods in the customs territory, if there is a permit for such activity, issued by the proper authority in the country of registration. The means of transport may not be owned or driven by a person resident in the customs territory,
- (c) railway material for the transportation of goods and persons to or from the customs territory, provided it is not used for transportation in the customs territory other than what takes place in connection with the importation and exportation of the material,
- (d) containers for the transportation of goods to or from the customs territory, provided the container is not used for transportation in the customs territory other than what takes place in connection with importation and exportation,
- (e) spare parts and the like that are intended for use in the repair of a means of transport and equipment mentioned in a) to d), and which are to be re-exported along with the means of transport after repairs have been completed.

(3) Relief from customs duty pursuant to subsections (1) and (2) is conditional on the means of transport or the goods being re-exported within one year of importation, unless the time limit is extended by the customs authorities.

(4) The Ministry may make regulations concerning the conditions for, and the extent of, relief from customs duty pursuant to this section, including in regard to the power of the customs authorities to extend the time limit for re-exportation laid down in the third subsection.

Section 6-2 *Relief from customs duty in connection with temporary importation upon provision of security*

(1) Relief from customs duty shall be granted upon payment of a deposit or provision of other security in respect of the temporary importation of:

- (a) professional equipment of a total value exceeding what may be imported pursuant to section 6-1 (1) (b), which is imported by a person residing or domiciled outside the customs territory, and the equipment is to be used for assignments in the customs territory by the importer himself or under the latter's direction. With the exception of hand tools, the relief shall not cover equipment intended for use in transportation in the customs territory, industrial production, packaging of goods, exploitation of natural resources, or for use in the erection, repair and maintenance of buildings, or in construction work and the like,

- (b) samples, models, patterns and the like that are imported solely for the purpose of presentation or demonstration with a view to taking orders for corresponding goods from abroad,
- (c) equipment for circuses, fun fairs or similar activities, that are imported by travelling performers,
- (d) equipment and material imported for use in theatre performances and international conventions, official festivities, athletics meetings and similar events of an international nature,
- (e) goods imported for trial, controls, testing and the like in connection with the approval of goods, and goods imported for the trial and testing of goods intended for exportation,
- (f) special tools, special instruments, models and patterns imported for use in the manufacture of specific goods or consignments intended for exportation, provided that the goods are made available free of charge by the relevant foreign buyer of the goods or consignment,
- (g) instruments, apparatuses and the like imported for use in scientific experiments,
- (h) animals for breeding purposes,
- (i) positive cinematographic film, film copies and corresponding media, imported solely for presentation to censorship authorities or potential buyers or leasers,
- (j) goods intended for presentation or demonstration or for use at exhibitions, trade fairs and the like. The relief does not cover goods that are displayed in shop premises and at trade fairs arranged for the purpose of selling imported goods, nor alcoholic beverages, tobacco products or fuel,
- (k) welfare materials imported for use on board ships engaged in international traffic, or at welfare stations for foreign seafarers.

(2) Relief from customs duty pursuant to subsection (1) (a) to (i) is conditional on the goods being owned by a person residing or domiciled outside the customs territory.

(3) Relief from customs duty pursuant to subsection (1) is conditional on the goods being re-exported within one year of importation.

(4) The Ministry may make regulations concerning relief from customs duty pursuant to this section, including in regard to the power of the customs authorities to depart from or impose other conditions, and regarding the time limit for re-exportation.

Section 6-3 *Industrial goods imported for repair or processing and thereafter re-exported*

(1) Relief from customs duty may be granted upon payment of a deposit or provision of other security in respect of industrial goods that are imported for processing or repair, and that will subsequently be re-exported, provided:

- (a) the original goods can be identified in the processed product,

(b) the goods are re-exported within one year of importation, and

(c) the owner of the goods is resident or domiciled abroad.

(2) The condition in subsection (1) (c) may be departed from if the goods belong to a Norwegian ship engaged in foreign trade, or the goods are re-exported for use in connection with exploration for and exploitation of undersea natural deposits in waters outside the customs territory.

(3) The relief in subsection (1) shall apply correspondingly to parts and the like that either are consumed in connection with the processing or repair of the goods, or are re-exported along with the goods.

(4) The Ministry may make regulations concerning relief from customs duty pursuant to this section, including in regard to the power of the customs authorities to depart from such conditions as are mentioned in subsection (1), and regarding the time limit for re-exportation.

Section 6-4 *Agricultural goods imported for processing and thereafter re-exported*

(1) Relief from customs duty may be granted upon payment of a deposit or provision of other security in respect of agricultural goods which an undertaking imports to be processed and thereafter re-exported, even if the imported goods cannot be identified at the time of re-exportation.

(2) Relief from customs duty pursuant to subsection (1) is conditional on the processed goods being re-exported within six months of importation.

(3) The Ministry may make regulations concerning relief from customs duty pursuant to this section, including in regard to the fact that permission for the processing must be applied for in advance, regarding the fact that requirements may be imposed as regards the undertaking's production conditions, storage and organisation, regarding what shall be considered to be goods of the same quality and the same type, and regarding the time limit for re-exportation and requirements relating to the treatment of residual products.

Section 6-5 *Goods that are destroyed instead of being re-exported*

(1) The condition as regards re-exportation pursuant to this chapter may be waived if the goods are destroyed in accordance with section 4-2 (3).

(2) The Ministry may make regulations concerning the power of the customs authorities to waive the requirement of re-exportation pursuant to this section.

Chapter 7 Basis for calculating custom duty

I Common provisions regarding the basis of calculation

Section 7-1 *Customs duty based on weight, volume and unit (specific customs duty)*

(1) If customs duty is payable on the basis of weight pursuant to the Storting resolution on customs duties, the actual net weight of the goods shall be used as the basis, unless it follows from the resolution that the packing of the goods must be included in the basis of calculation when calculating the duty.

(2) If customs duty is payable on the basis of volume pursuant to the Storting resolution on customs duties, the actual volume of the goods shall be used as the basis of calculation.

(3) If customs duty is payable on a per-unit basis pursuant to the Storting resolution on customs duties, the actual number of units shall be used as the basis of calculation.

(4) The Ministry may make regulations concerning specific customs duties pursuant to this section.

Section 7-2 *Customs duty based on value (ad valorem customs duty) – relationship to the WTO Treaty*

If customs duty is payable on the basis of value pursuant to the Storting resolution on customs duties, the value shall be determined pursuant to the provisions of sections 7-10 to 7-20 and in accordance with the WTO Agreement on the Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

Section 7-3 *Objections to weight or quantity – shortage*

After goods have been released, no objections may be raised to the weight or to the quantity that the customs authorities have used as the basis for the customs clearance. If it can be proved that a shortage existed at the time of importation, an objection may nevertheless be raised.

Section 7-4 *Basis of calculation for goods that are re-imported after processing or repair (foreign processing)*

(1) If goods that have previously been cleared for free circulation or are of Norwegian origin are re-imported after being repaired, processed or used in the manufacture of other goods outside the customs territory, the basis of calculation shall be determined as follows:

- (a) If customs duty is to be calculated on the basis of value, customs duty shall be payable on the cost of repairing or processing the goods, in addition to the transportation cost.
 - (b) If customs duty is to be calculated on the basis of weight, volume or unit, customs duty shall be payable in the amount of 8% of the basis of calculation as mentioned in (a).
 - (c) If processing has been carried out free of charge, the basis of calculation shall be set at zero.
- (2) The conditions for calculation pursuant to subsection (1) are that:
- (a) the goods must be re-imported within one year of exportation,
 - (b) re-importation must be carried out by the same physical or legal person that exported the goods,
 - (c) no customs duty was refunded at the time of exportation, and
 - (d) any demand for a customs refund must be waived.
- (3) The Ministry may make regulations concerning the basis of calculation for goods that are re-imported pursuant to the provisions here, including in regard to the power to grant exemption from the conditions, and regarding the fact that such goods may be imported duty-free on certain conditions.
- (4) In the case of agricultural goods that are re-imported after processing abroad, customs duty shall be payable in accordance with provisions laid down by the Ministry in regulations.

Section 7-5 *Reduction of the basis of calculation when the goods are damaged or spoilt*

- (1) The basis of calculation for customs duty may be reduced if the goods have depreciated due to damage or spoilage:
- (a) during transportation from abroad to a place in the customs territory,
 - (b) in the possession of the customs authorities,
 - (c) during release of the goods by the customs authorities,
 - (d) during forwarding of goods that were under customs control, or
 - (e) while the goods were placed in a warehouse approved for goods not cleared for free circulation.
- (2) The basis of calculation shall be reduced proportionately to the reduction in value caused by the damage or spoilage.
- (3) The Ministry may make regulations concerning the reduction of the basis of calculation pursuant to this section.

Section 7-6 *Setting aside of the declared basis of calculation*

(1) If the basis of calculation has not been declared, or there is reason to doubt that the declared basis of calculation is correct, the customs authorities may determine the basis of calculation.

(2) The Ministry may make regulations concerning the power of the customs authorities to determine the basis of calculation pursuant to this section.

