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Customs Act

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Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application

(1) This Act provides for supplementing requirements for the conveyance of goods from outside the customs territory of the European Union (hereinafter the *Union*) to Estonia and from Estonia to outside of the customs territory of the Union insofar as not governed by the Union customs legislation, and measures of customs supervision and liability for violation of the customs legislation.

(2) If the duty to exercise supervision over goods subject to prohibitions or restrictions is imposed on the Tax and Customs Board by law or Union legislation, the Board shall apply measures of customs supervision provided for in this Act and in other customs legislation while exercising supervision.

(3) The provisions of the Administrative Procedure Act apply to the administrative proceedings prescribed by Union legislation, this Act and legislation issued on the basis of this Act, taking into account the specifications provided by Union legislation and this Act. The provisions of the Taxation Act apply to the delivery of documents.

(4) For the purposes of this Act, definitions are used within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 269, 10.10.2013 pp. 1–101) (hereinafter the *Customs Code*) and legislation issued for the implementation thereof.

§ 2. Challenge proceedings

A challenge against a decision or measure taken by the customs authorities shall be filed and settled in accordance with Articles 44 and 45 of the Customs Code and pursuant to the procedure provided for in the Taxation Act.

§ 3. Customs authorities and customs officials

(1) For the purposes of Article 5(1) of the Customs Code, ‘customs authorities’ means the Tax and Customs Board.

(2) ‘Customs officials’ means the officials of the Tax and Customs Board.

§ 4. Duties of Tax and Customs Board upon implementation of customs legislation

Upon the implementation of the customs legislation, the Tax and Customs Board has the duty to protect society and the economy by combating tax fraud and illicit trafficking, to collect taxes subject to payment upon import of goods and to facilitate lawful trade between Estonia and non-Union countries.

§ 5. Premises needed for activities of customs authorities

(1) In a temporary storage facility, a customs warehouse or a free zone, the customs authorities have the right to be granted by the possessor thereof use of premises which are necessary for the activities of the customs authorities and which conform to occupational health and safety requirements and, if possible, furnished office space and means of communication free of charge. The customs authorities shall pay for communications services.

(2) At a border checkpoint and the location of a postal service provider as well as at a port, airport or railway station or other transport hub, the customs authorities have the right to be granted by the possessor thereof use

of premises which are necessary for the activities of the customs authorities and which conform to occupational health and safety requirements and, if possible, furnished office space and means of communication free of charge, unless the customs authorities have agreed otherwise with the possessor. The customs authorities shall pay for public utilities, including communications services and electricity, if the amount to be paid is calculated separately.

§ 6. Calculation of cost of customs service

(1) Charges for specific services rendered by the customs authorities referred to in Article 52(2) of the Customs Code shall be calculated based on the average wage cost of a customs official and transport costs.

(2) The average wage cost of a customs official shall be calculated on the basis of the wage cost of the previous calendar year.

(3) The transport costs shall be calculated on the basis of the average cost of a journey per one kilometre of official vehicles of the Tax and Customs Board during the calendar year preceding the year in which the service is rendered.

(4) The average wages of customs officials and the average cost of a journey per one kilometre which constitutes the basis for the calculation of transport costs shall be published on the website of the Tax and Customs Board.

(5) The procedure for the calculation of and compensation for costs of a customs service rendered as a specific service shall be established by a regulation of the minister responsible for the field.

§ 7. Uniform of officials of Tax and Customs Board

(1) While in service, officials of the Tax and Customs Board shall wear a uniform in prescribed cases. In prescribed cases, employees of the Tax and Customs Board and students of the Estonian Academy of Security Sciences may also wear a uniform.

(2) The description of the uniform and distinguishing marks of officials of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field.

(3) The persons wearing a uniform, the procedure for providing them with uniforms and wearing the uniform as well as the term of use for such uniforms shall be determined by the Director General of the Tax and Customs Board or an official authorised thereby.

Chapter 2 OBTAINING DATA FOR ASSESSMENT OF THREAT

§ 8. Obtaining data from state database for assessment of threat

In order to assess a threat of violation of the requirements for goods entering or leaving Estonia if such goods are subject to prohibitions and restrictions and to protect the financial interests of the Union, the customs authorities have the right to obtain, on the basis of a reasoned request, data free of charge from a state database concerning special permits and register entries related to the transport of goods as well as concerning logistics, vehicles and persons.

§ 9. Obtaining data from economic operator for assessment of threat

(1) In order to assess a threat of violation of the requirements for goods entering or leaving Estonia if such goods are subject to prohibitions and restrictions and to protect the financial interests of the Union, the customs authorities may, under an agreement with an economic operator engaged in trade between Estonia and other Member States of the Union and in transporting postal consignments and passengers, obtain data concerning goods, persons and logistics related to the goods, and passengers.

(2) The structure of the data referred to in subsection (1) of this section and the manner of and time limit for communicating such data shall be agreed upon in writing.

Chapter 3

SURVEILLANCE ACTIVITIES, SECRET COOPERATION AND ENQUIRY TO COMMUNICATIONS UNDERTAKING

§ 10. Collection of information for deciding on access of person to surveillance information and on employment of person in service

(1) The Tax and Customs Board may collect personal information concerning a person with the written consent thereof by means of surveillance activities specified in § 126³(1) of the Code of Criminal Procedure and by means of an enquiry to an electronic communications undertaking with regard to the information set out in § 111¹(2) and (3) of the Electronic Communications Act if it is necessary in order to decide on the person's access to surveillance information or to employ the person in the service of the Tax and Customs Board.

(2) After the making of a decision, the person shall be informed of the activities or enquiry specified in subsection (1) of this section conducted with respect to the person and the information collected by the activities shall be introduced to them at their request.

§ 11. Secret cooperation and covert measures

(1) For performing surveillance activities, ensuring the performance of surveillance activities or collecting information, the Tax and Customs Board has the right to recruit persons for secret cooperation and use undercover agents as well as use covert measures on the conditions provided by the Police and Border Guard Act.

(2) Written authorisation for recruiting a person shall be granted by the Director General of the Tax and Customs Board or an official appointed thereby.

