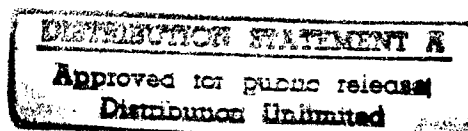


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Supplement



East Europe

Recent Legislation

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Draft Law on People's Assembly Elections

91P20276A Tirana ZERI I POPULLIT in Albanian
23 Oct 90 pp 1, 2

[Draft law on People's Assembly Elections approved by the People's Assembly as Law No. 7423 dated 13 November 1990]

[Text] We are publishing the draft law which the Presidium of the People's Assembly will be presenting for examination and approval by the People's Assembly in its ordinary session on 12 November 1990.

On the basis of Article 67 of the Constitution, the People's Assembly resolves:

CHAPTER I

General Provisions

Article 1

Elections for People's Assembly deputies will take place on the basis of general, equal, direct and secret vote on the basis of the free will of the voters.

Any pressure or any other form of compulsion which prevents the free expression of the will of the citizens during the exercise of the right to vote is denounced in accordance with the legal provisions in force.

Article 2

Albanian citizens who have reached the age of 18 as of the date of the elections have the right to participate in the elections and to elect deputies to the People's Assembly.

Citizens whose right to vote has been taken away from them by court decision because they have committed a crime, persons who are judged to be mentally incompetent by a court, persons who are under a sentence of deprivation of freedom, and persons arrested by court decision or with the approval of the prosecutor will not be allowed to vote.

CHAPTER II

Lists of Voters

Article 3

The elections take place on the basis of lists of voters.

On the lists of voters are registered all citizens who have the right to vote and who live (permanently or temporarily) in the territory of a people's council at the time that the lists are drawn up.

Each citizen is registered on only one voter list.

Article 4

The lists of voters are drawn up for each voting center according to a specified form. In the cities, they are compiled by the executive committees of the peoples

councils of the cities or by the peoples councils of the cities which do not have executive committees; in the cities which are divided into sectors [lagje], they are drawn up by the peoples councils of the sectors and in the villages, by the peoples councils of the villages.

The lists of voters are announced by the executive committees or by the peoples councils which have compiled them, no later than 20 days before the elections.

Article 5

The lists of voters who serve and live in military units and detachments are compiled and announced by their commands. All other soldiers are registered on the lists of voters in their residence compiled by the [appropriate executive committees or peoples councils].

Article 6

When a voter changes his residence after the list of voters is published and before election day, at his request, the executive committee or the peoples council which has announced the list issues a "voting certificate" and writes the word "moved" on the list of voters.

The voter is registered on the list of voters in his new residence (permanent or temporary) by presenting the "voting certificate" together with his identification card or any other document which replaces it.

In each voting center no more than one-fifteenth of the registered voters can vote on the basis of voting certificates.

The lists of voters for Albanian citizens living outside the country are compiled in the manner established by the Central Elections Commission.

Article 7

The organ which announced the lists of voters, by decision, can make changes in these lists even on election day, but, in any case, before the voting begins, when a citizen has died, is registered twice, is not registered, does not have a right to vote or is outside the territory of the People's Socialist Republic of Albania.

Article 8

Each citizen has the right to request the correction of errors and omissions in the voters' lists such as lack of registration, removal from the list, changes in surname or first name, registration of persons who have lost the right to vote, etc. The request is made to the organ which announced the lists, which is obliged to review it within two days and to issue the appropriate decision.

The decision can be appealed in the district court which, within three days, in the presence of the person making the complaint and a representative of the organ which announced the lists, reviews the complaint in open judicial session and issues the appropriate decision. The court decision is final.

CHAPTER III**Election Zones and Voting Centers****Article 9**

Some 250 election zones, with an almost equal number of residents, will be created for the People's Assembly elections.

The election zones will be established and announced no later than 30 days before the elections.

Article 10

The territory of each city, city sector, and village will be divided into voting centers.

A voting center is set up for every 100 to 600 voters.

When a work center is more than 3 km from the nearest voting center, a separate voting center is set up in the work center if there are at least 50 voters.

Article 11

The voting centers are set up by decision at least 20 days before the elections. In the cities, they are set up by the executive committees of the peoples councils of the cities or by the peoples councils of cities which do not have executive committees; in cities which are divided into sectors, by the peoples councils of the sectors, and in villages, by the peoples councils of the villages.

Article 12

A separate voting center is set up in military units and detachments for each 20 to 600 voters. These voting centers belong to the election zone in the territory in which the military unit is located.

Voting centers in military units are set up by decision of the executive committees of the peoples councils or by decision of the peoples councils when there are no executive committees in the territory in which the military unit is located. They are announced to the voters and their candidates.

Article 13

Separate voting centers, which belong to one of the election zones of Tirana City, are set up in diplomatic missions abroad which have at least five voters.

Separate voting centers will be set up in ships at sea on election day, if there are at least seven voters. These voting centers belong to one of the election zones of the country in which the ship is registered.

Article 14

Voting centers will be set up in hospitals, maternity homes and other institutions where there are more than 15 voters.

In hospitals which have a number of wards, a separate voting center can be set up for each ward, if each ward has more than 15 voters.

CHAPTER IV**Election Commissions****Article 15**

The following commissions are established for directing the People's Assembly elections: the Central Elections Commission, the elections commissions in the zones, and the commissions of the voting centers.

Representatives of political and social organizations, representatives of various associations, and outstanding personalities in the fields of science and culture are members of the election commissions.

The deputy chairmen and secretaries of the Central Election Commission and of the election commissions of the zones must be jurists.

Article 16

The Central Elections Commission is composed of a chairman, a deputy chairman, a secretary and 10 members. The Commission is approved by the Presidium of the People's Assembly at least 30 days before the elections.

In particular, the Central Election Commission has the following duties:

- a) it sees to the strict implementation of the law on People's Assembly elections during the election period in the entire territory of the People's Socialist Republic of Albania;
- b) it registers deputies elected to the People's Assembly;
- c) it reviews complaints against irregular activities of election commissions of zones and issues final decisions;
- ch) it delivers the election documents to the Commission for People's Assembly Mandates.

Article 17

In each election zone, an election commission for the zone is set up, composed of a chairman, a secretary, and three members. The commission is approved by decision of the executive committee of the district people's council at least 25 days before the election.

The election commission of the zone has the following duties:

- a) it sees to the strict implementation of the law on People's Assembly elections during the election period in the entire territory of the zone;
- b) it registers and announces the candidates for deputies, presented in accordance with this law;

c) it counts votes on the basis of the reports from the voting centers and announces the results of the elections in the zone;

ch) it reviews complaints against irregular activities of voting center commissions;

d) it issues certifications of election to deputies who are elected;

e) it sends the election documents to the Central Election Commission.

Article 18

For each voting center a voting center commission is set up, composed of a chairman, a secretary, and three members. The commission is approved by decision, no later than 20 days before the election. In the cities, the commissions are approved by the executive committees of the peoples councils of the cities or by the peoples councils of cities which do not have executive committees; in the cities which are divided into sectors they are approved by the people's councils of the sectors and in the villages, by the peoples councils of the villages.

The voting center commission carries out the following duties:

a) it directs and monitors the activity of implementing the law on elections in the voting centers;

b) it counts the votes cast for each candidate for deputy;

c) it records in the official record all the complaints, requests, comments, and suggestions of the voters or candidates, examines them and issues the appropriate decision;

ch) it delivers the official record of the voting to the election commission of the zone;

d) it sends the election documents for safekeeping to the executive committee of the people's council of the district or the city.

Article 19

The candidates for deputy cannot be a member of the election commission of the zone or of the commissions of the voting centers of the zone in which he is a candidate.

Article 20

The members of the election commissions or of the voting centers can be relieved of their duties on these commissions, by the organ which approved the composition of the commission, at the request of the members or upon recommendation of social organizations or associations.

Article 21

Directors of enterprises, of institutions and of other social or economic organizations must release the

chairmen and secretaries of the election commissions of the zones from their jobs, with pay, three days before the voting and two days after the voting. They must release the chairmen and secretaries of the commissions of the voting centers three days before the election and one day after the election.

CHAPTER V

Nomination of Candidates

Article 22

For each election zone for deputies to the People's Assembly, no fewer than two candidates are nominated.

A person can be a candidate for deputy in only one election zone.

Article 23

The following political and social organizations have the right to nominate candidates for deputy in the People's Assembly: the Albanian Workers Party, the Democratic Front, the Trade Unions, the Women's Union, the Youth Union, the National Committee of Veterans, the Union of Writers and Artists and any other organization or association recognized by law.

Article 24

Any political and social organization or society has the right to nominate only one candidate for each election zone.

Social organizations and associations can nominate the same candidate, jointly.

Article 25

Any citizen has the right to nominate himself for election as a deputy in the People's Assembly, after obtaining the approval of at least 300 voters in the respective zone.

Article 26

According to the tradition and line of the masses, before candidates who are nominated by social organizations and associations are registered, the opinion of the public is enlisted in open meetings organized for this purpose according to the respective zones.

In these meetings, the voters have the right to propose to the respective organizations or associations that a certain candidate whom they have criticized be removed.

Voters who participate in meetings for the preliminary discussion of candidacies have the right to propose, directly from these meetings, candidates for deputies in the People's Assembly.

Proposals for the removal or nomination of a candidate for deputy are approved by the majority of participants in voters' meetings, by open ballot.

Article 27

The leading organs of the social organization, or of associations, after receiving the comments and proposals in preliminary meetings with the voters, compile, individually or jointly, the final list of candidates for deputy who will run in the respective district.