II Special provisions regarding the customs value of the goods

Section 7-10 *Transaction value of the goods*

(1) The customs value of imported goods is the transaction value, that is the price actually paid or payable for the goods when sold for export to Norway, adjusted in accordance with the provisions of sections 7-17 and 7-18, provided that:

- (a) there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which:
 - 1. are imposed or prescribed by law or by Norwegian authorities,
 - 2. limit the geographical area in which the goods may be resold, or
 - 3. do not substantially affect the value of the goods,
- (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined,
- (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of section 7-17, and
- (d) the buyer and the seller are not dependent on one another, or when they are dependent on one another, that the transaction value is acceptable for customs purposes under regulatory provisions. The buyer and seller shall be deemed to be dependent on one another if one person directly or indirectly owns, controls or holds 5% or more of the voting shares of both of them. The buyer and the seller shall also be deemed to be dependent on one another if
 - 1. they are officers or directors of one another's businesses,
 - 2. they are legally recognised partners in business,
 - 3. they are employer and employee,
 - 4. they are members of the same family,
 - 5. one of them directly or indirectly controls the other,
 - 6. they are directly or indirectly controlled by the same third person,
 - 7. they together, directly or indirectly, control a third person.
- e) A buyer and a seller who have common financial interests due to the fact/(WTO) are associated in business with one another in that one of them is the sole agent, sole distributor or sole importer for the other shall be deemed to be dependent on

one another if they fall within the criteria of (d).

(2) The price mentioned in subsection (1) shall include all payments that are a condition for the sale of the goods.

(3) The price mentioned in subsection (1) must be the price that applies in an export sale where the goods are sent to a buyer in Norway.

(4) The Ministry may by regulations lay down further provisions to supplement subsection (1) (d) regarding the cases in which the transaction value is acceptable for the purpose of calculating the customs value even though a relationship of dependence exists.

Section 7-11 *Transaction value of identical goods*

(1) If the customs value of imported goods cannot be determined pursuant to section 7-10, the customs value shall be the transaction value of identical goods sold for export to Norway at the same commercial level, and in substantially the same quantity and at or about the same time as the goods being valued.

(2) “Identical goods” means goods which are the same in all respects, including physical characteristics, quality and reputation, and which are produced in the same countries as the goods being valued. Minor differences in appearance shall not preclude such goods from being regarded as identical.

(3) The Ministry may make regulations concerning the determination of the transaction value pursuant to this section, including in regard to the power to depart from the conditions regarding the same commercial level and the same quantity that are mentioned in subsection (1).

Section 7-12 *Transaction value of similar goods*

(1) If the customs value of imported goods cannot be determined under sections 7-10 or 7-11, the customs value shall be the transaction value of similar goods sold for export to Norway at the same commercial level, and in substantially the same quantity and at or about the same time as the goods being valued.

(2) “Similar goods” means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

(3) The Ministry may make regulations concerning the transaction value pursuant to this section, including in regard to the power to depart from the requirements regarding the same commercial level and the same quantity that are mentioned in subsection (1).

Section 7-13 *The declarant's choice between section 7-14 and section 7-15*

(1) If the customs value of the imported goods cannot be determined under the provisions of sections 7-10, 7-11 or 7-12, the customs value shall be determined under the provision in section 7-14, or when the customs value cannot be determined under that section, under section 7-15.

(2) The person declaring the goods to the customs authorities may choose to apply the rule in section 7-15 instead of the rule in section 7-14.

Section 7-14 *Customs value determined on the basis of the selling price in Norway*

(1) If the imported goods or identical or similar goods are sold in Norway in the condition as imported, the customs value shall be determined on the basis of the unit price at which the imported goods or identical or similar goods are sold at the first commercial level in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not dependent on the seller.

(2) The unit price pursuant to subsection (1) shall be subject to deductions for the following:

- (a) commissions usually paid or agreed to be paid, or the additions usually made for profit and general expenses in connection with sales in Norway of goods of the same class or kind,
- (b) the usual costs of transport and insurance in Norway, and
- (c) customs duty and other national taxes payable in Norway.

(3) The Ministry may make regulations concerning the determination of customs value pursuant to this section, including in regard to the deductions that may be made in the unit price pursuant to subsection (2).

Section 7-15 *Computed customs value*

(1) The computed customs value of imported goods shall consist of the sum of:

- (a) the cost or value of materials, fabrication or other processing employed in producing the imported goods,
- (b) an amount for profit and general expenses equal to that usually calculated by producers in the country of exportation in sales for export to Norway of goods of the same class or kind, and
- (c) the costs of transport and insurance for the imported goods to the place of importation, and loading and handling charges associated with the aforementioned

transport of the goods, as provided in section 7-17 (1) (e) and (f).

(2) The Ministry may make regulations concerning computed customs value pursuant to this section.

Section 7-16 *Alternative customs value*

(1) If the customs value of imported goods cannot be determined under the provisions of sections 7-10 through 7-15, the customs value shall be determined on the basis of data available in Norway and in accordance with the principles set out in sections 7-10 to 7-15.

(2) The customs value pursuant to subsection (1) shall not be determined on the basis of:

- (a) the selling price in Norway of goods produced here,
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values,
- (c) the price of goods on the domestic market of the country of exportation,
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with the provisions of section 7-15,
- (e) the price of the goods for export to a country other than Norway,
- (f) minimum customs values, or
- (g) arbitrary or fictitious values.

(3) The Ministry may make regulations concerning the determination of customs value pursuant to this section.

Section 7-17 *Items included in the customs value determined pursuant to section 7-10*

(1) In determining the customs value pursuant to section 7-10, there shall be added to the price actually paid or payable for the imported goods:

- (a) the following costs, to the extent that they are incurred by the buyer, but are not included in the price actually paid or payable for the goods:
 - 1. commissions and brokerage, except buying commissions,
 - 2. the cost of packaging, to the extent such packaging is regarded for customs purposes as part of the goods, and
 - 3. the cost of packing whether for labour or materials,
- (b) the value of the following goods and services, where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with

the production and sale for export of the goods:

1. materials, components, parts and similar items incorporated in the imported goods,
 2. tools, dies, moulds, and similar items used in the production of the goods,
 3. materials consumed in the production of the goods, and
 4. engineering, development, artwork, design work, plans and sketches undertaken elsewhere than in Norway and necessary for the production of the goods,
- (c) compensation for intellectual property rights related to the goods being valued that the buyer must pay, directly or indirectly, as a condition of sale. If such compensation for intellectual property rights is paid to a person other than the seller, the compensation shall also be added if it is paid to a person who is in a relationship of dependence on the seller,
- (d) the value of the proceeds of any resale, disposal or use of the imported goods that accrues directly or indirectly to the seller,
- (e) the cost of transport and insurance of the goods to the place of importation,
- (f) loading and handling charges associated with the transport of the goods.

(2) Additions pursuant to subsection (1) shall be made only on the basis of objective and quantifiable data. No additions shall be made to the price actually paid or payable other than those mentioned in subsection (1).

(3) The Ministry may make regulations concerning costs included in the customs value pursuant to this section.

Section 7-18 *Items that shall not be included in the customs value determined pursuant to section 7-10*

(1) The customs value determined pursuant to section 7-10, cf. section 7-17, shall not include the following items, provided they are separate from or can be separated from the price actually paid or payable for the imported goods:

- (a) compensation for design, construction, installation, maintenance or technical assistance that is carried out in Norway in respect of the imported goods,
- (b) compensation for transport or insurance of the goods in Norway,
- (c) customs duty and excise taxes in Norway,
- (d) interest paid by the buyer under a written financing arrangement for the purchase of the imported goods, regardless of whether the financing is provided by the seller or another person, and the buyer can upon request prove:
 1. that such goods are actually sold at the price actually paid or payable by the buyer, and
 2. that the stated rate of interest does not exceed the rate of interest that is usual for such transactions in the country and at the time the financing is provided,

- (e) purchase commissions,
- (f) compensation for the right to reproduce the imported goods in Norway, and
- (g) taxes imposed on the goods in the country of exportation, provided that it can be proved that the goods have been or will be exempted from such taxes in favour of the buyer.

(2) The Ministry may make regulations concerning costs that shall not be included in the customs value pursuant to this section.

Section 7-19 *Rates of exchange*

(1) If the conversion of currency is necessary for the determination of the customs value, the rates of exchange determined by the customs authorities at any given time shall be used.

(2) The Ministry may make regulations concerning rates of exchange pursuant to this section.

Section 7-20 *Deferral of final determination of value*

(1) The customs authorities may in special cases grant permission for a deferral of the final determination of customs value, or for a portion of the customs value to be declared at a later date.

(2) If permission has been granted for deferral pursuant to subsection (1), the goods may be released to the importer if the importer provides sufficient security for customs duty that may be incurred.

(3) The Ministry may make regulations concerning deferral of the final determination of value and release of the goods pursuant to this section.

Chapter 8 **Preferential tariffs**

Section 8-1 *Preferential tariffs*

“Preferential tariff” means a reduction in customs duty, relief from customs duty or any other favourable tariff treatment granted on the basis of a free trade agreement entered into by Norway with another state or group of states, a bilateral or unilateral statement in connection with such an agreement, or a special arrangement unilaterally established by Norway in respect of certain states.

Section 8-2 *Granting of preferential tariffs on the basis of a free trade agreement, etc.*

(1) Preferential tariffs are granted for goods covered by a free trade agreement entered into by Norway and that is in force for Norway, or by another arrangement entered into in connection with such an agreement.

(2) Preferential tariffs pursuant to subsection (1) are conditional on the origin of the goods being within the scope and extent of the agreement concerned. The origin status of the goods is determined pursuant to the rules of origin laid down in the agreement and the provisions of this Act.

(3) The Ministry shall by regulations make public a list of the free trade agreements by which Norway is bound at any given time.

Section 8-3 *Granting of preferential tariffs on the basis of the Generalised System of Preferences (GSP) for developing countries*

(1) Preferential tariffs are granted for goods covered by an arrangement unilaterally established by Norway as a generalised system of preferences (GSP) providing for favourable tariff treatment of a group of states.