(3) Written authorisation for using an undercover agent shall be granted by the Director General of the Tax and Customs Board.

(4) The document necessary for taking covert measures shall be issued and the necessary changes in the relevant database or register shall be made, on the basis of a reasoned request of the Director General of the Tax and Customs Board or an official authorised thereby, by an administrative authority or a legal person who is competent to issue such a document or make changes in the database or register.

§ 12. Enquiry to communications undertaking

(1) The Tax and Customs Board may make an enquiry to an electronic communications undertaking on the basis specified in § 126²(1) 1) and 2) of the Code of Criminal Procedure and with respect to the persons specified in § 126²(3) 1) and 2) of the Code of Criminal Procedure in order to obtain the following information:

- 1) information necessary to identify the end user related to the identifiers used in the electronic communications network, except for information related to the fact of transmission of messages;
- 2) information specified in § 111¹(2) and (3) of the Electronic Communications Act given to the electronic communications undertaking and not specified in clause (1) of this section.

(2) Making an enquiry concerning information specified in clause (1) 2) of this section shall be authorised by the Prosecutor's Office. The authorisation for making an enquiry shall set out the period of time by dates concerning which it is allowed to require information.

Chapter 4 DATABASES

§ 13. E-Customs Database

(1) The purpose of maintaining the e-Customs Database is to collect, process and exchange information for the performance of the duties provided for in § 4 of this Act and Article 3 of the Customs Code.

(2) The data in the e-Customs Database is not public, except for the public data of the Estonian Customs Tariff. The statutes of the database shall provide for the government authorities who shall be granted access to the data in the database for the performance of those duties.

(3) The chief processor of the e-Customs Database may disclose the data in the database to the customs administrations of the Member States of the Union, to the European Commission and to international organisations pursuant to the procedure provided for in the customs legislation.

(4) The chief processor of the e-Customs Database is the Tax and Customs Board.

(5) The e-Customs Database and the statutes thereof shall be established by a regulation of the minister responsible for the field.

§ 14. Automatic Number Plate Recognition System of Customs Authorities

(1) For the performance of the duties imposed by § 4 of this Act, the Tax and Customs Board may use automatic photo or video recording equipment for recording the registration plate of a means of transport or freight container.

(2) Non-personal data obtained by way of automatic photo or video recording equipment shall be processed in the Database of the Automatic Number Plate Recognition System of the Customs Authorities.

(3) The purpose of maintaining the Database of the Automatic Number Plate Recognition System of the Customs Authorities is to collect and process information concerning means of transport and freight containers entering and leaving Estonian territory, border crossing points and free zones to ensure the collection of state taxes and prevent tax fraud and illicit trafficking.

(4) The data contained in the Database of the Automatic Number Plate Recognition System of the Customs Authorities is not public. The database can be accessed by the Tax and Customs Board, the Police and Border Guard Board, the Estonian Internal Security Service and the Estonian Foreign Intelligence Service.

(5) The chief processor of the Database of the Automatic Number Plate Recognition System of the Customs Authorities may disclose data contained in the database to a customs administration of another country within the framework of customs or taxation cooperation taking place under Union legislation or an international agreement.

(6) The chief processor of the Database of the Automatic Number Plate Recognition System of the Customs Authorities is the Tax and Customs Board.

(7) The Database of the Automatic Number Plate Recognition System of the Customs Authorities and the statutes thereof shall be established by a regulation of the minister responsible for the field.

§ 15. Scanner Images Database

(1) The Tax and Customs Board shall process images and metadata obtained by using the technical device referred to in § 30 (1) of this Act in the Scanner Images Database.

(2) The purpose of maintaining the Scanner Images Database is to collect and process information concerning means of transport and freight containers to ensure the collection of state taxes and to prevent tax fraud and illicit trafficking.

(3) The data contained in the Scanner Images Database is not public. The database can be accessed by the Tax and Customs Board, the Police and Border Guard Board, the Estonian Internal Security Service and the Estonian Foreign Intelligence Service.

(4) The chief processor of the Scanner Images Database may disclose data contained in the database to a customs administration of another country within the framework of customs or taxation cooperation taking place under Union legislation or an international agreement.

(5) The chief processor of the Scanner Images Database is the Tax and Customs Board.

(6) The Scanner Images Database and the statutes thereof shall be established by a regulation of the minister responsible for the field.

§ 16. Passenger Lists Processing System Database

(1) The Tax and Customs Board shall process data obtained from economic operators under § 9 of this Act concerning natural persons crossing the state border in the Passenger Lists Processing System Database.

(2) The chief processor of the Passenger Lists Processing System Database is the Tax and Customs Board.

(3) The purpose of maintaining the Passenger Lists Processing System Database is to collect and process information concerning natural persons entering and leaving Estonian territory for combating offences relating to prohibitions and restrictions.

(4) The chief processor of the Passenger Lists Processing System Database may disclose data contained in the database to a customs administration of another country within the framework of customs or taxation cooperation taking place under Union legislation or an international agreement.

(5) The data contained in the Passenger Lists Processing System Database is not public. The database can be accessed by the Tax and Customs Board, the Police and Border Guard Board, the Estonian Internal Security Service and the Estonian Foreign Intelligence Service.

(6) The Passenger Lists Processing System Database and the statutes thereof shall be established by a regulation of the minister responsible for the field.

Chapter 5 REPRESENTATION

§ 17. Requirement of customs agency activity licence and application for and issue of activity licences

(1) For a customs representative to lodge a customs declaration an activity licence issued by the Tax and Customs Board is required.

(2) An activity licence is not required if the customs declaration is lodged:

- 1) in the event referred to in Article 18(2) of the Customs Code;
- 2) by a natural person acting as the customs representative of another natural person, unless representation is their economic activity.

(3) The customs authorities shall refuse to issue a customs agency activity licence if:

- 1) the person has tax arrears as to duties payable upon import or export of goods;
- 2) the person does not meet the requirement set out in Article 39(a) of the Customs Code.

§ 18. Suspension and revocation of customs agency activity licence

(1) The customs authorities may suspend a customs agency activity licence if the customs agency has incurred arrears as to duties payable upon import or export of goods.