When the list is a joint one, it is announced by the Democratic Front, specifying the nominating organization or association to which the nominated candidate belongs.

Article 28

Candidates for deputy in the People's Assembly must be registered in the election commission of the zone at least 15 days before the elections. To effect this registration, they must present the following documents:

a) a written application from the respective organization or association in which the registration of the candidate nominated for deputy is requested. The application must give the surname, father's name, first name, and age of the candidate.

When the candidate nominates himself, he presents an application with the appropriate signatures of the voters. The commission has the right to check the authenticity of the signatures of the voters.

b) the statement of the candidate accepting the placing of his name as a candidate in the specific election zone.

Article 29

The election commissions of the zones, when they have fulfilled the conditions of this law, are obliged to register all the candidates for deputy in the People's Assembly and to make their names public at least 10 days before the elections, giving the name of the social organization which nominated the candidate.

Article 30

For each candidate for deputy, the election commission of the zone keeps an official registration record according to an established form. A copy of this official record is sent immediately to the Central Election Commission along with the statement of the candidate accepting the placing of his name as a candidate in the specific zone.

Article 31

An appeal can be filed with the Central Election Commission within two days to protest a decision of the election commission of the zone not to permit the registration of a candidate for deputy in the People's Assembly.

Article 32

An appeal can be filed with the Supreme Court against a decision of the Central Election Commission. After

summoning the candidate and the representative of the organ registering him, the Supreme Court examines the complaint and, within three days, issues a final decision, which it announces immediately.

Article 33

When the name of a candidate for deputy in the People's Assembly is withdrawn by his sponsors, when a candidate withdraws on his own or dies after he has been registered by the election commission, the respective social organization or association can register another candidate, but no later than seven days before election day.

Article 34

When the candidate for deputy is removed by his sponsors, when he withdraws on his own, or when he dies or commits a very serious crime during the seven-day period before the elections, and no more than two candidacies have been set up in the respective zone, the organ which did the registering removes the candidate's name from the list presented or the ballot and the elections in the respective zone take place on another day, no later than two weeks from the date of the general elections.

CHAPTER VI**Rights and Duties of Candidates During the Election Campaign****Article 35**

Social organizations or associations which have nominated candidates and any independent candidates must publicly present their programs in writing or orally.

The programs presented must not contain fascist or terrorist ideas or ideas inspired by or borrowed from traitorous organizations created during the National Liberation Struggle.

Article 36

Any organization, association, or individual has an equal right to make propaganda for a registered candidate, in meetings, in the press, on the radio, on television, and in other ways.

Article 37

A candidate for deputy is prohibited from using the media of foreign countries for propaganda during the election campaign.

Article 38

Institutions, enterprises, and organizations are obliged to give assistance and to create the necessary conditions for the normal development of propaganda, for meetings of all candidates with voters and to place at the voters' disposal the necessary material for learning about the situation.

Article 39

During the election campaign, no type of propaganda is allowed from the organs of the government and the state administration for candidates nominated for deputy in the People's Assembly.

Article 40

The state gives the necessary assistance to candidates or organizations without sufficient material means and financial income to engage in the election campaign.

The sources of financing the election campaign are controlled by the state.

Article 41

A candidate for deputy is prohibited from accepting assistance, gifts, or financial aid from states and from foreign physical or juridical persons, from buying votes from voters and from disseminating false information about other candidates.

Article 42

For the violation of the regulations stated in Articles 35, 37, 39, and 41 of this law, a candidate for deputy will be removed from the list of candidates by the commission which registered him and when the violation constitutes a penal act he is responsible on the basis of the provisions stated in the Penal Code.

Article 43

Candidates for deputy in the People's Assembly keep their jobs and receive their full pay when they discharge their obligations as candidates during the election campaign.

Article 44

Candidates for deputy in the People's Assembly cannot be detained for questioning, arrested, or held in detention without the approval of the Presidium of the People's Assembly, except when they commit an obviously serious crime.

CHAPTER VII

Voting

Article 45

People's Assembly elections take place on a day which is not a workday throughout the People's Socialist Republic of Albania.

The election date is set by the Presidium of the People's Assembly at least two months before election day.

Article 46

The voting takes place on the specified election day from 0600 hours to 2000 hours.

Article 47

On election day, before 0600, the chairman of the voting center commission, in the presence of the members of this commission, checks the ballot boxes and the list of voters, and, if he finds these in order, he closes and seals the ballot boxes and invites the voters to begin voting.

The chairman of the voting center commission is responsible for keeping peace and order in the voting center. His orders must be followed by all.

Article 48

On election day, no propaganda for the candidates is allowed.

Article 49

In every voting center, private rooms or booths are set up for the voters. No one can enter this room, except for members of the voting center commission.

Article 50

Every voter votes by coming to the voting center and going into the private room or booth.

The voter has the right to vote for the candidate he wants.

Voting takes place by putting the ballot into the ballot box.

Article 51

A voter who, because of sickness or for any other reason, cannot come to the voting center, has the right to request that the voting center commission send him, by means of a member of the commission, a second ballot box located in every voting center, which he will use to vote.

Article 52

Any voter who does not know how to read or write or who has a physical handicap has the right to ask any other voter for assistance in the private room or booth.

Article 53

The ballots are printed according to the model set by the Presidium of the People's Assembly.

Article 54

Persons who present themselves for voting on the basis of voting certificates issued in accordance with this law are registered at the bottom of the list of voters by the voting center commission.

CHAPTER VIII

Certification of the Results of the Elections

Article 55

At 2000 hours on election day, the chairman of the voting center commission announces that the voting is

concluded and the commission keeps an official record of the number of ballots which are unused. Then the ballot box is opened.

Article 56

Expressly for this purpose by their organs, as well as representatives of the independent candidates, the press, radio and television, and the news agencies have the right to be present during the counting of votes by the voting center commission and the election commission.

Article 57

The voting center commission compares the number of ballots cast with the number of voters who have taken ballots on the basis of the list of voters and it totals the votes for each candidate.

Article 58

Ballots are invalid:

- a) when the ballot is not the prescribed type;
- b) when the names of more than one candidate are left on the ballot;
- c) when the names of candidates are crossed out and others are put in their place, without indicating their father's name;
- ch) when the name of the candidate is crossed out and in its place there is written the name of another person who does not have the right to vote, who is a minor, who is dead, etc.;
- d) when the ballot is so soiled that it is impossible to tell how it is marked.

Article 59

The voting center keeps an official record of the voting in accordance with the prescribed form, which, after it is signed by the chairman and secretary of the commission, is immediately sent to the election commission of the zone.

The voting center commission sends other election documents for safekeeping to the executive committee of the district people's council while the voting center commission of the sector sends them for safekeeping to the people's council of the city or its executive committee or to the executive committee of the people's council of the region.

Article 60

The election commission of the zone counts the votes on the basis of the official reports on the voting sent by the voting center commissions and checks the number of votes cast for each candidate for deputy.

Article 61

The election commission of the zone keeps an official record in two copies which is signed by the secretary of the commission.

A copy of the official record is sent immediately to the Central Election Commission. The second copy of the official record and other election documents are sent for safekeeping to the executive committee of the district or city people's council.

Article 62

After the votes are counted and the official record is signed, the chairman of the elections commission of the zone announces the results of the election at a meeting of the commission.

Article 63

The chairman of the election commission of the zone gives the candidate elected a certificate attesting to his election as a deputy of the People's Assembly.

Article 64

The candidate who gets more than one-half of all the valid votes cast in the election zone (the absolute majority) on the first ballot is elected deputy in the People's Assembly.

Article 65

When two or more candidates are registered in the election zone and none of them has received the absolute majority of votes on the first ballot, the election commission notes this in the official record and, at the same time, orders a second balloting no later than a week after the first vote.

Article 66

When there are more than two candidates on the ballot, in the second balloting, the voters will vote for one of the two candidates who have received the most votes, while, when there are only two candidates on the ballot, they will both be on the second ballot. In both cases, in order to be listed on the second ballot, the candidate must get more than 25 percent of the valid votes cast into the voting box.

At the end of the second ballot, the candidate who has received more valid votes than the other candidate (a relative majority) is elected.

The candidates are registered within four days of the conclusion of the first balloting.

Article 67

Other elections with new candidates are held:

1. When, in the first balloting, none of the candidates nominated gets more than 25 percent of the valid votes;

2. When, in the first balloting, only one of the nominated candidates gets more than 25 percent of the valid votes. This candidate remains on the ballot for the new elections.

3. Elections with new candidates take place no later than a week after the first balloting.

Article 68

If the number of votes cast in an election zone is less than one-half the number of voters who have the right to vote in this zone, the election commission in this zone notes this fact in the official record and orders that elections be held again, no later than two weeks after the first balloting.

The new elections take place on the basis of lists of voters drawn up for the first elections and in accordance with the provisions of this law.

Article 69

The candidate concerned can appeal to the Supreme Court in regard to the decision of the Central Election

Commission on the results of the elections. The Court examines the complaint and, within three days, issues a final decision. The decision is announced to the Commission for People's Assembly Mandates.

Article 70

If a position of deputy in the People's Assembly is vacant, the Presidium of the People's Assembly calls for elections for a new deputy in the respective election zone.

CHAPTER IX

Final Provisions

Article 71

Law No. 4121, of 17 March 1966, "On People's Councils Elections," is abrogated.

Article 72

This law goes into effect immediately.