(2) Preferential tariffs pursuant to subsection (1) are conditional on the origin of the goods being within the scope and extent of the arrangement. The origin status of the goods is determined pursuant to the rules of origin for the arrangement and the provisions of this Act.

(3) The Ministry shall by regulations make public a list of the countries that are covered by the arrangement of unilateral preferential tariffs at any given time.

(4) The Ministry may make regulations concerning a generalised system of preferences pursuant to this section, including in regard to a safety mechanism for cases where the preferential system creates substantial market disturbances.

Section 8-4 *Preferential rules of origin*

(1) If the origin of goods is to be determined with a view to preferential tariff treatment, the rules of origin in applicable free trade agreements, or in the Generalised System of Preferences (GSP) for developing countries or other preferential arrangements shall be used as a basis.

(2) The Ministry may make regulations concerning the implementation of the rules of origin that follow from applicable free trade agreements, the Generalised System of Preferences (GSP) for developing countries and other preferential arrangements that are applicable to the importation and exportation of products of origin.

Section 8-5 *Claims for preferential tariff treatment and documentary proof of origin*

(1) Claims for preferential tariff treatment must be submitted during customs treatment, and the claim must be shown to be legitimate by presenting the necessary documentary proof of the origin of the goods.

(2) Such documentation as is mentioned in subsection (1) must satisfy specific formal requirements and must be retained for control purposes for at least ten years from the time of clearance for free circulation.

(3) The Ministry may make regulations concerning the submission of claims for preferential tariff treatment and regarding the presentation of proof of origin pursuant to this section, including in regard to the power of the customs authorities to make exceptions in individual cases.

Section 8-6 *Non-preferential rules of origin*

(1) If the origin of goods is to be determined and does not follow from a special agreement with a foreign state or organisation regarding preferential tariff treatment, it shall be determined on the basis of the rules of origin in subsections (2), (3) and (4), unless otherwise required by Norway's international legal obligations. The rules in subsections (2), (3) and (4) shall also apply in connection with most favoured treatment under Article I of the General Agreement on Tariffs and Trade, and in connection with the issue of a certificate of origin for goods that are not covered by a free trade agreement or by a unilateral preferential arrangement.

(2) Goods shall be regarded as originating in the country where they are wholly produced, or where they underwent their last substantial processing. The territory of a country also covers its territorial sea.

(3) "Goods wholly produced in a country" means:

- a) mineral products extracted within that country,
- b) vegetable products harvested in that country,
- c) live animals born and raised in that country,
- d) products obtained from live animals that are raised in that country and products obtained from hunting, fishing or trapping in that country,
- e) products of sea-fishing and other products taken from the sea outside the country's territorial sea, by vessels registered in that country or in the country's register of ships and sailing under the flag of that country,
- f) goods produced on board factory ships from products referred to in (e), originating in that country, provided that such factory ships are registered in that country or in the country's register of ships and sail under the flag of that country,

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

(4) If two or more countries have participated in the production of goods, the country of origin shall be the country where the last substantial and economically justified processing or working took place, resulting in the manufacture of a new product, or representing an important stage of the manufacture of a product. Repacking, sorting, mixing or minor changes shall not be regarded as processing.

(5) The Ministry may make regulations concerning the implementation of the rules of origin pursuant to this section, including in regard to requirements relating to proof of origin and expansion of the applicability of the rules to country of origin labelling, public procurement and trade statistics.

Chapter 9 Reduction of customs duty rates in the budget year

Section 9-1 *Reduction of customs duty rates on agricultural goods*

(1) To facilitate the importation of agricultural goods as a supplement to Norwegian production, and to meet the needs of consumers and the food industry, the Ministry may lower ordinary customs duty rates insofar as it is not prevented from doing so by an agreement with a foreign state or an international organisation. Such reductions in customs duty rates shall safeguard the basis for the marketing of Norwegian agricultural goods and prevent undesired market disturbances. Reductions may be made:

- a) in the form of a general reduction pursuant to section 9-2,
- b) in the form of individual reductions upon application pursuant to section 9-3,
or
- c) by determining customs quotas where the shares in such quotas are allocated by auction or other means pursuant to section 9-4.

(2) A decision to reduce a customs duty rate as mentioned in subsection (1) shall specify the type(s) of product included, and shall state the period to which the reduction applies.

(3) Sections 9-2 to 9-4 may be given corresponding application where preferential tariff treatment for agricultural goods is granted under Chapter 8.

Section 9-2 *General reduction of customs duty rates on agricultural goods*

(1) ‘General reduction of customs duty rates on agricultural goods’ means an administrative decision to lower the customs duty rate on a particular agricultural product, without quantitative limits, for a specified period, but none the less restricted to the end of that budget year.

(2) The Ministry may pre-announce a decision to change a customs duty rate pursuant to this section. The announcement shall state the timing of the implementation of the decision.

(3) The Ministry may make regulations concerning general reductions of customs duty rates pursuant to this section, including in regard to administrative procedures, duty of disclosure, controls, administrative sanctions, period of validity and announcement of a reduction decision, and the extent to which such announcement shall have credibility.

Section 9-3 *Individual reduction of customs duty rates on agricultural goods and processed agricultural goods after application*

(1) In this section ‘individual reduction of customs duty rates’ means an individual decision to lower the customs duty rate on a specified quantity of a particular agricultural product or processed agricultural product, within a specified period, where the decision is directed at one or more particular physical or legal persons who have applied for the reduction.

(2) Any decision to reduce a customs duty rate shall be made on the basis of an application. The decision shall specify the product and the quantity involved, the period to which the reduction applies, and the entitled physical or legal person.

(3) The Ministry may make regulations concerning reductions of customs duty rates pursuant to this section, including in regard to administrative procedures, duty of disclosure, controls, administrative sanctions and period of validity.

Section 9-4 *Allocation of shares in customs quotas for agricultural goods by auction or other means*

(1) Shares in customs quotas shall be allocated by auction, provided the Ministry considers that market conditions favour this method, and insofar as it is not prevented from doing so by an agreement with a foreign state or organisation. Rules governing the allocation of customs quotas by means other than auction shall be laid down by the Ministry in regulations.

(2) ‘Customs quota’ means a stipulated quantity of a product whose importation at a reduced customs duty rate is permitted, within a specified period. A customs quota may be established on the basis of an agreement with a foreign state or organisation,

or unilaterally. 'Share in a customs quota' means a right to import a particular quantity of a product within a customs quota.

(3) Any auction of shares in a customs quota shall be announced in good time before the auction is held. The announcement shall state the time-limit for opening the auction and closing the auction and how the shares in the quota shall be distributed among the successful bidders. The identity of the participants in the bidding rounds shall not be disclosed. Immediately after the auction is closed, the number of bidders, the highest bids, and the identity of the successful bidders, shall be disclosed.

(4) A share in a customs quota bought at an auction may be transferred.

(5) The Ministry may make regulations concerning the allocation of shares in customs quotas, including in regard to administrative procedures, duty of disclosure, controls, administrative sanctions, period of validity and advance approval of bidders, and on disposal of quota shares.

Section 9-5 *Reduction of customs duty rates on industrial goods after application*

(1) In this section 'reduction of customs duty rates after application' means an individual decision to lower the customs duty rate or preferential duty rate on a specified quantity of particular industrial goods, within a specified period, where the decision is directed at one or more particular physical or legal persons.

(2) The Ministry may make individual decisions regarding reduction of the stipulated customs duty rate on industrial goods where individual instances or situations arise which had not been considered when the Storting determined the customs duty rate, and where applying the customs duty rate in the particular case has an unintended and clearly unreasonable impact.

(3) Any decision regarding reduction of customs duty rates shall state the item number and the quantity involved, the period to which the reduction applies and the identity of the entitled physical or legal person.

(4) The Ministry may make regulations concerning the reduction of customs duty rates on industrial goods pursuant to this section, including in regard to the processing of applications and time-limits, and in regard to conditions for such reduction.

Chapter 10 Trade measures

Section 10-1 *Trade measures against dumping (anti-dumping measures)*

(1) If the Ministry determines that dumping has taken place, and that the dumping causes or threatens to cause material injury to an industry in the customs territory or significantly delays the establishment of such an industry, the King may, within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement an anti-dumping measure. Such

measure may also be implemented at the request of a third country where the dumping causes or threatens to cause material injury to an industry in that country.

(2) An anti-dumping measure in the form of a special anti-dumping duty shall not exceed the margin of dumping as calculated pursuant to section 10-2. An anti-dumping duty shall be ordered on the importation of any dumped goods that have caused injury, except goods from suppliers who have given a price undertaking. If possible, the order shall identify the suppliers at whom the order is directed.

(3) The anti-dumping measure shall remain in force only as long as is necessary to counteract injury resulting from the dumping, and the measure shall be reduced if called for by a further review. Where there are reasons for doing so, the authorities shall on their own initiative or on request consider whether, after a certain period, it is necessary to uphold the measure.

(4) An anti-dumping measure may be implemented as a provisional measure. Such measure may be implemented no earlier than 60 days after a formal investigation was initiated and announced. A provisional measure shall last for as short a period as possible and no longer than four months. Where exporters representing a significant share of the trade concerned so request, the measure may last for up to six months. The duration may be extended to respectively six and nine months should the investigation indicate that a customs duty less than the margin of dumping will be sufficient to ensure that no injury is caused.

(5) An anti-dumping measure shall be removed at the latest five years from the date of its implementation, unless it is determined in a review that such removal would be likely to lead to a continuation or recurrence of the dumping and the injury.