(2) A customs agency activity licence shall be revoked on the basis of a written application of the customs agency or on the initiative of the customs authorities.

(3) A customs agency activity licence may be revoked on the initiative of the customs authorities if:

- 1) the customs agency has failed to pay the tax arrears that served as the basis for the suspension of the activity licence by the date set by the customs authorities;
- 2) the customs agency does not meet the requirement set out in Article 39(a) of the Customs Code.

§ 19. Customs agent

(1) A customs agency shall operate through customs agents. A customs agent is a natural person who has passed the customs agent examination and to whom the customs authorities have awarded the corresponding certificate.

(2) The customs authorities may not allow the customs agent examination to be taken by a person who does not meet the requirement set out in Article 39(a) of the Customs Code.

(3) The procedure for conducting the customs agent examination and awarding the corresponding certificate shall be established by a regulation of the minister responsible for the field.

(4) The customs authorities may revoke a customs agent's certificate if the person does not meet the requirement set out in Article 39(a) of the Customs Code.

Chapter 6 ESTONIAN CUSTOMS TARIFF AND ORIGIN OF GOODS

§ 20. Estonian Customs Tariff

(1) The Estonian Customs Tariff includes data of the Integrated Tariff of the European Union (TARIC) established by Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 07.09.1987, pp. 1–675) and measures established by Estonian legislation (hereinafter *national measures*) that are applied upon placing goods under customs procedures.

(2) When taking measures concerning goods in the course of customs formalities, declarants and customs officials shall be guided by the provisions of the Estonian Customs Tariff. The Estonian Customs Tariff is available on the website of the Tax and Customs Board.

§ 21. Administration and amendment of Estonian Customs Tariff

(1) The authority responsible for the administration and correctness of the Estonian Customs Tariff is the Tax and Customs Board in cooperation with ministries responsible for the correctness of national measures.

(2) The duties of the ministry that administers national measures included in the Estonian Customs Tariff and of the ministry responsible for the field are to:

- 1) ensure that the national measures administered correspond to the Integrated Customs Tariff;
- 2) prepare amendments to the national measures administered;
- 3) submit a draft legal act that includes a national measure to the Tax and Customs Board for obtaining the opinion thereof;
- 4) issue information concerning the national measures administered.

(3) National measures are entered in the administration module of the Estonian Customs Tariff and they are updated by the Tax and Customs Board.

§ 22. Issue of certificate of non-preferential origin of goods

(1) A certificate of non-preferential origin of goods shall be issued and approved by the Estonian Chamber of Commerce and Industry. A fee shall be charged for the issue and approval of a certificate of non-preferential origin. Upon the calculation of the fee, all expenses incurred by the Estonian Chamber of Commerce and Industry for the issue and approval of certificates of origin, including the costs of information technology, wages, liability insurance coverage and printing of forms, shall be taken into consideration.

(2) The format of the certificate of non-preferential origin, the procedure for applying for and issuing the certificate and the fee rates shall be approved by and published on the public website of the Estonian Chamber of Commerce and Industry.

Chapter 7 MEASURES UPON BRINGING GOODS TO AND REMOVING GOODS FROM CUSTOMS TERRITORY AND DECLARATION OF GOODS

§ 23. Entry and exit formalities for goods

Specifying guidelines for the performance of entry and exit formalities for goods provided by the Customs Code and legislation issued for the implementation thereof shall be established by a regulation of the minister responsible for the field.

§ 24. Temporary storage

(1) A temporary storage facility is a territory, building, room, stationary container or bunker ship in the possession of its operator and approved by the customs authorities where the integrity of goods under customs supervision is ensured.

(2) Guidelines specifying the requirements for temporary storage provided for in Articles 144–149 of the Customs Code shall be established by a regulation of the minister responsible for the field.

§ 25. Taking goods into storage

The customs authorities may temporarily store goods at the request of a person if the customs administration has the premises and conditions for storing such goods. For storing goods, the customs authorities may set a time limit shorter than provided for in Article 149 of the Customs Code.

§ 26. Customs formalities on passenger train

(1) If the customs formalities in respect of the passengers on a passenger train headed to a non-Union country and their baggage are carried out outside a border crossing point, no goods may be unloaded from or loaded on the train, without the permission of the customs authorities, from the start of the customs formalities until the train has crossed the external border.

(2) If the customs formalities in respect of the passengers on a passenger arriving from a non-Union country and their baggage are carried out outside a border crossing point, no goods may be unloaded from or loaded on the train, without the permission of the customs authorities, from the crossing of the external border until the end of the customs formalities.

§ 27. Lodging of customs declaration

Specifying guidelines for lodging a customs declaration provided by the Customs Code and legislation issued for the implementation thereof shall be established by a regulation of the minister responsible for the field.

§ 28. Consignment

(1) A consignment consists of goods shipped by the same consignor at the same time from the same point of departure to the same consignee at the same place of destination under the same transport document.

(2) The customs authorities may refuse to accept separate customs declarations for parts of a consignment upon import.

§ 29. Declaration of cash

(1) A written cash declaration shall be lodged for cash exceeding the amount set out in Article 3 of Regulation (EC) No 1889/2005 of the European Parliament and of the Council on controls of cash entering or leaving the Community (OJ L 309, 25.11.2005, pp. 9–12).

(2) For the purposes of this Act, ‘cash’ is used as defined in Article 2 of Regulation (EC) No 1889/2005 of the European Parliament and of the Council.

(3) If cash is not carried by a natural person but transport services, including postal service or courier service, are used to transport it, the cash declaration shall be lodged by the recipient of cash upon import and by the consignee upon export.

(4) If the obligation to declare cash is not performed or if the customs authorities have reason to believe that the cash has been obtained through crime or it is associated with money laundering or terrorist financing, the customs authorities have the right to detain the cash for up to 48 hours in order to apply customs control and ascertain facts.

(5) The procedure for declaring cash, the format of the declaration and the instructions for filling in the declaration shall be established by a regulation of the minister responsible for the field.

Chapter 8 VERIFICATION OF CORRECTNESS OF DECLARATION

§ 30. Use of technical device for assessment of risk

(1) In order to obtain information necessary for risk assessment, the customs authorities may use a technical device for scanning goods, means of transport, baggage, postal consignments and the clothes of passengers.