Text of 1974 Customs Law, Recent Amendments**Customs Law**

91CH0390A Prague HOSPODARSKE NOVINY
(supplement) in Czech 7 Feb 91 pp 1-12

["Text" of Customs Law No. 44/1974 Collection of Laws [Sb.], dated 24 April 1974, with amendments and supplements implemented by Law No. 117/1983 Sb., dated 26 October 1990, and Law No. 5/1991 Sb., dated 5 December 1990; changes and supplements to the Customs Law stemming from Law No. 5/1991 Sb. are printed in boldface]

[Text] The Federal Assembly of the Czech and Slovak Federative Republic has agreed on the following law:

Section 1 Purpose of Customs Law

The purpose of the Customs Law is to adjust customs control over imports, exports, and transit shipments of goods and adjust customs statistics, set the rights and obligations of organs of the customs administration, as well as of physical and legal entities during customs control and to protect the interests of the Czech and Slovak Federal Republic with respect to imports, exports, and transit shipments of goods.

CHAPTER ONE**Organs of Customs Administration and Their Organization****Section 2 The Federal Ministry of Foreign Trade and the Central Customs Administration**

1. The Federal Ministry of Foreign Trade carries out its activities in matters pertaining to customs, customs policy, and customs tariffs. A special component of the Federal Ministry of Foreign Trade for the execution of these activities is the Central Customs Administration.

2. The Central Customs Administration is headed by a director general. His deputy is the deputy director general of the Central Customs Administration.

3. If the director general of the Central Customs Administration is a citizen of the Czech Republic, the deputy director general of the Central Customs Administration shall be a citizen of the Slovak Republic, and vice versa.

4. The director general of the Central Customs Administration and his deputy are appointed and recalled by the minister of foreign trade of the Czech and Slovak Federal Republic.

Section 3 Customs Directorates

1. The Customs Directorate for the Czech Republic and the Customs Directorate for the Slovak Republic (hereinafter referred to only as "Customs Directorate") act as organs of the Central Customs Administration for the territories of the individual republics.

2. The Customs Directorate is headed by a director who is appointed and recalled by the minister of foreign trade of the Czech and Slovak Federal Republic.

Section 4 Customhouses

1. Customhouses are executive organs of the Customs Administration.

2. Customhouses are established and their jurisdictions determined by the federal minister of foreign trade, in agreement with appropriate central organs of the state administration of the Czech and Slovak Federal Republic and of the individual republics. **The Federal Ministry of Foreign Trade can establish customs branch offices as components of individual customhouses or, where appropriate, even other organizational components. The customs police function as an organizational component of customhouses.**

3. Customhouses on the territory of the Czech Republic are directly subordinated to the Customs Directorate for the Czech Republic; customhouses on the territory of the Slovak Republic are directly subordinated to the Customs Directorate for the Slovak Republic.

4. Customhouses are headed by a director, who is appointed and recalled by the director of the appropriate Customs Directorate.

Section 5

1. Customhouses at state frontiers are border customhouses. Customhouses in ports, at airports, and at other locations are also considered to be border customhouses to the extent to which they conduct entry and exit customs control. The remaining customhouses are internal customs facilities.

2. The listing of customs facilities, customs branches, as well as territorial customs districts is published by the Federal Ministry of Foreign Trade.

Activities Engaged in by the Central Customs Administration, by the Customs Directorates, and by Customhouses**Section 6**

The Central Customs Administration:

a) Directs and controls the activities of the Customs Directorates.

b) Supports the role of the Federal Ministry of Foreign Trade in the area of customs matters, customs policy, and customs tariffs.

c) Assures the collection of data and the processing of information regarding the export and import of goods.

d) Supports tasks in the area of the fight against smuggling.

Section 7

The Customs Directorates:

a) Direct and control customhouses on the territory of the republic.

b) Cooperate with state organs of the republic in the event the implementation of this law impacts on their activities.

Section 8

1. Customhouses:

a) Conduct customs control in the case of imports, exports, and transit shipments of goods.

b) Make decisions regarding the passage of imported, exported, or transit-shipped goods.

c) Determine and collect customs duties.

d) Handle customs violations.

e) Make decisions regarding the assessment of fines against organizations for violating customs regulations.

f) Within the customs border region, are authorized to demand that physical entities prove their identities by a credible method;

g) Exercise oversight and vigilance over the movement of persons, goods, and transport media within the customs border area.

h) Regulate the movement of persons and transport media and assure the maintenance of public order in the customs area.

ch) Search for goods which may have escaped customs control.

i) Implement tasks to struggle against smuggling.

j) Fulfill other tasks stipulated by this law.

2. To fulfill the tasks listed in Paragraph 1 above, members of the Customs Administration are authorized to demand that physical persons prove their identity by a credible method.

Section 8a

Organs of the Customs Administration fulfill additional tasks stipulated by the generally binding legal regulations.

Cooperation of Customs Administration Organs With Other Organs

Section 9

Organs of the Customs Administration:

a) Communicate to state organs any cases involving the export and import of goods in which taxes, other payments, or surcharges have not been paid according to special regulations.

b) Pass information on imported or exported goods which could be subject to notary fees to the state notary system.

Section 10

1. State organs:

a) Shall render universal and effective aid to organs of the Customs Administration in determining goods which are imported, exported, or transit shipped in violation of this law.

b) Shall tell organs of the Customs Administration of cases of violation of this law, to the extent to which they gain knowledge of these cases during the execution of their duties.

c) Shall turn over to organs of the Customs Administration goods for purposes of conducting proceedings in accordance with this law.

2. Offices involved in criminal proceedings shall, upon conclusion of those criminal proceedings, turn over to the customs authorities goods which are subject to customs control.

Members of the Customs Administration

Section 11

1. Members of the Customs Administration are employees of customhouses, Customs Directorate, and of the Central Customs Administration who, in accordance with their work agreements, fulfill the tasks stipulated by this law.

2. A Czechoslovak citizen may be a member of the Customs Administration provided:

a) he has an unblemished record;

b) fulfills health requirements;

c) fulfills the stipulated qualification requirements;

d) and renders the prescribed official oath.

Section 12

1. A member of the Customs Administration is obligated to render an oath, the text of which is as follows:

"I promise on my honor and conscience to be faithful to the Czech and Slovak Federal Republic.

"I promise that I shall observe the Constitution, the laws, and any other generally binding legal regulations. I shall execute my duties properly, conscientiously, and impartially, and in executing my authorities, I shall protect the interests of the Czech and Slovak Federal Republic as well as the legal rights of citizens; I shall take care to keep an unblemished record and maintain secrecy."

2. A member of the Customs Administration shall confirm the taking of this official oath with his signature.

Section 13

1. The system of functions, ranks, pay, and bonuses, qualification requirements, and prerequisites for members of the Customs Administration are stipulated by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Labor and Social Security by proclamation.

2. The Federal Ministry of Foreign Trade shall determine the official uniform to be worn by members of the Customs Administration and the way it is to be worn.

3. The Federal Ministry of Foreign Trade, in agreement with the Ministries of Health of the Czech Republic and the Slovak Republic, shall adjust, by legal regulation, the health prerequisites for members of the Customs Administration and its organizations and the carrying out of health services within the Customs Administration.

Section 14

1. Members of the Customs Administration are authorized to carry arms at locations and under circumstances which are stipulated by proclamation by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of the Interior.

2. A member of the Customs Administration who is authorized to carry arms in accordance with Paragraph 1 above may only use this weapon in his execution of customs control in the following cases:

a) To ward off an attack against his person or to negate a threat of such an attack or to thwart an attack on the life of another person.

b) To prevent a dangerous perpetrator from fleeing at the customs crossing point.

c) To prevent the flight of a person who, within the customs border area, is attempting to evade customs control.

d) To force a transport medium to halt within the customs border area.

3. A member of the Customs Administration may use his weapon in accordance with Paragraph 2, b) through d), within the customs border area to a depth of 1 km from the state border or within the customs area of the border customhouse provided the objective of the intervention is not achieved, either following a repeated challenge, a warning, and the firing of a warning shot into the air. In using his weapon, the member of the Customs Administration is obligated to exercise all necessary care, particularly to see to it that the life and health of other persons is not endangered, and exercise maximum care with respect to the life and health of the person against whom he is directing the intervention.

4. A member of the Customs Administration may not use his weapon where the objective of his intervention can be achieved by lesser means.

5. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of the Interior, shall announce the conditions, type, and method of weapons use and the conditions, type, and method of the use of lesser means by members of the Customs Administration.

Section 15 Secrecy Obligation

1. Members of the Customs Administration and other employees of the Customs Administration are obligated to maintain secrecy with regard to matters which come to their attention in the fulfillment of their work obligations.

2. The Federal Ministry of Foreign Trade, the Customs Directorate, or customhouses may relieve a member of the Customs Administration or another employee of the Customs Administration of the obligation listed in Paragraph 1 above.

CHAPTER TWO

Customs Territory, Customs Border Region, and Free Customs Zone

Customs Territory and Customs Border Region

Section 16

The territory of the Czech and Slovak Federal Republic is a unified customs territory.

Section 17

1. The customs border region is a territorial strip extending a distance of 15 km from the state border. Communities through which the line delimiting the border region runs nor communities within the customs border region, which are connected with the customs crossing points of railroad tracks or highways, are not [as published] considered to be components of the customs border region.

2. The remainder of the territory, which is not part of the customs border region, is considered to be the inland customs area.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of the Interior, shall stipulate by announcement the details pertaining to outlining the customs border region.

Free Customs Zone

Section 18

1. In the interest of developing international economic collaboration, particularly in the interest of foreign trade, a free customs zone may be established on the territory of the Czech and Slovak Federal Republic.