(6) Legal action concerning the validity of a decision to implement an anti-dumping measure shall be heard in Oslo District Court as the court of first instance. The court shall see to it that such hearing is expedited.

(7) The Ministry shall announce the implementation of anti-dumping measures in regulations. If possible, the announcement shall identify the suppliers encompassed by the measure.

(8) The Ministry may make regulations concerning anti-dumping measures in pursuance of this section.

Section 10-2 *Definition of dumping*

(1) 'Dumping' means the importation of goods:

- (a) at a price lower than the comparable price charged in the ordinary course of trade for like goods intended for consumption in the export country concerned,
or
- (b) if no such domestic market price exists in the export country, at a price which is either:

1. lower than the highest comparable price charged in the ordinary course of trade for like goods that are exported to any other country, or
2. lower than the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs and for profits.

(2) When prices are compared, account shall be taken of differences in sales and delivery conditions, transport costs, taxation, and other factors of significance for comparison.

(3) The definition in subsection (1) may be derogated from where the anti-dumping measure is implemented within rules of international law permitting such derogation.

Section 10-3 *Trade measures against subsidies (countervailing measures)*

(1) If the Ministry determines that there exists direct or indirect subsidisation of goods that are exported to Norway, and that the subsidisation causes or threatens to cause material injury, the King may, within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement a countervailing measure.

(2) A countervailing measure in the form of a special countervailing customs duty may not exceed the subsidy that has been determined, calculated per unit of the subsidised and exported goods. A decision pursuant to subsection (1) shall explicitly explain the method of calculation in the individual case, and that method shall be in conformity with the applicable contractual obligations. A countervailing customs duty shall be imposed on any subsidised goods that have caused injury, except goods from suppliers who have relinquished the subsidies concerned or who have given a price undertaking.

(3) The countervailing measure shall remain in force only as long as is necessary to counteract the injury caused by the subsidies. The measure shall be reduced if called for by a further review.

(4) A countervailing measure may be implemented as a provisional measure. Such measure may be implemented no earlier than 60 days after a formal investigation was initiated and announced. A provisional measure may not last longer than 120 days.

(5) Legal action concerning the validity of a decision to implement a countervailing measure shall be heard in Oslo District Court as the court of first instance. The court shall see to it that such hearing is expedited.

(6) The Ministry shall announce the implementation of countervailing measures in regulations. If possible, the announcement shall identify the suppliers encompassed by the measure.

(7) The Ministry may make regulations concerning trade measures pursuant to this section.

Section 10-4 *Definition of subsidies*

(1) A 'subsidy' means a financial contribution from a public authority when a benefit is thereby conferred where:

- (a) a government practice involves a direct transfer of funds (grants, loans, equity infusion, etc.), or potential direct transfers of funds or liabilities (loan guarantees, etc.),
- (b) government revenue that is otherwise due is forgone or not collected,
- (c) the government provides goods or services other than general infrastructure, or purchases goods,
- (d) the government makes payments to a funding mechanism, or entrusts or directs a private body to carry out one or more of the type of functions which would normally be vested in the government, and which are described under (a) to (c), and the practice differs in no real sense from practices normally followed by the government,
- (e) there is any form of income or price support which directly or indirectly causes increased exportation of goods.

(2) The definition in subsection (1) may be derogated from provided the countervailing measure is implemented within rules of international law permitting such derogation.

Section 10-5 *Safeguard measures and countermeasures*

(1) If the Ministry determines that, as a result of an unforeseen development, goods are being imported in such increased quantities and under such conditions as to cause, or threaten to cause, serious injury to Norwegian producers of similar or competing goods, the King may within the limitations that follow from an agreement with a foreign state or an international organisation, or from international law, implement a safeguard measure.

(2) Investigations into whether there is reason to implement a safeguard measure or countermeasure pursuant to subsection (1) shall be carried out as provided in section 12-8. The investigating authorities may obtain information pursuant to section 12-5.

(3) A safeguard measure shall be applied only to the extent necessary to prevent or remedy serious injury and to facilitate necessary adjustments. Such measure shall be implemented in the form of a special customs duty on the goods concerned irrespective of their origin, or in the form of quantitative restrictions which can be distributed such that affected countries are allotted a pro rata share. A safeguard measure shall not be applied beyond a period of four years, unless it is again determined that the measure continues to be necessary. A provisional safeguard measure of up to 200 days' duration may be implemented.

(4) The King may implement an agreement with another state regarding trade compensation for the adverse effects of a safeguard measure as mentioned in subsection (1).

(5) Where Norwegian producers are affected by a safeguard measure imposed by another country, the King may implement a countermeasure in the form of a rebalancing measure, including the suspension of customs duty concessions.

(6) The conditions mentioned in subsections (1) and (2) may be derogated from provided the safeguard measure is implemented within rules of international law permitting such derogation.

(7) The Ministry shall announce the implementation of any safeguard measure or countermeasure pursuant to this section in regulations.

(8) The Ministry may make regulations concerning safeguard measures and countermeasures pursuant to this section.

Section 10-6 *Special safeguard measures for agricultural goods*

(1) If the imported quantity of agricultural goods exceeds a specified reference level, or the import price for such goods falls below a specified reference price, the King may, within the framework of an agreement with a foreign state or an international organisation, implement a special safeguard measure, including the imposition of a special customs duty on the goods concerned in addition to ordinary customs duty.

(2) An investigation into whether there is reason to implement a safeguard measure or countermeasure pursuant to subsection (1) shall be carried out as prescribed in section 12-9. The investigating authorities may obtain information pursuant to section 12-5.

(3) Volume-based safeguard duty pursuant to this section may not exceed one-third of the ordinary customs duty rate in effect for the year for which the measure was applied.

(4) The Ministry shall announce the implementation of any safeguard measure pursuant to this section in regulations.

(5) The Ministry may make regulations concerning any increase of customs duty pursuant to this section.

Section 10-7 *Suspension of concessions or other obligations*

(1) The King may, in cases where the Dispute Resolution Body of the World Trade Organisation gives Norway the right to suspend concessions or other obligations under the WTO Agreement, implement such measures as the Dispute Resolution Body has endorsed, including changing customs duty rates currently in effect.

(2) The Ministry shall announce decisions regarding measures pursuant to subsection (1) in regulations.

(3) The Ministry may make regulations concerning the suspension of concessions or other obligations under the WTO Agreement pursuant to this section. The same shall apply to the suspension of concessions or decisions by the Dispute Resolution Body under trade agreements other than the WTO.

Chapter 11 Customs duty drawback in case of re-exportation

Section 11-1 *Customs duty drawback in case of re-exportation of goods used in connection with repairs or processing*

(1) Customs duty on goods which a business operator has previously imported and which have been cleared for free circulation may be drawn back in cases where the goods are used as a raw material, processing aid or semi-manufacture in business activity in connection with that business's production, repair or processing of finished goods, and the finished goods

- (a) are exported,
- (b) are placed in a customs warehouse, when the goods are intended for such exportation as mentioned in this section, or
- (c) are exported for such use etc. outside the customs territory stated in section 11-2 subsection (1) (b) and (c).

(2) The customs duty drawback shall equal the customs duty paid for the employed goods mentioned in subsection (1). Customs duty may also be drawn back where goods other than those whose importation is documented are used, provided the goods are of the same type as those imported.

(3) A condition for customs duty drawback pursuant to this section is that the imported goods are re-exported or placed in a customs warehouse within two years of importation. Drawback claims must reach the customs authorities no later than one year after the goods were-exported or placed in a customs warehouse.

(4) Customs duty may be drawn back in respect of wastage, provided the wastage cannot be used for other purposes.

(5) The Ministry may make regulations concerning drawback of customs duty in the case of re-exportation of goods pursuant to this section, including in regard to the customs authorities' power to postpone a deadline, stipulate a minimum amount, impose further conditions and waive the condition regarding re-exportation or placement in a customs warehouse.

Section 11-2 *Customs duty drawback in case of re-exportation of goods in unchanged condition, etc.*

(1) Customs duty may be drawn back in respect of imported goods which have been cleared for free circulation, provided the goods in an unchanged and unused condition

- (a) are re-exported in connection with sale to a purchaser outside the customs territory,
- (b) are re-exported for use or sale on board a vessel or aircraft, provided such goods and quantities could have been delivered free of customs duties under section 4-23, or
- (c) are placed in a customs warehouse, when the goods are intended for exportation as mentioned in this section.

(2) Customs duty may be drawn back in respect of imported goods which have been cleared for free circulation, provided the goods are re-exported for use in connection with exploration for and exploitation of undersea natural deposits in waters outside the customs territory. However, this applies only where such goods and quantities could have been delivered free of customs duties under section 4-23.

(3) A condition for customs duty drawback pursuant to this section is that the imported goods are re-exported or placed in a customs warehouse within two years of importation. Drawback claims must reach the customs authorities no later than one year after the goods were re-exported or placed in a customs warehouse.

(4) The Ministry may make regulations concerning customs duty drawback pursuant to this section, including in regard to the customs authorities' power to postpone a deadline, stipulate a minimum amount, impose further conditions and waive the condition regarding re-exportation or placement in a customs warehouse.

Section 11-3 *Partial customs duty drawback*

(1) Customs duty may be partially drawn back in the following cases:

- (a) In the case of re-exportation of rolling stock and spare parts for the same which has been imported for temporary use, and which may not be imported duty free pursuant to section 6-1 subsection (2) (c) and (e). The customs duty shall be drawn back at a rate of 2 per cent for each month or part of a month reckoned from the date on which the goods were imported.
- (b) In the case of re-exportation of goods which have been imported temporarily for lease or loan, or which foreign undertakings, institutions or persons have imported and used in connection with an assignment in the customs territory, and the goods could not have been imported temporarily pursuant to the provisions of Chapter 6. The customs duty shall be drawn back at a rate of 5 per cent for each month or part of a month reckoned from the date on which the goods were imported.