(2) If in the process of scanning the packaging of goods, the means of transport, the baggage of a passenger or the postal consignment was not opened, the scanning shall not be deemed an examination as specified in §§ 63–66 of this Act.

§ 31. Examination minutes

(1) The results of the examination of goods, means of transport, baggage or passengers shall be recorded in examination minutes.

(2) No examination minutes shall be prepared if baggage is examined in the presence of the passenger and no circumstances indicating a violation are discovered in the course of the examination or if the goods in a means of transport are not moved in the course of the examination of the means of transport, unless minutes are requested by the person concerned.

§ 32. Measuring of quantities of goods

(1) In the event of measurements under the customs legislation, the traceability of measurement results shall be proved on the basis of the Metrology Act.

(2) In cases set out in the customs legislation, a holder of goods is required to organise at their own expense the measuring of quantities of goods in the course of customs formalities and present the document containing the results of the measurements to the customs authorities.

(3) In the course of the examination of goods, the measurement of quantities of goods shall be organised by the holder of the goods, the declarant or the holder of the customs procedure on the basis of an oral order from the customs official.

§ 33. Sampling of goods

The procedure for the sampling of goods shall be established by a regulation of the minister responsible for the field.

§ 34. Goods placed under customs controls

Without the permission of the customs authorities no operations or transactions are allowed regarding goods if the customs authorities have informed that they intend to examine the goods. Operations and transactions without the permission of the customs authorities are null and void.

§ 35. Amendment and invalidation of customs declaration after release of goods

(1) After the release of the goods, the customs declaration may be amended or invalidated in accordance with Articles 173 and 174 of the Customs Code by way of filing a written request with the customs authorities, reasoning the need to amend the customs declaration and attaching documents that prove the amendment.

(2) The customs authorities shall permit the customs declaration to be amended if an error discovered in the information declared has caused the following to change:

- 1) the indicated quantity or the customs value of goods has changed by no less than the statistical threshold specified in Article 3(4) of Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.06.2009, pp. 23–29);
- 2) the amount of the customs duty;
- 3) the amount of the excise duty;
- 4) the amount of the value added tax and the person on whose behalf the declaration was lodged is not a person liable to value added tax in Estonia.

(3) In cases not referred to in subsection (2) of this section the customs authorities are not required to permit the amendment of the customs declaration if the error discovered in the information declared does not prevent the declarant from performing their duties in the course of the relevant customs procedure.

(4) If a tax liability arising from a customs declaration has been changed by a notice of assessment, the customs declaration may not be amended pursuant to the procedure provided for in subsections (1) to (3) of this section but the procedure for the amendment and repeal of a notice of assessment provided by the Taxation Act shall be applied.

(5) If the customs authorities discover an error in the information declared in a customs declaration, the declarant and, in the event of indirect representation, the person represented shall be informed of the need to amend the customs declaration by a notice which shall set out the time limit for filing a request for the amendment of the customs declaration.

(6) If the declarant or the person represented fails to file with the customs authorities a request or reasoned objections to the amendments referred to in the notice within the time limit set out in the notice specified in subsection (5) of this section, the amount of tax shall be collected pursuant to the procedure provided by the Taxation Act.

(7) Specifying guidelines for filing a request for the amendment and invalidation of a customs declaration shall be established by a regulation of the minister responsible for the field.

§ 36. Expiry of customs debt

If a customs debt is incurred as a result of an action for which it was possible to initiate criminal proceedings at the time of performance of the action, the term for informing the debtor of the customs debt is five years.

Chapter 9 SPECIAL PROCEDURES

§ 37. Customs warehouse

A customs warehouse is a territory, building, room, stationary container or bunker ship in the possession of its operator and approved by the customs authorities, where the integrity of goods under customs supervision is ensured.

§ 38. Free zone

- (1) A free zone referred to in Article 243 of the Customs Code is a territory surrounded by a barrier.
- (2) It shall be possible to monitor the entire barrier surrounding the free zone, it shall not be possible to disassemble the barrier without any means of assistance and the barrier shall prevent any means of transport from passing through without leaving a trace.
- (3) Entry points of the free zone shall have signs that inform of the prohibition against entering without permission.

§ 39. Designation of free zones

- (1) Free zones shall be designated by an order of the Government of the Republic which shall set out the name of the possessor of the free zone and the location, borders and entry and exit points of the free zone.
- (2) Free zones shall be designated at or near a transport hub at the external border of the territory of Estonia.

§ 40. Application for designation of free zones

- (1) The owner or legal possessor of a territory shall file an application for the designation of a free zone with the Ministry of Finance.
- (2) The following shall be annexed to the application for the designation of a free zone:
 - 1) certificate of legal possession of the territory;
 - 2) reasons for the economic need to designate a free zone;
 - 3) description of the planned operation;
 - 4) layout of the territory of the free zone;
 - 5) coordinates for the boundary points and entry and exit points of the free zone;
 - 6) list of persons who will be operating in the free zone.
- (3) In the course of determining the economic need it is assessed, above all, whether the expected economic benefit will arise directly from the desired operation in the free zone or would it also be possible to conduct the desired operation outside the free zone and the free zone would not add any value to the operation.

§ 41. Deciding on designation of free zones

- (1) The Ministry of Finance shall ask the customs authorities to approve an application for the designation of a free zone.
- (2) The customs authorities shall not approve the application if:
 - 1) the exercise of customs supervision in the free zone requires disproportionate administrative measures;
 - 2) the free zone does not meet the requirements provided for in the customs legislation.
- (3) The designation of a free zone shall be refused if:
 - 1) the customs authorities do not approve the application;
 - 2) there are no economic reasons for designating a free zone.
- (4) A decision on the designation of a free zone or refusal to designate a free zone shall be taken within 120 days as of the day of receipt of the application.

§ 42. Obligations of possessor of free zone

The possessor of a free zone shall:

- 1) prepare and coordinate with the customs authorities the work organisation of the free zone;
- 2) inform the persons operating in the free zone of the work organisation of the free zone and of other regulations applicable on the territory of the free zone;
- 3) organise the guarding of the borders and entry and exit points of the free zone.