2. A free customs zone is understood to be part of the territory of the Czech and Slovak Federal Republic in which imported goods are considered as if they were on customs territory from the standpoint of duties, taxes, and payments and are not subject to standard customs control.

3. The free customs zone serves the following purposes:

a) To store or finish goods or to subject goods to other similar manipulations (commercial free custom zone).

b) To reprocess, adjust, repair, or produce goods (industrial free customs zone).

4. Goods are permitted to enter the free customs zone without requiring the deposit of customs guarantees.

Section 19

1. A free customs zone is established by the Federal Ministry of Foreign Trade.

2. Conditions for the establishment of a free customs zone, the type of goods permitted to be imported to it, and the method of customs control within a free customs zone are determined by the Federal Ministry of Foreign Trade, in agreement with participating central organs, by proclamation.

3. The provisions of this law and the accompanying implementing regulations regarding the storage of goods in free customs zones are not applicable to the storage of goods in customs warehouses and to temporary storage of goods.

CHAPTER THREE

Customs Control

Part One General Provisions

Section 20

Customs control constitutes the aggregate of tasks and measures designed to assure the observation of laws and other generally binding legal regulations, the execution of which falls to the organs of the Customs Administration.

Section 21

All imported, exported, and transit-shipped goods are subject to customs control.

Goods

Section 22

1. For purposes of this law, goods are defined as any material assets, with the exception of items and other values, the import and export of which is controlled by regulations covering the foreign exchange economy (Foreign Exchange Law No. 528/1990 Collection of Laws [Sb.]) and electric energy.

2. Of the items which are controlled by regulations covering the foreign exchange economy with respect to their import and export, the importing, exporting, and transit shipment of gold for industrial purposes is subject to customs control.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall announce what is understood to be gold for industrial purposes.

Section 23

(Omitted)

Section 24

Goods are subject to customs control:

a) When imported—from the time of the entry of the goods upon the territory of the Czech and Slovak Federal Republic through the time a customhouse permits the goods to enter upon free circulation within the country or until the goods are reexported abroad following their blocked circulation within the country.

b) When exported—from the time the proposal for letting the goods pass is submitted to a customhouse until the time the goods cross the state border or as long as the goods, which were permitted to enter blocked circulation abroad, are not reimported to this country or as long as a customhouse does not permit the goods to enter free circulation abroad.

c) When transit shipped—from the time the goods enter the territory of the Czech and Slovak Federal Republic until they pass to a foreign country.

Part Two Execution of Customs Control

Customs Inspection

Section 25

1. Customs control can be implemented in the form of customs inspection of the goods involved, by checking the goods and documents, by checking shipping manifests and accompanying lists, and by other appropriate methods stipulated by proclamation by the Federal Ministry of Foreign Trade.

2. The Federal Ministry of Foreign Trade shall establish, by proclamation, the details covering the execution of customs control.

Section 26

1. Customs inspection shall determine the type, quantity, and other facts pertaining to the goods involved necessary to judge whether the import, export, or transit shipment of the goods is in accordance with this law.

2. In executing customs inspection, constitutional and other legal regulations regarding the protection of personal freedom and the confidentiality of the mails must be observed.

Section 27

1. Within the framework of customs inspection, members of the Customs Administration are empowered to perform body searches in the event there is cause to suspect that an individual may be concealing goods on his or her person while crossing the state border.

2. A body search may not be undertaken until such times as the demand by members of the Customs Administration that the suspicious person hand over the concealed goods has produced no results.

Section 28

The customs inspection of mail shipments is conducted only in the event there is a well-founded suspicion that the mail shipment contains not only written communications, but also goods.

Section 29

Exemption From Customs Inspection

1. The following are not subject to customs inspection:

a) Goods imported and exported as a result of travel from abroad or to a foreign country by representatives of the Czech and Slovak Federal Republic, as well as by representatives of the Czech Republic and of the Slovak Republic.

b) Goods imported, exported, or transit shipped on the occasion of travel from abroad or travel to a foreign country by representatives of other nations and by other individuals which enjoy the advantages and immunities stipulated by international agreements.

2. The following are also not subject to customs inspection:

a) Diplomatic mail of the Federal Ministry of Foreign Affairs and of Czechoslovak representative offices and diplomatic mail exempt from customs inspection in accordance with international treaties.

b) Goods which are individually exempt from inspection by the Federal Ministry of Foreign Trade.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Foreign Affairs, shall stipulate, by proclamation, the detailed outline of the circle of individuals and cases in which goods are exempt from customs inspection.

Section 30

Direct Supervision and Customs Bonding

1. Goods subject to customs control can be placed either under the direct supervision of members of the Customs Administration or placed into customs bond.

2. A customs bond is understood to be the securing of goods in transport media, containers, packages, and rooms by the affixing of wax or wire seals, markings, or other means to make it impossible to remove goods from them or to insert goods into them without showing traces of the fact that the secured room has been broken into or that the customs closure has been damaged.

Section 30a

Customs Statistics

Organs of the Customs Administration shall assure the collection of data and the processing of information regarding exports and imports of goods on the basis of documents which have been prescribed for use in customs proceedings. The method of keeping customs statistics will be determined by the Federal Ministry of Foreign Trade, in agreement with the Federal Statistical Office, by proclamation.

Part Three Authorities of Members of the Customs Administration in Executing Customs Control

Section 31

1. Members of the Customs Administration must be given access to goods subject to customs control; at the same time, constitutional and other legal regulations regarding the inviolability of personal residences must be observed. Members of the Customs Administration may look into documents pertaining to such goods for a period of three years from the day the goods were released, make copies of such documents, require necessary explanations, as well as create appropriate documentation.

2. Physical and legal entities which become subject to customs control are obligated to tolerate those actions which are essential to the execution of such control.

3. Physical and legal entities are obligated to render all essential cooperation to members of the Customs Administration in the execution of customs control.

4. Customs control must not be humiliating in terms of personal dignity.

Section 32

To the extent to which an international agreement, which is binding upon the Czech and Slovak Federal Republic, does not state otherwise, members of the Customs Administration may stop individuals and transport media, conduct customs examination of baggage, the transport media involved, their cargoes, and shipping and accompanying documents only within the customs border region.

CHAPTER FOUR

Transportation of Goods Across the State Border

Section 33 Reporting of Goods at the State Border

Individuals and organizations engaged in transporting goods across the state border are obligated to report the goods in question to the border customhouse and to present the goods together with documents pertaining to their import, export, and transit shipment.

Section 34 Customs Passages and Customs Crossings

1. The transportation of goods across state borders may only be accomplished along customs passages and customs crossing points.
2. Customs passages are designated as sectors of railroad lines, highways, and waterways leading from the customs crossing point to the border customhouse, and in the case of air transportation, air routes between state borders and the customs airfield.
3. Customs passages shall be stipulated by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of the Interior.
4. The transportation of goods along a customs passage must be accomplished without delay, without altering the cargo, and without deviating from the customs passageway.
5. A customs crossing point is the location set aside for the crossing of individuals and for the transport of goods across the state border.
6. The Federal Ministry of Foreign Trade may permit the transport of goods across the state border outside of customs crossing points in individual cases and can stipulate the cases in which such a permission may be granted by the border customhouse.
7. The nearest border customhouse may permit the transportation of goods to and from a customs crossing point along routes other than customs passageways.

Section 35 Transportation Media

1. In transporting goods from abroad or to a foreign country, only such transport media which do not contain secret compartments or areas which are difficult to uncover may be used.
2. Closable areas of transport media intended for the transportation of goods under customs seal must be provided with devices which facilitate the ready and effective attachment of customs seals.
3. Transport media must be so equipped that, after the attachment of customs seals, it is impossible to extract any goods from them or insert any goods into them without leaving behind visible traces of such actions.

Duties of Transport Organizations and the Postal Authorities

Section 36

1. Transport organizations and the postal authorities have the duty of making it possible for customhouses to execute customs control within transport media, within operating warehouses and at other locations which house exported, imported, or transit-shipped merchandise.
2. The Federal Ministry of Foreign Trade, together with the Federal Ministry of Transportation and the Federal

Ministry of Communications, shall issue a proclamation setting forth the details of the procedures to be observed by organizations during customs control of goods shipped by transport organizations and the postal authorities, as well as details regarding the equipment of installations intended for the transportation or storage of goods subject to customs control, and rooms and areas required for the conduct of customs control.

Section 37

1. Customhouses shall agree with shipping organizations and the postal authorities on the conditions for the execution of customs control in such a way as to not disrupt the operations of transport organizations and postal authorities to a greater extent than absolutely necessary.
2. Transport organizations shall, in agreement with the appropriate Customs Directorate, stipulate the necessary waiting time for transport media engaged in regular passenger and freight transportation at the customs crossing point to facilitate the execution of customs control.
3. Customhouses are not responsible for damage caused by delaying the transport medium as a result of customs control.

Section 38

Customhouses shall control whether shipping organizations and the postal authorities are fulfilling their duties according to this law and the regulations issued as a result of it during the transportation of goods from abroad or to a foreign country.

CHAPTER FIVE

Customs Duties

Part One Customs Duties and Their Types

Section 39 Dutiable Goods

1. All **imported** goods with the exception of items which are **expressly** identified as **duty-free** goods are subject to import duties.
2. Exported goods are subject to export duties **only** to the extent that the customs tariff table specifically so states.
3. Goods which are specifically identified in international treaties as **duty-free** are not subject to customs duties.

Tariff Tables**Section 40****(Omitted)****Section 41**

1. Customs tariff rates, the basis for assessing duties and the customs rate tables are issued by the Government of the Czech and Slovak Federal Republic by decree.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall establish, by proclamation, those cases in which a unified rate will be applied in assessing customs duties and their levels.