(2) The Ministry may make regulations concerning partial customs duty drawback pursuant to this section, including in regard to the customs authorities' power to postpone a deadline, stipulate a minimum amount, and waive the condition regarding re-exportation.

Section 11-4 *Re-exportation in case of error or special circumstances*

(1) Customs duty may be drawn back in respect of goods which are re-exported because they are delivered to the wrong address, wrongly ordered, delivered too late or are not in conformity with the order. Customs duty may be drawn back in other cases if there are special reasons for doing so.

(2) A condition for customs duty drawback pursuant to this section is that the imported goods are re-exported or placed in a customs warehouse within two years of importation. Drawback claims must reach the customs authorities no later than one year after the goods were re-exported or placed in a customs warehouse.

(3) The Ministry may make regulations concerning customs drawback pursuant to this section, including in regard to the right to postpone a deadline, stipulate a minimum amount, impose further conditions and waive the condition regarding re-exportation or placement in a customs warehouse.

Section 11-5 *Compensation in respect of customs duty for fishing and hunting vessels registered in Norway*

(1) Compensation may be paid in respect of customs duty on provisions consumed on board a fishing or hunting vessel registered in Norway which is engaged in fishing or hunting in distant waters.

(2) 'Distant waters' means waters situated 250 nautical miles or more from the Norwegian coast. The North Sea, the Skagerrak, the Kattegat and the Baltic Sea are not regarded as distant waters.

(3) The Ministry may make regulations concerning compensation pursuant to this section, including in regard to application deadlines, compensation amounts and further conditions for compensation.

Chapter 12 Special administrative rules

Section 12-1 *Duty of confidentiality*

(1) Any person who has or has had a position of trust, appointment or assignment connected to the customs authorities shall prevent any unauthorised person from gaining access to or knowledge of anything that he has learnt in the course of his work

concerning any person's wealth or income or other financial, business or personal circumstances. This duty of confidentiality shall not prevent the disclosure of information in any proceedings to any party to those proceedings or their representatives. Any person taking up a position of trust, appointment or assignment shall sign a written statement to the effect that he knows and will respect this duty of confidentiality.

(2) The duty of confidentiality pursuant to subsection (1) shall not prevent the disclosure of information to

- (a) a public authority that may have use for it in the course of its work with any customs duty, tax or other duty, social security benefit, grant or contribution from public funds,
- (b) a public authority for use in connection with the enforcement of legislation relating to the importation and exportation of goods, the keeping of accounting records and external accountants, auditing services, the regulation of foreign exchange or limited liability companies or any such authority that audits public business,
- (c) a public authority for use for statistical purposes,
- (d) a public authority where it is necessary for the purpose of obtaining further information,
- (e) a publicly appointed commission of enquiry,
- (f) the police, prosecuting authority or tax authority in connection with cooperation aimed at combating, preventing and investigating contraventions of the customs legislation. If the information relates to punishable acts outside the administrative area of the customs authorities, the information may be given only if there are reasonable grounds to suspect the commission of an offence that is punishable by a sentence of imprisonment of more than 6 months,
- (g) the National Authority for Investigation and Prosecution of Economic and Environmental Crime (Økokrim) upon request owing to a report of a suspicious transaction made pursuant to the Money Laundering Act,
- (h) other parties in accordance with a statutory provision that states or clearly presupposes that the duty of confidentiality shall not prevent the giving of such information, or
- (i) in connection with exchange of information (coordination) as required by the Act of 6 June 1997 No. 35 relating to the Brønnøysund Register Centre.

(3) The Ministry may notwithstanding subsection (1) approve the disclosure of information

- (a) for the purpose of research in accordance with section 13(d) of the Public Administration Act,
- (b) as testimony or in the presentation of documents in the course of judicial proceedings.

(4) Where information is given pursuant to subsection (2) or subsection 3(a) to any person who is not bound by an equally stringent or like duty of confidentiality under another statute, the duty of confidentiality pursuant to subsection (1) shall apply correspondingly to the person to whom the information is disclosed. The person who

discloses the information shall at the same time call attention to this fact. The information may nevertheless be used for the purpose that justified its disclosure.

(5) Sections 13 to 13(e) of the Public Administration Act shall not apply as supplementary provisions to the duty of confidentiality pursuant to this section.

(6) The exchange of information with a foreign state, or with an organisation mandated by the United Nations (UN) which Norway has accepted as a public authority, is not covered by this provision.

Amended 9. mai 2008

Section 12-2 *Other public authorities' duty of disclosure*

(1) Public authorities, public organisations and service personnel have a duty at the request of the customs authorities to disclose information which may be of significance to the customs authorities in their control duties. The information shall where necessary be given in the form of a transcript of records, copy of documents, etc.

(2) Notwithstanding their duty of confidentiality, authorities who assess or collect tax or duties or who pay out compensation or grants or issue import or export licences shall at the request of the customs authorities disclose particulars of the assessed, collected or paid amounts and the grounds for such amounts.

(3) The Ministry may make regulations concerning other public authorities' duty of disclosure pursuant to this section.

Section 12-3 *Obligation to notify and assist the customs authorities*

(1) The police and military authorities shall provide the customs authorities with the necessary assistance and protection during the performance of customs services.

(2) Any port authority official, lighthouse keeper or state pilot who in the performance of his duties or in an official capacity becomes aware of a contravention of the legislation governing customs and movement of goods or of circumstances indicating that such a contravention is intended shall seek to prevent the contravention, and shall without undue delay notify the customs authorities or the prosecuting authority.

(3) State pilots have a duty upon request from the customs authorities to provide information of which they are in possession relating to vessels along the coast and in Norwegian waters.

(4) Information as mentioned in subsections (2) and (3) may be given notwithstanding any duty of confidentiality.

(5) The Ministry may make regulations concerning the obligation to notify and assist pursuant to this section.

Section 12-4 *Information relating to subscribers to telephone numbers, etc.*

(1) Where special considerations make it necessary, and there is suspicion of a contravention of the Customs Act or provisions made pursuant thereto, the customs authorities may order a provider of access to an electronic communications network or service to disclose the name and address of any subscriber who does not have a public telephone number, telefax number or pager number.

(2) The Ministry may make regulations concerning the duty of disclosure pursuant to this section.

Section 12-5 *Duty of disclosure in regard to cases relating to trade measures*

(1) Where consideration is given to implementing trade measures against certain types of goods pursuant to Chapter 10 of the Act, or to extending measures which have already been implemented, the Ministry or whomever the Ministry empowers may obtain or cause to be obtained further information on prices, production, turnover, earnings and other circumstances concerning such or similar types of goods, both foreign and domestic.

(2) A duty to disclose information as mentioned in subsection (1) rests on any person who imports, produces, processes or sells such goods. A duty of disclosure also rests on:

- (a) authorities responsible for overseeing compliance with the provisions of the competition legislation, and
- (b) authorities responsible for regulation and control of the movement of goods.

(3) Parties subject to the duty of disclosure pursuant to subsections (1) and (2) may communicate information notwithstanding the duty of confidentiality otherwise resting on them. Nor does the duty of confidentiality prevent accounting material, books and documents in the possession of such authorities from being inspected pursuant to section 13-4.

(4) The Ministry may make regulations concerning investigatory powers and duty of disclosure pursuant to this section.

Section 12-6 *Investigation, etc. in anti-dumping cases*

(1) Complaints against dumped imports shall be directed to the Ministry, and shall be accompanied by necessary evidence. A decision to impose an anti-dumping measure or provisional measure shall only be taken after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and affected parties shall be informed. The Ministry may, as a step in preparing a case,

obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.

(2) The investigation shall be halted immediately if there is insufficient evidence, if the margin of dumping is minimal or the volume is insignificant. The affected parties shall be made aware of the information presented, and be given an opportunity to present any further evidence that may be relevant. The investigation shall ordinarily be brought to a close within one year and at all events within 18 months of its commencement.

(3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(4) The Ministry may make regulations concerning administrative procedure in dumping cases pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning anti-dumping measures and in regard to payment and repayment.

Section 12-7 *Investigation, etc. in subsidy cases*

(1) Complaints against subsidised imports shall be directed to the Ministry, and shall be accompanied by necessary evidence. A decision to impose a countervailing measure or provisional measure shall only be taken after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and affected parties shall be informed. The Ministry may, as a step in preparing a case, obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.

(2) The investigation shall be halted immediately if there is insufficient evidence, if the subsidy share is minimal or the volume is insignificant. The affected parties shall be made aware of the information presented, and be given an opportunity to present any further evidence that may be relevant. The investigation shall ordinarily be brought to a close within one year and at all events within 18 months of its commencement.

(3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(4) The Ministry may make regulations concerning administrative procedure in subsidy cases pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning countervailing measures and in regard to payment and repayment.

Section 12-8 *Investigation, etc. in cases relating to safeguard measures*

(1) A safeguard measure may only be implemented after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and the same applies to the implementation of the safeguard measure and to information on the scope and period of the measure. At least two days shall elapse between the announcement and implementation.

(2) The Ministry may, as a step in preparing a case, obtain advice from a specially appointed committee, and entrust to other supervisory or control authorities to carry out an investigation.