§ 43. Changing borders and entry and exit points of free zone and repealing designation of free zone

- (1) An application for changing the borders and entry and exit points of a free zone shall be filed by the possessor of the free zone with the Ministry of Finance.
- (2) The following shall be submitted with the application:
 - 1) reasons for changing the borders and entry and exit points of the free zone;
 - 2) new coordinates for the boundary points and entry and exit points of the free zone;
 - 3) new layout of the territory of the free zone.

- (3) The designation of a free zone shall be repealed if:
- 1) the free zone no longer meets the requirements provided for in the customs legislation;
 - 2) there are no longer any economic reasons for the free zone;
 - 3) so requested by the possessor of the free zone.

(4) Changing the borders and entry and exit points of a free zone and repealing the designation of a free zone shall be decided by an order of the Government of the Republic.

§ 44. Operation in free zone

(1) For storing or processing goods in a free zone the person shall hold an authorisation from the customs authorities. For obtaining an authorisation from the customs authorities the person shall submit an application to the customs authorities.

(2) A person whose activities are not related to storing or processing goods in a free zone shall be permitted to carry out the activities set out in Article 244(2) of the Customs Code under a written notice presented to the customs authorities beforehand. The notice shall specify which activities are planned.

(3) The customs authorities shall decide on granting an authorisation to operate in a free zone within 60 days as of the day of receipt of the application.

(4) Specifying guidelines for operating in a free zone shall be established by a regulation of the minister responsible for the field.

§ 45. Issue, suspension and revocation of authorisation to operate in free zone

- (1) The customs authorities shall refuse to issue an authorisation to operate in a free zone if:
- 1) the exercise of customs supervision would be more complicated as a result of the operation applied for;
 - 2) the application is not sufficiently justified in the opinion of the customs authorities;
 - 3) the accounting of the person does not enable the customs authorities to check the activities of the applicant;
 - 4) the person lacks accurate accounts concerning the movement of goods;
 - 5) the person does not have an impeccable business reputation;
 - 6) the person has tax arrears as to duties collected upon the import or export of goods.

(2) The customs authorities may refuse to issue an authorisation to operate in a free zone if during the year prior to the date of application the applicant has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2000 euros in the case of a legal person, or if the applicant has committed a criminal offence provided for in § 391 or § 393 of the Penal Code and information concerning the punishment has not been expunged from the criminal records database.

(3) The customs authorities may suspend an authorisation to operate in a free zone for a period of up to two months and set a term for the elimination of the circumstances which constitute the basis for the suspension if:

- 1) the person is in violation of the conditions of operation in the free zone;
- 2) circumstances referred to in clause (1) 3), 4), 5) or 6) of this section exist.

(4) An authorisation to operate in a free zone shall be revoked on the basis of a written application of the person or on the initiative of the customs authorities.

- (5) The customs authorities may revoke an authorisation to operate in a free zone if:
- 1) during the previous year the person has been repeatedly punished for a misdemeanour provided for in this Act for which the punishment prescribed is a fine exceeding 100 fine units in the case of a natural person and a fine exceeding 2000 euros in the case of a legal person, or if the person has committed a criminal offence provided for in § 391 or § 393 of the Penal Code and information concerning the punishment has not been expunged from the criminal records database;
 - 2) the authorisation has been suspended on the basis of subsection (3) of this section and the person fails to eliminate the circumstances underlying the suspension of the authorisation by the set date;
 - 3) the possessor of the free zone has applied for the repeal of the designation of the free zone.

§ 46. Special procedures

Guidelines specifying the requirements for the special procedures listed in Article 210 of the Customs Code may be established by a regulation of the minister responsible for the field.

Chapter 10

CUSTOMS PREFERENCES AND SIMPLIFICATION OF CUSTOMS FORMALITIES

§ 47. Duty exemption for consumption supplies brought on board water craft or aircraft engaged in intra-Union transport operations

(1) Consumption supplies brought on board a water craft or aircraft engaged in intra-Union transport operations are exempt from import duties.

(2) Consumption supplies are goods which are necessary for consumption during a journey and which have been fully or partially consumed when arriving at the destination.

§ 48. Customs formalities in respect of supplies brought on board water craft, aircraft or railway vehicle

(1) The minister responsible for the field shall establish by a regulation the customs formalities applied to:

- 1) supplies brought on board a water craft or aircraft engaged in international transport operations;
- 2) supplies brought on board a railway vehicle;
- 3) supplies on board a water craft engaged in search, rescue, ice breaking or marine pollution elimination operations in international waters.

(2) The regulation established under subsection (1) of this section shall not be applied to goods brought on board a water craft or aircraft used for pleasure unrelated to business.

§ 49. Customs formalities in respect of goods intended for national defence or security purposes and goods exempt from duties under international agreement

(1) The customs authorities shall not check a means of transport or equipment of a unit performing national defence or security functions, unless there is reason to believe that there are goods which are not necessary for the performance of duties.

(2) The minister responsible for the field shall establish by a regulation the customs formalities in respect of:

- 1) goods of a unit of the Defence Forces, the Defence League, the Estonian Foreign Intelligence Service, the Police and Border Guard Board, the Estonian Internal Security Service or the Rescue Board that performs security, defence or rescue functions;
- 2) goods of a unit of the armed forces of a Member State of the North Atlantic Treaty Organization;
- 3) goods intended for the personal use of a member of foreign armed forces, member of the civilian staff of foreign armed forces, member of international military headquarters and their dependants as well as an employee of foreign armed forces and employee of a contract partner of international military headquarters if such goods are exempt from duties under an international agreement.

§ 50. Application of duty exemption under international agreement

(1) Goods imported exempt from duty under the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations and an international agreement ratified by the Riigikogu are not permitted to be given for use free of charge or for a charge, used as security or transferred within three years as of the day of release for free circulation, except to another person entitled to the same preference.

(2) In case of any giving for use free of charge or for a charge, use as security or transfer prior to the expiry of the term specified in subsection (1) of this section, one thirty-sixth of the amount of the import duties which should have been paid upon the release of the goods for free circulation if the person had not been entitled to be exempted from import duties shall be paid for every remaining month or part thereof until the expiry of the term.