3. The statistical and classification units of the customs tariff table shall be established, by proclamation, by the Federal Ministry of Foreign Trade, in agreement with the Federal Statistical Office.

Section 42 Decisions as to Classification of Goods

1. In the event of disputes regarding the nomenclature, the tariff classification of goods, such classification of goods shall be decided by the Federal Ministry of Foreign Trade, at the request of a participant in a customs proceeding.

2. The Federal Ministry of Foreign Trade shall, by proclamation, stipulate the procedure for submitting a proposal to decide on the nomenclature, the rate table classification of merchandise, as well as the effects stemming from the decision regarding these items.

Section 43 Contractual Customs Duties

1. Contractual customs duties are collected on merchandise in cases which are stipulated in international agreements regarding the mutual rendering of customs advantages.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances and the Federal Ministry of Foreign Affairs, may stipulate that contractual customs duties be collected even for goods originating in a country with which an agreement on the mutual rendition of customs advantages has not been concluded.

Section 44 Exemption From Customs Duties

1. Goods which are exempt from customs inspection upon import or export are exempt from customs duties, as are goods where such an exemption is required by the public interest.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances and the Federal Ministry of Foreign Affairs, shall stipulate, by proclamation, those cases where goods are exempt from customs duties, as well as the conditions according to which the goods were exempt from customs duties.

3. If a country does not exempt goods imported from the Czech and Slovak Federal Republic from customs duties commensurate with the extent stipulated by the proclamation of the Federal Ministry of Foreign Trade, then the Federal Ministry of Foreign Trade may limit or reject the exemption of customs duties on goods imported from that country.

Section 45 Retaliatory Customs Duties

The Government of the Czech and Slovak Federal Republic may, for reasons of economic reprisal, stipulate that, for a temporary period, imports of goods from countries which discriminate against the Czech and Slovak Federal Republic in economic relationships be charged a surcharge on top of the standard customs rates or, possibly, introduce special customs rates for goods which are not subject to customs duties according to the customs table.

Part Two Entitlement of the State to Customs Duties**Section 46 Origin of the Entitlement of the State to Customs Duties**

The entitlement of the state to customs duties originates at the moment goods are under customs control.

Section 47 Assessment of Customs Duties

1. Customs duties are assessed according to the status of the goods and the regulations applicable on the day which marks the beginning of the time the goods are under customs control.

2. In the event goods have escaped customs control, customs duties are assessed in accordance with the status of the goods and resolutions valid at the time the goods were transported across the state border. If it is not possible to ascertain when the goods were transported across the state border, customs duties are assessed according to the status of the goods and regulations valid at the time it was determined that the goods were removed from customs control.

3. When goods are permitted to pass into the circulation of record, it is possible to fully or partially exempt goods from import duties.

4. In the event goods, permitted to enter the circulation of record abroad, undergo a change in value as a result of processing, adjustment, or repair, duties are assessed upon the reimport of the goods based on the added value resulting from their processing, adjustment, or repair.

5. In the event goods, permitted to enter the domestic circulation of record, are subject to change with respect to their value as a result of temporary use, the customs duties assessed as a result of reexport of the goods will be based on their lowered value.

6. In the event customs duties are assessed on goods in accordance with their value and in the event a participant in a customs proceeding fails to document this value or makes statements which do not reflect the actual price of

the goods, a customhouse shall assess customs duties in accordance with the international treaty by which the Czech and Slovak Federal Republic is bound. The costs of this proceeding are to be borne by a participant in a customs proceeding.

7. The Federal Ministry of Foreign Trade, in agreement with the appropriate central organs, shall stipulate, by proclamation, the detailed adjustments pertaining to the assessment of customs duties, pertaining to the collection of customs duties on goods permitted to enter the circulation of record, as well as cases where the assessed duties may be collected by the postal authorities.

Section 48 Payment of Duties

Customs duties are payable within 30 days of the time a participant in a customs proceeding has been notified of the level of the assessed duty.

Section 49 Deferred Payments

1. A customhouse may permit the deferral of the payment of customs duties. Interest is paid on deferred payments of customs duties and on late payments.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall stipulate, by proclamation, the level of interest chargeable for deferring customs payments and for late customs payments, as well as the conditions and time period permitted for the deferral of payments.

Section 50 Obligations To Pay Customs Duties

1. A participant in a customs proceeding, to whom goods subject to customs duties have been released, is obligated to pay customs duties.

2. A participant in a customs proceeding is obligated to make supplemental payments of customs duties at the level of duty concessions made, if, after the goods have been released to enter limited free circulation, he fails to fulfill the duties stipulated by a customhouse or in the event that customhouse, at his suggestion, rescinds the conditions according to which the goods were released to enter limited free circulation.

3. Customs duties shall be paid together with and the same as a participant in a customs proceeding by anyone who:

a) Imports or exports goods in conflict with this law and participates in the unpermitted import or export of goods.

b) Handles goods in conflict with this law.

c) Acquires goods on which customs duties were not paid during their import or export.

4. Anyone who acquires goods from anyone else on which customs duties were not paid during import or export is obligated to pay customs duties only to the extent that he knew or had to know that the goods had

escaped customs control or that the goods have been unjustifiably misappropriated.

Section 51 Customs Lien Law

1. Pending the payment of customs duties, imported, exported, or transit-shipped goods are subject to the customs lien law, to the extent to which they are in the possession of a customhouse, a shipping organization, the postal authorities, or in the possession of the person obligated to pay customs duties. This does not apply to goods which are classified as national property.

2. The customs lien law pertaining to goods ends with the termination of the state entitlement to collect customs duties.

Section 52 Customs Duty Deposits

1. To make sure that imported, exported, or transit-shipped goods will not be taken away from customs control or that goods under customs control will not be handled in conflict with this law, a customhouse may require the deposit of a customs duty deposit.

2. A customhouse is entitled to require the deposit of a customs duty surety, in the case of imports, up to the level of the import duties plus 10 percent as well as the deposit of other taxes and payments collectible upon the importation and export of goods up to the level of the customs duty or based on the price of the goods involved. In the case of goods the export of which is prohibited or restricted, a customs duty surety payment may be demanded and can be up to five times the actual level of the customs duty or the price of the goods involved.

3. In the event a participant in a customs proceeding fails to adhere to the duties stipulated in the customs proceeding, the deposited customs surety is used to pay the customs duties, to pay transportation costs, warehousing costs, postal fees, fines assigned according to this law, and the costs of the proceeding. Any remainder of the deposited customs surety is then returned to a participant in the customs proceeding.

Section 53 Expiration of the State's Entitlement To Collect Customs Duties

The state's entitlement to customs duties expires:

a) upon their payment;

b) upon their being forgiven;

c) upon their being settled from the proceeds of the sale of the goods involved;

d) upon their being settled as a result of the deposited customs surety;

e) upon surrender of the goods to the state;

f) upon forfeiture of the goods to benefit the state;

g) upon confiscation of the goods;

h) when the state fails to enforce its rights;

i) by the reimport or reexport of goods released to restricted circulation where such goods had been completely exempt from customs duties.

Section 54 Forgiveness of Customs Duties and Reduction of Customs Duties

1. In the event payment of customs duties would lead to hardships, the customs duties must be completely or partially forgiven.

2. A customhouse shall make decisions regarding the forgiveness or reduction of customs duties.

3. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall stipulate, by proclamation, the details regarding forgiveness or reduction of customs duties.

Section 55 Failure To Enforce Rights

1. The customs duties (or any surcharges) may not be assessed or collected after the expiration of three years from the end of the calendar year in which an entitlement to collect customs duties came into being.

2. In the event goods escaped customs control or in the event goods were handled in conflict with the conditions under which they were released, it is neither possible to assess nor collect customs duties (surcharges) after the expiration of five years from the end of the calendar year in which the entitlement to collect customs duties originated.

3. The end of the calendar year in which a participant in a customs proceeding was notified of an action designed to collect customs duties (surcharges) or in which he was permitted to defer the payment of customs duties (surcharges) marks the beginning of a new three-year term. However, neither customs duties (surcharges) may be assessed or collected if 10 years have passed since the end of the calendar year in which the entitlement to collect customs duties came into being.

4. An action designed to collect customs duties (surcharges) is also a written reminder to pay customs duties, delivered to a participant.

Refunding of Customs Duties

Section 56

1. A customhouse shall refund customs duties in the event they were paid by a person not obligated to do so.

2. A customhouse will also refund paid customs duties in the event the export of goods released to free circulation abroad does not take place.

3. A customhouse shall return any excess payments in the event more was paid in customs duties than was owed.

4. A customhouse may return import duties in the event goods which were released for free circulation within the country are reexported in an unchanged status within one year from the end of the calendar year in which they were imported.

5. A customhouse may return export duties if the goods which were released into free circulation abroad are reimported in an unchanged status within one year from the end of the calendar year in which they were exported.

Section 57

1. If the customs duty (surcharge) does not exceed 10 Czech korunas [Kcs], a customhouse will not refund it.

2. The participant's entitlement to a refund of customs duties (excess payments) is extinguished if it has not been asserted by the end of the third calendar year following the year in which the entitlement came into being.

CHAPTER SIX

Customs Proceedings

Part One General Provisions

Section 58 Purpose of Customs Proceedings

Within the framework of customs control, customs proceedings are held, the purpose of which is to decide whether import goods, export goods, or transit-shipped goods shall be released and under what conditions.