(3) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(4) The Ministry may make regulations concerning investigation and administrative procedure in cases relating to safeguard measures pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning measures and in regard to payment and repayment.

Section 12-9 *Investigation, etc. in cases relating to safeguard measures for agricultural goods*

(1) Special safeguard measures for agricultural goods may only be implemented after a prior formal investigation. The opening and closing of such investigation shall be announced by the Ministry, and the same applies to the implementation of the safeguard measure and to information on the scope and period of the measure. At least two days shall elapse between the announcement and implementation.

(2) Information turned over to the investigating authorities under conditions of confidentiality shall be treated accordingly except as otherwise provided by law.

(3) The Ministry may make regulations concerning investigation and administrative procedure in cases relating to special safeguard measures pursuant to this section, including in regard to investigation procedures, notification, announcement and implementation of decisions concerning measures and in regard to payment and repayment.

Section 12-10 *Change of the customs authorities' decision in disfavour*

(1) Where too little or no customs duty is charged on the importation of goods, the customs authorities may change the decision in the importer's disfavour.

(2) The Ministry may make regulations concerning the customs authorities' power to change a decision in the importer's disfavour.

Section 12-11 *Change of the customs authorities' decision in favour*

(1) Where too much customs duty is charged on the importation of goods, the customs authorities shall change the decision in the importer's favour.

(2) The Ministry may make regulations concerning the customs authorities' power to change a decision in the importer's favour.

Section 12-12 *Time limits for changing the customs authorities' decision*

(1) Changing a decision in the importer's disfavour must be done within three years of clearance for free circulation. However, where the customs debtor or any person representing the customs debtor has, wilfully or through negligence, provided incorrect or incomplete information, the time limit is three years from the customs authorities' discovery of the error.

(2) Where goods have not been cleared for free circulation, the time limit for changing a decision in the importer's disfavour is three years from the customs authorities' discovery of the error.

(3) Changing a decision in the importer's disfavour must invariably be done within 10 years of the date of importation.

(4) Any claim for a change in the importer's favour must be presented within three years of clearance for free circulation.

(5) The Ministry may make regulations concerning time limits for changing decisions pursuant to this section, including in regard to the customs authorities' power to change a decision in the importer's favour where the incorrect calculation is due to circumstances on the part of the customs authorities.

Section 12-13 *Binding opinions in advance*

(1) The customs authorities may upon application give a binding opinion in advance on the classification of goods.

(2) The Ministry may make regulations concerning binding opinions in advance pursuant to subsection (1).

Chapter 13 **General provisions regarding customs control**

Section 13-1 *Search, etc. conducted by the customs authorities*

(1) In order to ascertain whether there has been evasion of customs control in respect of goods or whether an attempt has been made to evade such control, the customs authorities may conduct a search:

- (a) outdoors when the search takes place in direct connection with the pursuit of a matter which is believed to involve such evasion of control,
- (b) outdoors in areas where unloading or loading takes place or is believed to have taken place,
- (c) in warehouses or other buildings in places where unloading or loading takes place or has taken place,
- (d) on trains in the customs territory,
- (e) of persons:
 - 1. who are travelling to or from the boundary of the customs territory,
 - 2. who are in, or on their way from or to, a means of transport which is on its way from or to the boundary of the customs territory,
 - 3. who are leaving a place of storage for goods not cleared for free circulation,
 - 4. who are in, or are on their way from or to, a place of call for vessels or a landing place for aircraft servicing international routes,
 - 5. who are in such place and under such circumstances that the customs authorities may conduct a search pursuant to (a) to (c), and who are suspected of evading control of goods.

(2) The Ministry may make regulations concerning the customs authorities' control activity pursuant to this section.

Section 13-2 *The customs authorities' power of access outdoors*

(1) The customs authorities shall during their control activity be given unimpeded access to any place outdoors along the coast, in port areas, to railway lines with appurtenant station areas, to landing places for aircraft, and to any area adjacent to the national border.

(2) The Ministry may make regulations concerning the customs authorities' control activity pursuant to this section.

Section 13-3 *Control of movement of goods, etc.*

(1) The customs authorities may stop and conduct a search of:

- (a) any vessel or aircraft present in the customs territory,
- (b) any other means of transport on its way to or from the boundary of the customs territory,
- (c) any goods being moved to or from the customs territory without the use of a means of transport,

(d) any goods being moved to or from a place of call of any vessel or any landing place for aircraft.

(2) The customs authorities may take such measures as are considered necessary to conduct a search of means of transport or of goods being moved as mentioned in subsection (1).

(3) The consignee of the goods or the person who has charge of the goods on the consignee's behalf shall be entitled to be present at any search as mentioned in subsection (1) unless this will lead to disproportionate delays or other difficulties.

(4) The Ministry may make regulations concerning the customs authorities' control activity pursuant to this section.

Section 13-4 *Control of documents, etc.*

(1) In order to verify the accuracy and authenticity of documents, statements or other information which there is a duty to give pursuant to this Act, the customs authorities or such authority as the Ministry decides may conduct or cause to be conducted a search of any business premises that are wholly or partly at the disposal of the person who has a duty to give the information. Searching the business archives, the customs authorities can copy material to an electronic storage medium, for e subsequent examination of the material either at the business premises or at the office of the customs authorities. The person who has a duty to give information shall on demand and without delay provide access to, present, hand over or send in any accounting record, accounting material, contract, correspondence, board minute or minute of proceedings, or other documents of significance for inspection, including electronic documents. The duty also includes electronic programmes and programme systems. The customs authorities may also take for examination any necessary samples of goods. Such samples may be taken without payment.

(2) If necessary, the police may be called on to assist in the obtaining of accounting material, books, documents, goods, etc.

(3) Subsections (1) and (2) apply correspondingly to the importer, exporter or producer for the purpose of verifying the accuracy of any invoice, certificate of origin or other special identification document.

(4) If the Office of the Auditor General so demands, any person who has a duty to give information shall without delay produce documents and statements that confirm data transmitted by electronic means.

(5) The Ministry may make regulations concerning the customs authorities' control pursuant to this section.

Amended 12. December 2008

Section 13-5 *Control of customs warehouses*

(1) The customs authorities shall at all times have unimpeded access to any area or building that is approved as a customs warehouse, and to other places approved by the customs authorities for the storage of goods not cleared for free circulation. The customs authorities may conduct any search considered necessary.

(2) The Ministry may make regulations concerning the customs authorities' control pursuant to this section.

Section 13-6 *Customs authorities' power to use force*

(1) If the customs authorities are refused access to any means of transport, place or area to which they have a statutory right of access or of search, they may obtain access by force. The use of force must be necessary, and must be in proportion to the seriousness of the situation, the purpose of the official act and other circumstances.

(2) The Ministry may make regulations concerning the customs authorities' power to use force pursuant to this section.

Section 13-7 *Duty to assist in customs control*

(1) Any person who is in such place and under such circumstances as mentioned in sections 13-1 and 13-3 shall stop when the customs authorities so direct by the giving of a signal or in any other manner. The person concerned shall give the customs authorities such information and render such assistance as the customs authorities consider necessary for the exercise of customs control. The person concerned shall show any goods he has brought with him when asked to do so by the customs authorities.

(2) The Ministry may make regulations concerning the duty to assist in customs control pursuant to this section.

Section 13-8 *Customs guard*

(1) If the customs authorities find that satisfactory control of a means of transport can only be assured with the help of a customs guard, the person responsible for the means of transport shall pay any extra costs this involves. The customs debtor has the same duty when a customs guard is necessary for the customs control of goods left at any place of unloading or loading or in a storage shed.

(2) The customs authorities may demand that security be provided for the payment of the costs. In cases as mentioned in the first sentence of subsection (1) the means of transport may be detained until the provision of security or payment takes place.

(3) Where the customs authorities so demand, the person responsible shall ensure that the customs guard is accommodated in a suitable place, and in the case of a vessel is also provided with a bunk.

(4) The Ministry may make regulations concerning customs guards pursuant to this section.

Section 13-9 *Use of the customs seal*

(1) Where required for the purpose of customs control, the customs authorities may use the customs seal.

(2) The Ministry may make regulations concerning the use of the customs seal pursuant to this section.

Chapter 14 Customs cooperation with another state

Section 14-1 *Enforcement of another state's customs provisions in the control area on Norwegian territory*

(1) Under any agreement with another state relating to customs cooperation or other mutual assistance, the rules of that other state relating to customs and movement of goods may be applied and enforced in the exercise of customs services for that state. Other provisions may also be enforced should the agreement provide a basis for doing so. The right pursuant to the first and second sentences applies within specially prescribed customs control areas on Norwegian territory pursuant to section 14-2.

(2) Enforcement pursuant to subsection (1) may be undertaken by officers of the other state or by Norwegian officers, or by officers of both states.

(3) Coercive measures pursuant to the legislation of the other state may only be applied on Norwegian territory in the case of an investigation directly connected with a contravention of section 16-2 on illegal movement of goods, or an attempt to commit such a contravention.

(4) Where goods are liable to forfeiture under the legislation of both states, such forfeiture shall normally be to the benefit of the state in which the seizure took place unless otherwise agreed in the individual case between the authorities of the two states.

(5) The Ministry may make regulations concerning the enforcement of the customs provisions of another state pursuant to this section.

Section 14-2 *Establishment of a special control area*

(1) For the implementation of any agreement with another state on customs cooperation or other mutual assistance in customs matters, a special control area may be established:

- (a) along the border with that other state corresponding to a similar area on the territory of that other state. The width of the control area on Norwegian territory shall not exceed 15 kilometres.
- (b) elsewhere on Norwegian territory including any stretch of road, stretch of railway with one or more station areas, landing places for aircraft, shipping lanes or port areas where customs cooperation on the control of road, rail, air or sea traffic makes this necessary.