§ 51. Integrity of diplomatic consignment

(1) Diplomatic mail and consular consignments of a foreign country and of Estonia (hereinafter *diplomatic consignment*) may contain only documents and goods intended for official use.

(2) Diplomatic consignments shall be marked with clearly visible external markings indicating their contents.

(3) The customs authorities shall not open or detain diplomatic consignments.

(4) If based on a risk assessment the customs authorities have reason to believe that a diplomatic consignment may contain goods not intended exclusively for official use, the customs authorities have the right to ask the addressee or an authorised person of the shipping state to open the consignment in the presence of a customs official. Upon refusal to open such a consignment, it shall be returned at the expense of the sender.

(5) Subsections (1) through (4) of this section apply to a consignment of international military headquarters if so arises from an international agreement.

(6) The customs formalities in respect of goods of a foreign mission and employees of a foreign mission and their family members which are exempt from all duties shall be established by a regulation of the minister responsible for the field.

§ 52. Time-sensitive goods

(1) For expediting the border crossing of a consignment containing animals or birds, highly perishable foodstuffs, cells, tissues or organs used in medicine or other time-sensitive goods (hereinafter *time-sensitive goods*), priority shall be given to carrying out customs formalities.

(2) The nomenclature of time-sensitive goods shall be established by a regulation of the minister responsible for the field.

Chapter 11 SPECIAL PROVISIONS PERTAINING TO ROAD TRANSPORT OF GOODS

§ 53. Issue of international vehicle weight certificate

(1) A transport operator shall be issued at the request thereof an international vehicle weight certificate conforming to Appendix 2 of Annex 8 to the International Convention on the Harmonisation of Frontier Controls of Goods (hereinafter *Annex 8 to the Convention*), approved on behalf of the Community by Council Decision 2009/161/EC (OJ L 55, 27.02.2009, pp. 21–39).

(2) An international vehicle weight certificate may be issued by a person who is a competent measurer for the purposes of the Metrology Act and who meets the requirements set out in Appendix 2 of Annex 8 to the Convention.

(3) A person specified in subsection (2) of this section shall submit a notice of economic activities in order to operate in the area of activity of issue of international vehicle weight certificates.

(4) The person liable for the disclosure and communication of information specified in Article 5(2) of Annex 8 to the Convention is the Tax and Customs Board.

§ 54. Person authorising use of TIR Carnets

(1) According to Part II of Annex 9 to the Convention on the International Transport of Goods Under Cover of TIR Carnets (hereinafter *TIR Convention*), the competent administrative authority to authorise the use of TIR Carnets is the Tax and Customs Board.

(2) By a contract under public law, the minister responsible for the field may assign the duty to authorise the use of TIR Carnets to an association that meets the requirements provided by Part I of Annex 9 to the TIR Convention (hereinafter *guaranteeing association*).

§ 55. Application for authorisation to use TIR Carnets

(1) A person seeking authorisation to use TIR Carnets shall submit an application to the person authorising the use of TIR Carnets and annex to the application the following particulars and documents concerning the applicant:

- 1) audited annual report or annual report signed by a member of the management board if the law does not require an audit;
- 2) the number and term of validity of their Community licence specified in § 4 of the Road Transport Act;
- 3) the registration numbers of vehicles used in international road transport, the names of the owners of such vehicles and, if the applicant for authorisation to use TIR Carnets is not the owner of the vehicle, also the name of the authorised user of the vehicle;
- 4) the names and personal identification codes of and copies of documents proving the professional competence of transport managers who meet the requirements provided for in § 7 of the Road Transport Act;
- 5) the names and personal identification codes of and copies of professional certificates or copies of driving licences which include a remark concerning the completion of occupational training of drivers who meet the conditions set out in § 27 (1) 1) of the Road Transport Act;
- 6) confirmation on compliance with the requirements of the TIR Convention according to Article (1)(e) of Part II of Annex 9 to the TIR Convention.

(2) If the applicant for authorisation to use TIR Carnets is not the owner of the vehicle specified in clause (1) 3) of this section, the applicant for authorisation to use TIR Carnets shall be indicated on the vehicle's registration certificate as an authorised user.

§ 56. Authorisation Committee

(1) The Authorisation Committee is a body comprising representatives of competent authorities, the function of which is to assess the compliance of the applicant for authorisation to use TIR Carnets with the requirements of the TIR Convention, their competence as a person engaged in international road transport, the absence of important or repeated violations of customs or tax laws and the reliability of the applicant's financial situation.

(2) The membership of the Authorisation Committee shall be approved by a directive of the minister responsible for the field. The guaranteeing association, the Tax and Customs Board and the Ministry of Economic Affairs and Communications shall appoint their representative to serve as a member of the Authorisation Committee. At least one alternate member shall be appointed for each member of the Authorisation Committee.

§ 57. Grant of authorisation to use TIR Carnets

(1) The person authorising the use of TIR Carnets shall forward applications which comply with § 55 of this Act to the Authorisation Committee.

(2) By way of consensus, the Authorisation Committee shall make a reasoned proposal to the person authorising the use of TIR Carnets concerning the grant of or refusal to grant authorisation.

(3) The person authorising the use of TIR Carnets shall make a written decision on the grant of or refusal to grant authorisation to use TIR Carnets within 30 days as of the receipt of an application which complies with § 55 of this Act and shall announce it to the applicant and the guaranteeing association.

§ 58. Enabling use of TIR Carnets

The guaranteeing association shall enable a person who has been granted authorisation to use TIR Carnets to use TIR Carnets under a contract if the person has met the requirements set for being granted a guarantee and has paid the levy for using TIR Carnets. Said requirements and levies are published on the website of the guaranteeing association.

§ 59. Suspension and revocation of authorisation to use TIR Carnets

(1) A person who has been granted authorisation to use TIR Carnets shall immediately inform the person who granted the authorisation of any changes in the particulars specified in § 55 (1) 2) through 5) of this Act.