Section 59 Release of Goods

Goods shall be released provided the import, export, or transit shipment of goods is handled in accordance with regulations which prescribe import, export, or transit shipment prohibitions or restrictions.

Section 60 Local Jurisdiction

1. Customs proceedings are handled by a customhouse to which the goods have been presented.

2. The Federal Ministry of Foreign Trade can, for purposes of speeding up customs proceedings and, thus, the movement of goods across state borders, stipulate, by proclamation, the responsible customhouse.

Section 61 Location of Customs Proceedings

1. Customs proceedings are undertaken at a customhouse or in the customs area. Customs areas are defined as locations housing railroad stations, ports, airfields, and other areas intended for the execution of customs proceedings.

2. The customs area is determined by a customhouse, in agreement with the appropriate organization.

3. At the request of a participant in a customs proceeding, such proceedings can be executed even outside of the customs area.

4. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of Communications, shall stipulate, by proclamation, the conditions under which customs proceedings may be implemented outside of customs areas.

Section 62

1. Customs proceedings may be also implemented aboard a train under way or aboard ship during its navigation.

2. Sectors in which customs proceedings may be implemented on board a moving train or vessel are determined by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation and the Federal Ministry of the Interior.

Section 63 Initiation of Customs Proceedings

Customs proceedings are initiated upon the proposal of a participant in a customs proceeding.

Section 64 Participants in Customs Proceedings

1. A participant in a customs proceeding is the person who is importing, exporting, or transit shipping the goods involved.

2. A participant in a customs proceeding is also the person for whom the imported, exported, or transit-shipped goods are to be released.

Section 65 Agent of the Participant in a Customs Proceeding

1. A participant in a customs proceeding may appoint an agent for purposes of a customs proceeding.

2. The agent of a participant in a customs proceeding shall prove, on the basis of a power of attorney, that he is empowered to represent a participant in a customs proceeding.

3. If a transport organization or the postal service is engaged in shipping goods which are to be subjected to a customs proceeding, these organizations are authorized to undertake the actions necessary for a customs proceeding, provided these actions are not implemented by a participant in a customs proceeding.

Section 66 Proposal To Hold a Customs Proceeding

1. A proposal to hold a customs proceeding is generally submitted in writing. The participant in a customs proceeding is responsible for the correctness of the data appearing in the proposal to hold a customs proceeding. The written proposal to hold a customs proceeding must always be signed by an authorized person.

2. A proposal to hold a customs proceeding must be accompanied by the stipulated documents.

3. The participant in a customs proceeding is entitled to acquire the data necessary for a proposal to hold a customs proceeding by examining the goods under customs supervision.

4. The participant in a customs proceeding may alter a proposal to hold a customs proceeding up to the time the customs examination is initiated. In the course of the customs examination and until the termination of the customs proceeding, the proposal may be altered only in the event the goods involved are to be released to free or restricted circulation or for reimport or reexport.

5. Details regarding the form, content, and substance of a proposal to hold a customs proceeding are stipulated, in the form of a proclamation, by the Federal Ministry of Foreign Trade.

Section 67

Procedures Involved in a Customs Proceeding

1. A participant in a customs proceeding is obligated to present goods for purposes of a customs proceeding, to provide the necessary explanations, and to prepare the goods for customs inspection.

2. In proposing that a customs proceeding be held, a participant in such a proceeding is obligated to notify a customhouse accurately with regard to the imported, exported, or transit-shipped goods and provide all complete details necessary to judge whether the goods may be released to the proposed area of circulation.

3. The Federal Ministry of Foreign Trade shall stipulate, by proclamation, when a customhouse may waive the requirement to present a proposal for a customs proceeding.

Section 68

1. A customs proceeding is conducted with the participation of a participant in a customs proceeding.

2. Without the participation of a participant in a customs proceeding, a customs proceeding may nevertheless be held if a participant in a customs proceeding refuses to participate or if his whereabouts are not known or if there is a danger of delay.

Rulings in Customs Proceedings

Section 69

1. A ruling in a customs proceeding contains particularly the following:

a) A statement as to whether the goods are to be released or not.

b) Conditions under which the goods are released to blocked circulation or conditional free circulation.

c) Information regarding further steps in the event a customhouse does not release the goods.

2. With respect to goods subject to the payment of customs duties, the ruling in a customs proceeding sets the level of the customs duty to be paid and possibly includes a statement indicating that the goods are being released without the imposition of customs duties.

Section 69a

1. A ruling in a customs proceeding shall contain the facts on the basis of which the goods are being released. If not stipulated otherwise, the ruling in a customs proceeding need not be filled out and forwarded in writing. The statement pertaining to the ruling may be noted in the shipping and accompanying documents or on the written proposal to hold a customs proceeding or may be communicated orally.

2. A ruling which does not release goods into the proposed area of circulation and a ruling regarding release of goods to a restricted free area of circulation is made in writing and communicated by delivery of the written ruling.

3. A ruling which is communicated orally or the statement of which is noted in shipping and accompanying documents may not contain conditions which are binding upon a participant of a customs proceeding in the future, with the exception of those conditions which stem directly from the generally binding legal regulations.

4. If the statement on the ruling in a customs proceeding confirms the proposal to hold a customs proceeding which has been submitted in writing, then the contents of this proposal and the actual facts according to which the goods are to be released become part of the decision.

5. The rulings listed in Paragraph 3 above are not subject to the provisions of general regulations on administrative proceedings which adjust the substance of decisions, notifications, and means of rectification (Law No. 71/1967 Sb. regarding administrative proceedings).

Section 70 Handling of Goods

At the request of a participant in a customs proceeding, a customhouse may permit the goods to be handled even prior to the decision on their release. A customhouse will always acquiesce to the request if the reason for not releasing the goods is merely the necessity to determine the origin of the goods, the location of dispatch, the tariff category, or the customs value of the goods involved.

Section 71 Entitlements and Obligations Resulting From a Customs Proceeding

1. The agent of a participant in a customs proceeding is responsible for fulfilling the obligations resulting from the customs proceeding all the way through the notification of the decision and delivery of the goods to a participant in a customs proceeding.

2. At the proposal of a participant in a customs proceeding, a customhouse may permit a third person to

wholly or partially take on the rights and obligations resulting from release of the goods for export, import, or transit shipment.

Section 72 Rescission of Rulings

If goods have been released to enter a free or blocked area of circulation abroad, a customhouse shall, at the proposal of a participant in a customs proceeding, rescind the issued ruling if the goods have not yet crossed the state border. Prior to making this decision, a customhouse may demand that the goods and the required documents be submitted to it.

Inadequate Cooperation on the Part of a Participant in a Customs Proceeding

Section 73

1. In the event a participant in a customs proceeding does not submit a proposal to hold a customs proceeding within two days following the presentation of the goods to a customhouse, a customhouse may store the goods according to Section 80 at his expense and risk or make other provisions to prevent the unauthorized handling of the goods.

2. If the proposal to hold a customs proceeding is not complete or if the participant in a customs proceeding does not present the necessary documents or fails to provide the required explanations, a customhouse will challenge him to augment his proposal for a customs proceeding or to provide the necessary documents or to provide the required explanations by a deadline which it establishes at the time.

3. Failure by a participant in a customs proceeding to heed the challenge shall cause a customhouse to reject the proposal to hold a customs proceeding and to handle the goods as described in Paragraph 1 above.

Section 74

1. If, after expiration of the deadlines listed in Section 73, Paragraphs 1 and 2, above, a proper proposal to hold a customs proceeding has not been received for an additional three days with respect to goods subject to rapid spoilage or within an additional 30 days, a customhouse may sell the goods. In accomplishing the sale, it shall proceed in accordance with Sections 107 and 109 of this law.

2. If the goods have a greater value and are not subject to rapid spoilage, a customhouse is obligated to notify a participant in a customs proceeding of the intended sale in a timely manner.

3. A customhouse may grant a participant in a customs proceeding an appropriate amount of additional time to submit a proposal for a customs proceeding, to augment this proposal, to submit the necessary documents, or to provide the required explanations.

Part Two Methods for Releasing Goods

Free Circulation

Section 75

1. Customhouses shall release imported goods which are intended to remain permanently on the territory of the Czech and Slovak Federal Republic to free circulation within the country.
2. Customhouses shall release exported goods into free circulation abroad if they are to be permanently retained on the territory of another state.
3. **From the standpoint of this law, goods released to free circulation may be handled freely, provided the conditions stipulated in the generally binding regulations imposed as part of the decision regarding their release are fulfilled.**

Section 76

1. If goods, subject to customs duty, are released without the imposition of duty or at a reduced rate of duty, a customhouse may stipulate for a participant of a customs proceeding that the goods may be used only for a certain purpose or that they may not be misappropriated for at least five years from the day the goods were released with this stipulation.
2. Goods released as a result of import in accordance with Paragraph 1 above are considered to be in conditional free circulation within the country and goods released as a result of export are considered to be in conditional free circulation abroad.
3. Customhouses **are empowered to check** whether a participant in a customs proceeding is adhering to conditions stipulated in Paragraph 1 above with respect to goods released to conditional free circulation.

Blocked Circulation

Section 77

1. Goods released to circulation of record, goods that are registered, warehoused, transit shipped, and goods in the process of being transferred are considered to be goods in blocked circulation.
2. In the event goods are released to blocked circulation, a customhouse checks to see whether a participant in a customs proceeding is fulfilling the duties stipulated in a customs proceeding.
3. The Federal Ministry of Foreign Trade stipulates, by proclamation, the details of adjusting the release of goods to blocked circulation.

Section 78

1. Customhouses shall release imported goods to circulation of record within the country provided that it is reexported abroad within the stipulated time.