(2) Sections 14-1, 14-3 (2), 14-4 (1) and 14-5 also apply outside the control areas when the purpose is to establish whether an attempt has been made to undertake illegal movement of goods and where the suspect is pursued beyond a control area in direct connection with that act.

(3) The Ministry may make regulations concerning the extent of the special control areas pursuant to this section, including in regard to the customs authorities' control activity within and outside these control areas.

Section 14-3 *Enforcement of Norwegian customs provisions on the territory of another state*

(1) Any Norwegian provision relating to customs duty, importation and exportation and other provisions relating to the movement of persons or objects between Norway and another state that are enforced by the customs authorities may by agreement with that other state be applied on the territory of that state.

(2) Any officer of that other state may be empowered to enforce, wholly or in part, provisions as mentioned in subsection (1) on the territory of that other state, or in the control area on Norwegian territory.

(3) The Ministry may make regulations concerning the enforcement of Norwegian customs provisions pursuant to this section, including in regard to the extent to which customs authority shall be transferred to the officer of another state.

Section 14-4 *Officers who exercise another state's customs authority*

(1) Any officer performing the duty of a customs officer of another state within a control area on Norwegian territory by agreement with that other state shall be deemed to be a public servant pursuant to Chapters 12 and 34 of the General Civil Penal Code. Chapter 34 of the Penal Code also applies to any act performed on the territory of another state by an officer performing the duty of a Norwegian customs officer by agreement with another state.

(2) Any Norwegian officer performing the duty of a customs officer of another state by agreement on customs cooperation with another state shall when performing such duty be deemed to be a public servant in pursuant to Chapters 11 and 33 of the General Civil Penal Code and the Act of 4 March 1983 No. 3 relating to Civil Servants etc.

(3) Any officer of another state performing the duty of a Norwegian customs officer in accordance with an agreement on customs cooperation with that other state shall not be subject to Norwegian criminal or disciplinary authority for any act performed in the course of such duty. Such officer's power to perform the duty of a Norwegian customs officer may be revoked by the Norwegian authority concerned.

(4) The Ministry may make regulations concerning Norwegian customs officers' performance of the duty of customs officers of another state pursuant to this section.

Section 14-5 *Delivery of persons to the control authority, etc. of another state*

(1) Any person who in connection with an initiated or intended act is arrested within the control zone on Norwegian territory because there is good cause to suspect him of having breached another state's customs provisions, see section 14-1 subsection (1), may except where special reasons apply be delivered immediately to the customs or police authority of that other state, and:

- (a) the suspect is unknown or fails to give his name or address, or there is good cause to suspect that the particulars he has given are incorrect,
- (b) the suspect has no place of abode in Norway or in that other state, and there is good cause to fear that by travelling to a third state he will evade trial and punishment,
- (c) there is good cause, for any other reason, to suspect that he will evade trial and punishment or that by withholding evidence or by other means he will cause difficulties for the investigation of the matter.

(2) Where an offence is committed by a person before he is delivered up as mentioned in subsection (1) by another state to a Norwegian customs or police authority, the person so delivered up shall not be prosecuted or punished for any offence other than contravention of the provisions mentioned in section 14-1 subsection (1). However, this does not apply where:

- (a) special permission has been given by the state in which the person delivered up was arrested,
- (b) the person delivered up has himself given his consent at a court hearing,
- (c) the person delivered up has failed to leave the country within one month of the date of his trial or the end of his sentence of imprisonment or such other sanction as might have been imposed upon him for the offence that has caused him to be delivered up,
- (d) the person delivered up has returned to the country after having left it.

(3) Any person so delivered up must not be extradited to a third state except where the state in which he was arrested has given permission for such extradition.

(4) The provisions of subsections (2) and (3) shall not apply to Norwegian nationals who reside in Norway.

(5) The Ministry may make regulations concerning the transfer and extradition of persons pursuant to this section.

Section 14-6 *Use of the customs seal of another state*

(1) During the performance of any duty of a Norwegian customs officer in accordance with an agreement with another state on customs cooperation or other mutual assistance in customs matters, the customs seal of the other state may be used as a Norwegian customs seal.

(2) The Ministry may make regulations concerning the use of customs seals pursuant to this section.

Section 14-7 *Assistance from other Norwegian authorities*

(1) Section 12-3 subsection (1) shall apply correspondingly where a customs officer of another state performs the duty of a Norwegian customs officer or of a customs officer of a foreign state on Norwegian territory in accordance with an agreement with another state on customs cooperation or other mutual assistance in customs matters.

(2) The Ministry may make regulations concerning the duty to render assistance pursuant to this section.

Section 14-8 *Exchange of information with another state*

(1) For the implementation of an agreement with another state on customs cooperation or other mutual assistance in customs matters, the customs authorities may, notwithstanding the duty of confidentiality, exchange information for the use of the authorities of that state to ensure the collection of customs and excise duties, compliance with provisions concerning external transit and movement of goods, and the prevention and prosecution of contraventions of the provisions concerned.

(2) Provisions of law concerning the duty to disclose information for the use of the authorities in connection with the levying of tax or public duty apply correspondingly where, pursuant to an agreement with a foreign state, information is obtained for the use of a foreign customs authority.

(3) The Ministry may make regulations concerning the customs authorities' exchange of information with another state pursuant to this section, including in regard to

provision for the customs authorities, subject to reciprocal arrangements, to exchange such information with the customs authority of another state without a formal agreement having been established with the state concerned.

Section 14-9 *Recovery of claims issued by an authority of another state*

(1) For the implementation of an agreement with another state on customs cooperation or other mutual assistance in customs matters, enforceable claims for customs and excise duties issued by an authority of another state may be recovered by Norwegian authorities pursuant to the rules applying to like or similar Norwegian claims.

(2) The Ministry may make regulations concerning the recovery of claims as mentioned in subsection (1).

Chapter 15 Detention of goods that violate intellectual property rights

Section 15-1 *Notice and detention of goods prior to a preliminary order*

(1) The customs authorities may notwithstanding the duty of confidentiality notify the rights holder if there exists a reasoned suspicion that the importation or exportation of goods subject to customs treatment will constitute a contravention of an intellectual property right. The customs authorities may detain the goods for up to five days reckoned from date notification was given.

(2) The consignee or his representative shall be notified when the customs authorities notify the rights holder or detain goods pursuant to subsection (1).

(3) The Ministry may make regulations providing that rights holders shall be encouraged to give the customs authorities information for the purpose of identifying goods as mentioned in subsection (1) and concerning who shall receive notification on behalf of the rights holder.

Section 15-2 *Preliminary order*

(1) Preliminary orders to protect intellectual property rights pursuant to section 34-7 of the Civil Disputes Act shall state what goods the customs authorities are to detain and for how long the customs authorities shall seek to identify such goods. The court shall notify the customs authorities of any preliminary order. If the plaintiff is ordered to furnish the owner or consignee of the goods with security for possible compensatory damages, the customs authorities shall only be informed once the plaintiff has furnished such security. In its notification the court shall include any additional information about the goods of which it is aware and which can help the customs authorities to identify goods which are to be detained.

(2) Where the customs authorities have received notification from the district court requiring them to withhold specified goods from release, the customs authorities shall seek to identify such goods that are received for customs treatment.

(3) The Ministry may make regulations concerning the customs authorities' control of goods that are to be detained to protect intellectual property rights pursuant to this section.

Section 15-3 *Notification, etc. in the event of detention of goods after a preliminary order*

(1) Where the customs authorities have identified goods that are to be detained, they shall immediately notify the district court, the plaintiff, the consignee of the goods and in the event the person who represents the consignee vis-à-vis the customs authorities, or who has charge of the goods upon importation on behalf of the consignee. The notification shall state that the goods are detained in accordance with the preliminary order until the court or the plaintiff decides otherwise, or the court sends word that the order has been lifted with unappealable effect or has lapsed.

(2) If the court is advised by the customs authorities that they have goods for customs treatment that shall not be released, the court shall immediately set a short time-limit for the plaintiff to bring action against the consignee of the goods regarding the claim that the order is intended to protect, unless the court has already set such a time-limit. The court may upon request decide that a party shall be entitled to examine goods at the premises of the customs authorities. If the order has been made without convening oral proceedings, the consignee of the goods and any other party who is affected by the order may demand subsequent oral proceedings as mentioned in section 32-8 of the Civil Disputes Act.

(3) The Ministry may make regulations concerning the customs authorities' notification of measures to protect intellectual property rights pursuant to this section.

Section 15-4 *Declaration in connection with the detention of goods and liability for outstanding storage dues*

(1) Detention of goods by the customs authorities in no way affects the duty to declare the goods and to pay customs duties and charges. The plaintiff is liable, together with the consignee of the goods, for outstanding storage dues, and shall be notified in accordance with section 4-10 of the Tax Payment Act in the same way as the consignee of the goods before the goods can be subject to forced sale because of non-payment of storage dues.

(2) The goods may not be subject to forced sale pursuant to sections 4-2, 4-27 and 4-32 until the order can be lifted.

Section 15-5 *Lifting and lapse of a preliminary order*

(1) Where the court lifts a preliminary order or adopts a decision to the effect that the order has lapsed, it shall inform the customs authorities thereof once the decision is legally enforceable. In cases as mentioned in section 34-6 of the Civil Disputes Act the customs authorities may request the court to make a decision to the effect that the order has lapsed.