(2) If a member of the Authorisation Committee becomes aware that a person who has been granted authorisation to use TIR Carnets has violated the requirements of the TIR Convention, the member of the Authorisation Committee shall immediately make to the person who granted the authorisation a written reasoned proposal to suspend or revoke the authorisation.

(3) The person authorising the use of TIR Carnets shall decide the suspension or revocation of the authorisation.

(4) If the authorisation to use TIR Carnets is suspended, the person who granted the authorisation shall inform in writing the person who has been granted the authorisation of the reasons for the suspension of the authorisation and shall set a time limit for eliminating the deficiencies. If the person who has been granted authorisation to use TIR Carnets has not eliminated the deficiencies by the set date and has not applied for an extension of the time limit for eliminating the deficiencies, the person who granted the authorisation shall revoke the authorisation.

Chapter 12 STATE SUPERVISION

§ 60. State supervision

State supervision over the compliance with the customs legislation shall be exercised by the Tax and Customs Board.

§ 61. Special state supervision measures

In order to exercise the state supervision provided by this Act and Union legislation referred to in § 1 (4) of this Act, the Tax and Customs Board may apply the special state supervision measures provided for in §§ 30–34 and §§ 44–52 of the Law Enforcement Act on the bases and pursuant to the procedure provided by the Law Enforcement Act and with the specifications provided by this Act and Union legislation referred to in § 1 (4) of this Act.

§ 62. Customs seals

(1) A customs seal is a means of identification affixed by a customs official to goods, a packaging or a means of transport to identify the goods or ensure the inviolability thereof. Several customs seals may be affixed to one object.

(2) A customs seal shall be affixed in a manner that prevents access to the goods without breaking the seal or without leaving traces of a break-in on the packaging or means of transport.

(3) If the customs authorities affix or remove a customs seal, the customs official shall make a note to that effect in the summary or customs declaration, examination minutes, misdemeanour report, decision or other relevant document.

(4) The holder of goods shall immediately inform the customs authorities of the breakage or loss of the customs seal, removal thereof in unforeseeable circumstances or of traces of a break-in or other damage.

(5) A customs seal shall be removed by the customs authorities or a relevant person if the customs authorities have granted the person permission in writing or through an electronic data processing system.

§ 63. Examination of goods and means of transport

(1) By way of exception to § 49 (3) of the Law Enforcement Act, for preventing a threat the customs authorities have the right to examine goods or a means of transport without the presence of the possessor thereof if the possessor of the goods or means of transport cannot be identified within a reasonable period of time or if the possessor refuses to be present at the examination of the goods or means of transport.

(2) The examination minutes shall be prepared on the basis of § 31 of this Act.

§ 64. Examination of baggage

(1) A customs official may examine the baggage of a passenger crossing the border between Estonia and a non-Union country or staying in the transit area of a port or airport.

(2) A customs official may examine the baggage of a passenger staying in the transit area of a port or airport if there is a suspicion of a threat.

(3) The person under examination shall present their baggage to the customs official and unpack the baggage.

(4) The examination minutes shall be prepared on the basis of § 31 of this Act.

§ 65. Specifications of examination of passenger

(1) Before an examination of a passenger, a customs official of the same sex may externally feel the passenger and their clothes and scan their clothes in order to ascertain whether they are carrying goods which are subject to declaration but which have not been presented to the customs authorities, or goods subject to prohibitions or restrictions.

(2) A customs official may examine a passenger on the bases and pursuant to the procedure provided for in § 48 of the Law Enforcement Act.

§ 66. Examination of postal consignment

(1) An international postal consignment containing goods which arrives from a non-Union country shall be examined in the temporary storage facility of the postal service provider before the delivery of the postal consignment to the addressee, and a consignment to be sent to a non-Union country shall be examined after or upon the receipt thereof from the consignor.

(2) For the examination of a postal consignment the customs authorities may require the postal service provider to open the consignment. The consignment shall be opened and closed by the accountable employee of the postal service provider in the presence of a customs official.

(3) If a postal consignment contains goods which are subject to sanitary, veterinary, plant health or other controls upon import or export, the postal operator shall present to the customs authorities the corresponding document that proves said controls.

§ 67. Use of direct coercion

(1) The Tax and Customs Board shall apply direct coercion on the bases and pursuant to the procedure provided for in the Law Enforcement Act.

(2) The special equipment of the Tax and Customs Board consists of:

1) handcuffs;

- 2) lighting and audio equipment for special purposes;
- 3) painting and labelling devices for special purposes;
- 4) grenades and cartridges evoking smoke, sonic, light or other effect or tears or sensation of pain;
- 5) service dogs.

(3) The service weapons of the Tax and Customs Board are:

- 1) a truncheon and a telescope truncheon from the selection of cut-and-thrust weapons;
- 2) gas weapons;
- 3) firearms.

(4) The procedure for carrying and storing the special equipment of officials of the Tax and Customs Board shall be established by a regulation of the minister responsible for the field.

(5) The self-defence equipment of officials of the Tax and Customs Board are the objects used for ensuring the physical safety of an official or a service dog upon the application of direct coercion.

(6) The list of the self-defence equipment of officials of the Tax and Customs Board and the requirements set for the self-defence equipment shall be established by a regulation of the minister responsible for the field.

§ 68. Use of firearms

(1) Officials of the Tax and Customs Board have the right to carry and use firearms.

(2) When using a firearm, the officials of the Tax and Customs Board shall adhere to that provided for in § 81 of the Law Enforcement Act.

(3) It is prohibited to use a firearm:

- 1) against children, the elderly or women who are clearly pregnant, except in order to counter or obstruct their armed or group attack or to disarm them;
- 2) in foreign diplomatic missions, consular posts, special missions and representations of international organisations, also against vehicles subject to diplomatic immunity, except with the consent of the heads of the representations or agencies or in the cases specified by international agreements;
- 3) in buildings where highly flammable or toxic substances or explosives are produced or stored, including substances which, as a result of the use of special equipment or firearms, may endanger the life or health of persons.

(4) Officials of the Tax and Customs Board are required to immediately inform the head of their structural unit of any instance in which a firearm has been used.