2. Customhouses shall release exported goods into circulation of record abroad, provided that they are reimported to Czechoslovakia within the stipulated time frame.

3. Goods released to circulation of record may be permanently retained in this country or abroad only following a decision to release the goods into free circulation.

4. If goods released into circulation of record are changed with respect to their value by processing, adjustment, or temporary use, the provisions of this law on free circulation are applied at reimport time or reexport time with respect to the increased or decreased value of the goods involved.

5. The Federal Ministry of Foreign Trade shall stipulate, by proclamation, the purposes for which such goods may be released to circulation of record.

Section 79

1. In cases where subsequent customs proceedings are to be held at another customhouse, a customhouse of record registers the goods involved.
2. The registered goods are under customs control of the registering customhouse until such time as they are presented to the accepting customhouse.
3. At the behest of a border customhouse, the goods may be certified in cases where a customs proceeding would disrupt the flow of traffic across the state border and between border customhouses and if the destination of the goods is another customhouse.
4. A participant in a customs proceeding shall present the certified goods to the receiving customhouse within the stipulated time frame, in an unchanged status, with an undisturbed customs seal, and together with the attached documents. **The certifying customhouse may determine that only documents pertaining to the goods need be presented.**
5. If the transport organization transfers certified goods to another transport organization for shipment, the obligations listed in the previous paragraph pass to every other organization which handles the certified goods.

Section 80

1. **Goods which cannot be certified nor released into free or recorded circulation or cannot be certified for export abroad may be stored temporarily.**
2. **At the initiative of a customhouse, the goods are temporarily stored in cases where no other method is available to prevent their import, export, or transit shipment in conflict with this law.**
3. **At the initiative of a customhouse, the goods in question may also be temporarily stored in cases where:**

a) No proposal to hold a customs proceeding has been received.

b) The submitted proposal for a customs proceeding is incorrect, it is not accompanied by the appropriate documents, or it is otherwise incomplete, in the event this is not a case as outlined in Section 70 above.

c) A participant in a customs proceeding refuses to pay the duty or deposit a customs surety.

4. The goods are temporarily stored in operating warehouses of shipping organizations and the postal authorities, in customs warehouses, or wherever a customhouse permits as a result of its decision to temporarily store the goods.

5. Temporarily stored goods may not be handled in any way which would alter their type or character.

6. A participant in a customs proceeding is liable for storage fees for temporarily stored goods in customs warehouses at levels stipulated by the warehousing rate table.

7. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall stipulate, by proclamation, the rate table for storage charges for goods which are temporarily stored in customs warehouses.

8. The adoption of this law and its implementing regulations as they pertain to temporary storage do not apply to the storage of goods in customs warehouses and free customs zones.

Section 81

1. In the interest of facilitating foreign trade contacts, Czechoslovak as well as foreign legal and physical entities can establish customs warehouses.

2. The customs warehouse shall make decisions regarding the establishment of a customs warehouse and the conditions for its operation on the territory on which such a warehouse is to be established.

3. This law and its implementing regulations regarding the storage of goods in customs warehouses does not apply to temporarily stored goods and goods stored in free customs zones.

4. Conditions for establishing customs warehouses, the types of customs warehouses, the types of goods which can be stored in customs warehouses, and the method of customs control in customs warehouses is regulated by the Federal Ministry of Foreign Trade by proclamation.

Section 82

1. Customhouses shall permit goods in transit, which are transported from abroad through the territory of the Czech and Slovak Federal Republic, to move to a foreign country.

2. The border customhouse at which the goods were transported into the Czech and Slovak Federal Republic shall certify the transit-shipped goods to the border customhouse through which the goods are to be shipped abroad.

3. Customs inspection of transit-shipped goods will be conducted by the border customhouse if the suspicion exists that the transit shipment of goods is accomplished in conflict with this law.

Section 83

1. A customhouse shall permit goods transported from the territory of the Czech and Slovak Federal Republic via the territory of another state to be shipped back to the territory of the Czech and Slovak Federal Republic.

2. This shipping contact may be accomplished only in sectors and under conditions which are stipulated by the Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Transportation.

3. Goods-in-transit contacts are under the customs control of the entry border customhouse until they are presented to the entry border customhouse for a customs proceeding.

4. A participant in a customs proceeding is obligated to present goods transported as a result of a shipping contact to the entry border customhouse within the stipulated time limit, in an unchanged status, with the customs seal intact, and with the attached documents.

CHAPTER SEVEN

Customs Violations

Section 84 Customs Infringement

A customs infringement is an actionable act as listed in Sections 85 through 87 of this law, provided a criminal action is not involved.

Section 85 Violation of Regulations Covering the Circulation of Goods in Contacts With Foreign Countries

1. A customs infringement tantamount to violating regulations covering the circulation of goods in contacts with foreign countries is committed by a person who:

a) Fails to report, to a customhouse, any goods crossing the state border.

b) Imports or exports goods with permission which was granted by the appropriate organs on the basis of false, altered, or forged documents or incorrect data.

c) Causes goods to be released to him on the basis of incorrect data or untrue data.

d) Without authorization, misappropriates goods in restricted circulation.

e) Purchases or acquires goods in restricted circulation through another method without being entitled to do so.

f) Engages in unauthorized imports or exports of goods.

2. The fine assessed for violating regulations covering the circulation of goods in contacts with foreign countries may be as high as the value of the goods, but may not exceed a maximum of Kcs25,000.

Section 86 Underpayment of Duties

1. The misdemeanor of underpaying duties is committed by a person who:

a) Imports or exports goods without paying duty on them.

b) Misappropriates goods in restricted circulation or in conditional free circulation without paying duty.

c) Lists incorrect data to support the assessment of duty in a customs proceeding held with respect to the import or export of goods.

2. The fine levied for underpaying customs duties can be as high as double the customs duty, but may not exceed Kcs25,000.

Section 87 Rendering Customs Control More Difficult

1. The misdemeanor of rendering customs control more difficult is committed by a person who:

a) Forges customs or other documents regarding the imported, exported, or transit-shipped goods.

b) Provides incorrect data on the imported, exported, or transit-shipped goods during customs control.

c) Fails to adhere to conditions stipulated for goods released to restricted circulation or conditional free circulation.

d) Transports or harbors goods which have escaped customs control.

e) Releases goods from a customs warehouse or an operating warehouse without the approval of the Customs Administration.

f) Violates the customs seal affixed to shipments, transport media, or rooms which house goods subject to customs control.

g) Obstructs organs of the Customs Administration in the execution of their activities.

2. The fine for making customs control more difficult may be as high as Kcs5,000.

Section 88 Penalties

1. A customhouse may mete out any of the following types of punishments for a customs misdemeanor:

a) Reprimand

b) Fine at a level listed in Sections 85, 86, or 87 above

c) Forfeiture of the goods

2. If the individual has committed numerous customs misdemeanors through his conduct, a customhouse shall assess a fine only in line with that provision which pertains to the most strictly punishable misdemeanor.

3. The punishment of forfeiture of the goods may be meted out by a customhouse even in addition to a reprimand or a fine.

Section 89 Forfeiture of Goods

1. A customhouse may declare the forfeiture of goods which were the object of a customs misdemeanor or which were acquired as a result of a customs misdemeanor or which were used in committing a customs misdemeanor.

2. Forfeiture of the goods may be declared only if the goods are the property of the individual who has committed the customs misdemeanor.

3. Forfeiture of the goods may not be declared if the value of the goods is not commensurate with the severity of the customs misdemeanor.

4. Ownership of goods which have been forfeited passes to the state.

Section 90 Confiscation of Goods

1. A customhouse may confiscate goods which were the object of a customs violation or which were acquired as a result of a customs violation or which were used in the commission of a customs violation, provided the individual who committed the customs violation is unknown or cannot be summoned to take responsibility.

2. Goods which do not belong to the person who has committed a customs violation may be confiscated, provided they were the object of the customs violation in question or were acquired as a result of the customs violation or were used in the commission of a customs violation and if they endanger the safety of persons or property or if the public interest so requires.

3. Goods may not be confiscated if their value is not commensurate with the severity of the customs violation.

4. Ownership of the confiscated goods passes to the state.

Section 91 Payment of Fines

A fine assessed for a customs violation is payable within 30 days from the day the decision assessing the fine became legally effective.

Section 92 Local Jurisdiction

1. A customs violation will be handled by a customhouse in whose circuit the violation was committed or determined.

2. A customhouse with jurisdiction to handle the customs violation according to Paragraph 1 above may cede the case to a customhouse in whose circuit the individual who has committed the customs violation is domiciled or in the circuit in which he works.

Block Rulings

Section 93

1. Members of the Customs Administration may assess and collect fines up to Kcs500 for customs violations without any further negotiation if the customs violation has been reliably determined to have taken place and if an understanding is not adequate (block rulings).

2. If the individual who has committed a customs violation refuses to pay the fine, then the customs violation will be handled by the appropriate customhouse.

3. There is no appeal against a fine assessed under terms of block rulings.

Section 94

1. During a block proceeding, it is also possible to declare the goods to be forfeited if they were the object of the customs violation or if they were acquired as a result of a customs violation or were used in the commission of a customs violation.

2. If the individual who has committed a customs violation refuses to submit to the order declaring the goods forfeited, the customs violation will be handled by the appropriate customhouse.

CHAPTER EIGHT

Proceedings Regulating the Assessment of Fines Against Organizations

Section 95

1. If an organization violates the regulations governing the circulation of goods in contact with a foreign country, underpays customs duties, or makes customs control more difficult (hereinafter referred to as "violation of customs regulations"), a customhouse may assess a fine against it at a level listed in Sections 96, 97, or 98 below.