(2) The Ministry may make regulations concerning the lifting and lapse of preliminary orders pursuant to this section.

Chapter 16 Penalties and other sanctions

Section 16-1 *General penal provisions*

(1) Both negligent and wilful contravention of sections 16-2 to 16-7 are a criminal offence.

(2) Attempted contravention is a criminal offence. Attempted contravention is subject to the same penalty as actual contravention.

(3) Abetting is a criminal offence. The abettor is subject to the same penalty as the principal.

(4) Contraventions mentioned in sections 16-2 to 16-6 are misdemeanours.

Section 16-2 *Illegal movement of goods*

(1) A fine or imprisonment for a term not exceeding six months, or both, shall be imposed on any person who, in contravention of provisions made by or under this Act, imports or exports goods outside the control of the customs authorities, or who disposes of goods in contravention of provisions made by or under this Act.

(2) Failure to declare to the customs authorities goods present in a means of transport when it is mandatory to do so shall also be deemed to be illegal importation or exportation. The same applies where goods are given a misleading appearance or are concealed inside or among other goods in order to evade correct customs treatment.

(3) Any person in charge of a means of transport who fails to attempt in a satisfactory manner to prevent goods from being illegally removed from or loaded onto that means of transport shall be subject to the same penalty as in subsection (1).

Section 16-3 *Preparation for illegal movement of goods*

Any person who enters into an agreement with someone in Norway or abroad with the intention of importing or exporting goods in contravention of provisions made by or under this Act is liable to a fine or imprisonment for a term not exceeding six months, or both.

Section 16-4 *Handling illegally imported goods, etc.*

Any person who carries, keeps, conceals, sells, entrusts to others or acquires any goods that have been imported or disposed of in contravention of provisions made by or under this Act is liable to a fine or imprisonment for a term not exceeding six months, or both.

Section 16-5 *Obstructing the customs authorities*

(1) Any person who contravenes any provision made by or under this Act by failing to comply with prescribed control provisions or control measures there imposed, or by failing to comply with any duty to render assistance, or by failing to comply with any duty to provide any statement or declaration, is liable to a fine or imprisonment for a term not exceeding six months, or both.

(2) Any person who makes an incorrect statement or gives incorrect information, or who presents incorrect or misleading identification documents, or who in any other manner attempts to mislead the customs authorities is liable to the same penalties.

(3) Any person who in Norway issues or causes to be issued an incorrect certificate of origin, invoice or other incorrect or misleading identification document that is intended to serve as proof of customs clearance of goods in another country is liable to the same penalties.

Section 16-6 *Penalties for breaking a lock or seal, etc.*

(1) Any person who unlawfully breaks:

- (a) the customs authorities' lock or seal,
- (b) a lock or seal affixed or approved by a foreign customs authority that Norway is obliged by convention to accept, or
- (c) another state's customs seal used in accordance with section 14-6

is liable to a fine or imprisonment for a term not exceeding six months, or both.

(2) Where a lock or seal as mentioned in subsection (1) has been unlawfully broken, the person responsible for the lock or seal is liable to a fine if the breaking of the seal is due to negligence by the person concerned or if after the breaking he failed to take adequate measures to prevent the possibility of goods being removed or altered.

(3) The provisions of subsections (1) and (2) apply correspondingly where any person unlawfully gains access to goods that are under lock or seal, whether or not the lock or seal has been broken.

Section 16-7 *Particularly gross contravention*

(1) Where a contravention under sections 16-2 to 16-6 is particularly gross, the penalty is a fine or imprisonment for a term not exceeding two years, but imprisonment for a term not exceeding six years in the case of wilful or grossly negligent contravention.

(2) In the determination of whether a contravention shall be deemed particularly gross, weight shall be given to whether the contravention is on a large scale, whether the importation and exportation of the goods is prohibited or subject to special conditions, whether the goods to which the contravention relates were intended to be sold by the offender, whether that person has previously been convicted of any contravention of the customs legislation or whether there are other circumstances of a particularly aggravating nature.

Section 16-8 *Forfeiture*

(1) Where the owner of goods in respect of which a contravention has been committed under this chapter is not known or has no known abode in Norway, and the offender is not known or has no known abode in Norway, the goods shall pass to the public treasury provided that the owner has not come forward within one month after the goods came into the possession of the authorities.

(2) The Ministry may make regulations concerning forfeiture pursuant to this section.

Section 16-9 *Fine in lieu of prosecution*

(1) For customs contraventions of a less serious nature a fine may be imposed on the spot or after the event in the form of a summary fine in lieu of prosecution in accordance with a fixed scale. Such summary fine may indicate the penal provision and the punishable act by key words or in a similar manner.

(2) Such fine shall include forfeiture of the goods in respect of which the customs contravention was committed. A sum corresponding to the value of the goods may be forfeited instead of the goods.

(3) Customs officers may be empowered to issue summary fines in lieu of prosecution.

(4) A fine issued on the spot becomes void if not accepted immediately. If the person charged is below the age of 18 a brief time-limit may be allowed for acceptance of the

fine. For fines issued after the event, section 256 no. 5 of the Criminal Procedure Act applies correspondingly. Such fine becomes void if not accepted within the time limit.

(5) The prosecuting authority may cancel an accepted fine in favour of the person charged.

(6) The Ministry may make regulations concerning the use of fines in lieu of prosecution pursuant to this section, including in regard to what customs contraventions the arrangement is to encompass, the scale of fines, alternative prison sentences, forfeiture and the procedure to be employed where a fine in lieu of prosecution is issued after the event.

Section 16-10 *Additional customs duty*

(1) A customs debtor may be required to pay additional customs duty not exceeding 60 per cent of the customs duty laid down pursuant to this Act and the Storting's resolution on customs duties if he has wilfully or negligently contravened this Act or regulations made pursuant thereto, and the public treasury has or might have been deprived of customs duty.

(2) The same applies where, in connection with customs clearance, mandatory information has been omitted or incorrect information has been given.

(3) Additional customs duty may be imposed at any time within three years of the time at which the customs authorities discovered the underdeclaration, but no later than 10 years from the time of importation.

(4) The Ministry may make regulations concerning additional customs duty pursuant to this section.

Section 16-11 *Right to represent a consignee or consignor*

(1) Any person who has acted in contravention of this Act or regulations made pursuant thereto or in contravention of any permission given, or who in respect of the customs authorities is guilty of any other criminal offence, may be prohibited from representing any consignee or consignor of goods.

(2) The Ministry may make regulations concerning the right to represent consignees or consignors pursuant to this section.

Section 16-12 *Detention of things as security for any sum forfeited and any fine*

(1) Any means of transport or any other thing that has been used in connection with a contravention as mentioned in this chapter may be detained as security for the sum to be forfeited or any fine that the owner or any person serving on the means of transport

has been or may be found to be liable in respect of the offence, provided the contravention relates to goods that are liable to customs or any other duty or tax on importation.

(2) Any thing that has been detained pursuant to this section may be sold to cover the sum to which the detention relates and any costs incurred provided the amount has not been paid or secured in any other manner within one month after the claim has become legally enforceable. The sale may be conducted in accordance with the provisions concerning forced sales in section 14-10 of the Tax Payment Act.

Section 16-13 *Seizure and arrest*

(1) Where there is good cause to suspect a contravention as mentioned in this chapter, the customs authorities may seize goods that may be liable to forfeiture. If the contravention is of such a kind that it may occasion forfeiture of a means of transport or forfeiture of all or any part of any cargo therein, the person in charge and any other member of the crew has a duty at the direction of the customs authorities to move the means of transport to such place as the customs authorities may decide.

(2) Where the conditions for arrest under the provisions of the Criminal Procedure Act are present, an arrest may be carried out by the customs authorities, who shall deliver the arrested person to the police as soon as possible.

Section 16-14 *Treatment of seized goods*

(1) The customs authorities may take seized goods into custody.

(2) Highly perishable goods and living animals may be immediately delivered to their owner against payment of customs and public duties together with the deposit of a sum equivalent to the value of the goods or against other security. Where the owner does not wish to take delivery of the goods, or he is not known, the goods may be sold in accordance with the provisions concerning forced sales in section 14-10 of the Tax Payment Act.

(3) The customs authorities may decide that goods, instead of being sold, may be destroyed or dealt with by other means. If the goods are destroyed, the customs debtor has a duty to cover the costs of destruction and such costs as have previously accrued.

(4) The Ministry may make regulations concerning seizure, custody, delivery, sale and destruction pursuant to this section; such regulations may also make provision for other goods to be delivered to the owner subject to conditions as mentioned in subsection (2), and for the customs authorities' power to have their costs covered.

Chapter 17 Commencement, transitional provisions and repeal and amendment of other Acts

Section 17-1 *Commencement*

This Act comes into force on such date as the King decides¹. The King may give effect to the individual provisions at different times.

1. Into force January 1. 2009

Section 17-2 *Transitional provisions*

(1) Regulations and instructions made in pursuance of the Customs Tariff's introductory provisions or the Act of 10 June 1966 No. 5 concerning Customs (Customs Act) shall remain in force in so far as appropriate until such time as the Ministry repeals or amends them in pursuance of this Act or by special provision.

(2) Individual decisions made in pursuance of the Customs Tariff's introductory provisions or the Act of 10 June 1966 No. 5 concerning Customs (Customs Act) shall be upheld in the period stated in the decisions until such time as they are set aside or amended in pursuance of this act or by special provision.

(3) The Ministry may in other cases make necessary transitional provisions.

Section 17-3 *Amendments to other Acts*

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