Chapter 13

LIABILITY FOR VIOLATION OF CUSTOMS LEGISLATION

§ 69. Illegal conveyance of goods to Estonia or out of Estonia

(1) Conveyance of goods or cash subject to declaration from a non-Union country to Estonia or from Estonia to a non-Union country by evading customs controls, failing to declare the goods or cash, declaring the goods or cash under an incorrect tariff classification or description, or behaving in any other fraudulent manner is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

(3) An attempted misdemeanour set out in this section is punishable.

§ 70. Illegal operations with goods subject to prohibitions or restrictions upon movement thereof between Estonia and non-Union country

(1) Conveyance of goods subject to restrictions and without a mandatory document or register entry or of forbidden goods from a non-Union country to Estonia or from Estonia to a non-Union country, or declaration of such goods for customs procedure is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

(3) An attempted misdemeanour set out in this section is punishable.

§ 71. Illegal operations with goods subject to prohibitions or restrictions upon movement thereof between Member States of the Union

(1) Conveyance of goods subject to restrictions and without a mandatory document or register entry or of forbidden goods from another Member State of the Union to Estonia or from Estonia to another Member State of the Union, where the customs authorities exercise state supervision over compliance with such prohibitions and restrictions, is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

(3) An attempted misdemeanour set out in this section is punishable.

§ 72. Illegal operations with goods located in Estonia

(1) Knowingly performing illegal operations or transactions with goods conveyed into Estonia from a non-Union country with customs preference or with goods under customs supervision is punishable by a fine of up to 300 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

§ 73. Violation of requirements in force in free zone

(1) Knowingly operating or constructing a building within a free zone without the permission of the customs authorities is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

§ 74. Violation of requirements for storage of goods

(1) Violation of the requirements for the storage of goods in a temporary storage facility, customs warehouse or free zone or for the keeping of records on such goods is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.

§ 75. Violation of customs legislation concerning means of transport

(1) Failure to stop a means of transport at the place prescribed in the customs legislation or at the signal of a customs official on duty or driving a means of transport upon carrying out customs formalities without the permission of the customs authorities is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.

§ 76. Breaking of customs seal

(1) Breaking or unauthorised removal of a customs seal or unlawful entry into a means of transport protected by a customs seal is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2600 euros.

§ 77. Illegal operations with cargo under customs supervision

(1) Intentional opening, re-packaging, transshipment or unloading of cargo under customs supervision without the permission of the customs authorities and also intentionally enabling such activities is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1300 euros.

§ 78. Confiscation

(1) The body conducting extra-judicial proceedings or a court may, pursuant to § 83 of the Penal Code, confiscate an object or substance which has been the direct object of commission of a misdemeanour provided for in §§ 69–72 of this Act.

(2) The body conducting extra-judicial proceedings or a court may confiscate a means of transport which has been specifically reconstructed with a view to committing a violation of the customs legislation and which has been used as the means of or as an aid to committing a violation of the customs legislation.

(3) Goods detained, turned into state ownership or confiscated by the customs authorities shall be stored in the possession of the customs authorities or placed in storage in a customs warehouse or a place accepted by the customs authorities if the measurements and nature of the goods so permit.

§ 79. Proceedings

The body conducting extra-judicial proceedings pertaining to the misdemeanours set out in §§ 69–77 of this Act is the Tax and Customs Board.

Chapter 14 TURNING GOODS INTO STATE OWNERSHIP, TRANSFER AND DESTRUCTION OF GOODS

§ 80. Turning goods into state ownership by decision of customs authorities

(1) In the case of goods as referred to in Article 198(1) of the Customs Code, the customs authorities shall inform the declarant, the holder of the customs procedure or the holder of the goods in writing of their intention to take a decision to turn the goods into state ownership.

(2) If the goods are not prohibited goods the turning of which into state ownership arises from law, the customs authorities shall set out in the notice specified in subsection (1) of this section a time limit for complying with the requirements arising from the customs legislation.

(3) The customs authorities shall not take a decision to turn goods into state ownership if the requirements provided for in the customs legislation are complied with.

(4) The customs authorities have the right to take a justified amount of goods from a confiscated lot with the aim of using such goods for the prevention of offences.

§ 81. Abandonment of goods to the state at the request of holder of goods

(1) If the holder of goods wants to abandon the goods to the state, they shall file a written request with the customs administration at the location of the goods.

(2) The decision to turn goods into state ownership shall be taken by the customs authorities within ten days as of the date of receipt of a request to that effect.

(3) Goods may not be abandoned to the state if the goods cannot be easily sold, the sale thereof entails unnecessary administrative expenses or the release of such goods for free circulation is not permitted by law.

(4) The specifying guidelines for the abandonment of goods to the state shall be established by a regulation of the minister responsible for the field.

§ 82. Transfer and destruction of goods turned into state ownership and of means of transport

(1) Goods which have been turned into state ownership shall be transferred pursuant to the procedure provided by the State Assets Act.

(2) If goods turned into state ownership cannot be transferred, the customs authorities shall take a decision to destroy them.

(3) The decision to destroy goods shall set out the charge that must be paid by the person who tried to convey the goods from a non-Union country to Estonia or from Estonia to a non-Union country to cover the costs of destruction.

(4) If the person who tried to convey the goods from a non-Union country to Estonia or from Estonia to a non-Union country cannot be found, the customs authorities shall pay for the destruction from their own budget.

Chapter 15 IMPLEMENTING PROVISIONS

Division 1

Transitional Provisions

§ 83. Calculation of length of customs service under favourable conditions

If the total length of customs service of a person is at least 20 years, the period of service as a customs official from 22 October 1990 until 31 July 1994 shall be multiplied by three under favourable conditions and included in the length of customs service.

Division 2 Amendment and Repeal of Acts

§ 84. – § 103. Provisions governing the amendment of other Acts are omitted from this translation.

§ 104. Repeal of Customs Act

The Customs Act (RT I 2004, 28, 188) is repealed.

§ 105. – § 110. Provisions governing the amendment of other Acts are omitted from this translation.

Division 3 Entry into force of Act

§ 111. Entry into force of Act

This Act enters into force on 1 July 2017.

Eiki Nestor
President of the Riigikogu