2. For the purposes listed in the provisions of this chapter of the law, an organization is also considered to be an individual recorded in the enterprise register as an entrepreneur.

Section 96

A customhouse may assess a fine against an organization up to the value of the goods involved if that organization violates the rules governing the circulation of goods in contact with a foreign country by having engaged in the following activities:

a) Importing and exporting goods without authorization.

b) Failing to notify a customhouse of goods crossing the state border.

c) Importing or exporting goods with permission which was granted by the appropriate organs on the basis of false, altered, or forged documents or incorrect data.

d) Causing goods to be released on the basis of incorrect or false data.

e) Misappropriating goods in blocked circulation without authorization.

f) Engaging in the unauthorized purchase or other acquisition of goods in blocked circulation.

Section 97

A customhouse may assess a fine against an organization up to double the value of the customs duty if that organization underpays the customs duty by:

a) Exporting or importing goods without paying customs duties.

b) Misappropriating goods in blocked circulation or conditional free circulation without paying duty.

c) Introducing incorrect data to support the computation of customs duties in a customs proceeding pertaining to the import or export of goods.

Section 98

A customhouse may assess a fine against an organization up to Kcs100,000 if that organization makes customs control more difficult by:

a) Introducing incorrect data during customs control pertaining to imported, exported, or transit-shipped goods.

b) Failing to adhere to conditions stipulated for goods released to blocked circulation or conditionally free circulation.

c) Transporting goods which have escaped customs control.

d) Releasing goods from a customs or operational warehouse without the approval of organs of the Customs Administration.

Section 99

Fines according to Section 95 above may be assessed against a legal entity only for the period of one year from the day the organ of the Customs Administration found out that the legal entity has violated or failed to fulfill the obligations assigned by customs regulations, but no later than three years from the day this violation or the lack of fulfillment of obligations occurred.

Section 100

The fine assessed against an organization for violating customs regulations is payable within 30 days from the day the decision which assessed that fine becomes legally effective.

Section 101

1. Violations of customs regulations will be handled by a customhouse in whose circuit the organization in question has its seat.

2. If the organization does not have its seat in the Czech and Slovak Federal Republic, a customhouse in which the violation of customs regulations occurred may handle the violation or a customhouse in whose circuit the violation of customs regulations was determined can handle the case.

CHAPTER NINE

Proceedings Involving the Seizure and Sale of Goods

Part One Seizure of Goods

Section 102

1. To cover the customs duties, a customhouse may seize the goods which have a customs lien against them.

2. For purposes of handling the illegal import, export, or transit shipment of goods, a customhouse may:

a) Seize goods which were the object of a customs violation or which were acquired as a result of a customs violation or which were instrumental in the commission of a customs violation from an individual.

b) Seize goods which were the object of a customs violation or which were acquired as a result of a customs violation or which were instrumental in the commission of a customs violation from an organization.

3. A customhouse may seize goods in accordance with Paragraphs 1 and 2 above without regard to the rights of third parties.

4. In cases where a suspicion exists that a criminal act was committed during the import, export, or transit shipment of goods, a customhouse shall hand over the seized goods to organs active in criminal proceedings, at their request.

Section 103

1. If it is not possible to seize goods in accordance with Section 102, Paragraphs 1 and 2, above because they are not accessible or have been consumed, a customhouse may, for purposes of covering the customs duties or any possible fines assessed the individual who has committed a customs violation or an organization which has violated customs regulations, seize even other goods imported, exported, or transit shipped by these entities.

2. According to Paragraph 1 above, a customhouse may seize goods only:

a) If they belong to the individual or organization which has failed to pay the customs duties or the fine.

b) If the value of the goods is commensurate with the amount of the duty or the assessed fine.

Section 104

1. A customhouse shall issue a decision regarding the seizure of goods and notify the individual or the organization from whom the goods were seized.

2. The decision regarding the seizure of goods shall contain the reasons why the goods are being seized and a reminder to the individual or organization to whom the decision applies of their rights and obligations. The decision will also contain a reminder stating that the goods will be sold if the duties or possible fines are not paid.

3. Goods which may be seized in accordance with Sections 102 and 103 above may be left in the possession of the individual or organization involved and these entities may be prohibited from using, selling, or otherwise handling these goods.

Section 105

1. The individual or organization who has been notified of a customhouse decision to seize goods is obligated to release these goods to a customhouse.

2. If the seized goods are not handed over to a customhouse, they can be confiscated from whoever has them in possession.

3. A document pertaining to the handing over or confiscation of seized goods must be prepared and must list the description of the goods and is then delivered to the individual or organization which has handed over the goods or from whom the goods were confiscated.

Section 106

1. If there is no further need for the seized goods for the purposes of further proceedings, and if the seized goods are not to be forfeited in accordance with Section 89 or confiscated in accordance with Section 90 or sold in accordance with Section 107, they are returned to the person or organization from whom they were seized.

2. If a person or organization other than the person or organization from whom the goods were seized asserts their right to the seized goods, a customhouse shall hand over the goods to that entity which has undoubted rights to the property.

3. If a customhouse has any doubts as to whether the seized goods belong to any one individual or organization or to another individual or organization, which is asserting its rights to the goods, a customhouse shall advise these individuals and organizations to assert their

entitlements in a proceeding, the object of which is the regulation of property relationships.

Part Two Sale of Goods

Section 107

1. A customhouse may sell seized goods in accordance with Section 102, Paragraph 1, above if the customs duties are not paid within 30 days following the effective date of the decision which requires that the duty be paid.

2. A customhouse may sell the goods seized in accordance with Section 102, Paragraph 2, above with respect to which the punishment of forfeiture has been declared or goods which have not been confiscated to cover the fine assessed against a person for a customs violation or against an organization for violating customs regulations if the fine is not paid within 30 days after the decision which assesses it becomes effective.

3. A customhouse may immediately sell goods subject to rapid spoilage or live animals seized in accordance with Section 102, Paragraph 2, or Section 103, Paragraph 1.

4. A customhouse may sell goods which have been seized in accordance with Section 103 if the duty or fine assessed against a person for a customs violation or against an organization for violating customs regulations is not paid within the time limits specified in Paragraphs 1 and 2.

5. According to Paragraphs 1 through 4, it is not possible to sell goods which are national property.

Section 108

1. A customhouse shall generally sell goods by auction. In so doing, it proceeds in accordance with specialized regulations (Law No. 174/1950 Sb. regarding auctions other than executions according to subsequent amendments).

2. Goods which cannot be sold at auction are sold by a customhouse to physical and legal entities authorized to handle the sold types of goods in accordance with generally binding legal regulations.

3. Goods which are not salable or usable for reasons of health, veterinary reasons, plant production reasons, security reasons, or for other reasons are handled by a customhouse in accordance with specific special regulations.

Section 109

1. The proceeds from the sale of goods are used, on a priority basis, to cover the customs duties, plus transport costs, warehousing costs, postal fees, fines assessed against individuals for customs violations or against organizations for violating customs regulations, and to defray the costs of the proceedings. The remainder of the proceeds shall be paid out by a customhouse to the authorized individual. If an authorized individual does

not report within three years following the sale of the goods involved, the possible remainder of the proceeds passes to the state.

2. In the event a third party or organization asserts its rights to the remainder of the proceeds from the sale of goods at a customhouse, a customhouse shall advise this individual or organization to assert its rights in a proceeding, the object of which is the regulation of property relationships.

3. The person or organization whose goods were seized or stored is notified of the sale of the goods involved.

Section 110

1. A customhouse is authorized to sell or possibly otherwise dispose of goods:

a) Which have been declared to be forfeited or which were confiscated at a proceeding involving customs violations.

b) Which have been declared to be forfeited or which were confiscated as a result of a criminal proceeding dealing with criminal acts committed during import, export, or transit shipment of goods.

c) Which have been given up by a participant in a customs proceeding to the benefit of the state.

2. The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, shall stipulate, by proclamation, the procedures involved in the sale, or possible other handling of goods listed in Paragraph 1 above.

CHAPTER TEN

Common Principles To Be Observed in Proceedings Before Organs of the Customs Administration

Section 111

To the extent to which the provisions of this law do not indicate otherwise, customs violations and proceedings before organs of the Customs Administration are subject to the general regulations covering violations and administrative proceedings (Law No. 71/1967 Sb. regarding administrative proceedings).

Remedial Measures

Section 112

1. The Customs Directorate to which the pertinent customhouse is subordinate makes decisions regarding appeals against the decision by a customhouse.

2. The Central Customs Administration makes decisions regarding appeals against decisions made by the Customs Directorate.

3. An appeal can be filed in court against the decision of the Customs Directorate regarding the stipulation of the customs value of commercial goods in accordance with

Paragraph 1. The kraj court in whose jurisdiction the Customs Directorate has its seat makes the decisions with regard to this remedial measure.

Section 113

1. An appeal filed against the decision of organs of the Customs Administration does not have a delaying effect. The organ of the Customs Administration against whom the appeal decision is directed or the appealing organ may permit a delaying effect, provided this does not render the implementation of the decision more difficult or does not interfere with the public interest.

2. The timely filing of an appeal against the decision on a customs violation and against the decision which assesses a fine against an organization for violating customs regulations does have a delaying effect, which may not be excluded.

Section 114 Implementation of Decision

If the customs duty, transport costs, warehousing costs, postal charges, fines assessed against a person for a customs violation or against an organization for violating customs regulations, and the costs of the proceeding are not paid within the stipulated deadlines, and if it is not possible to cover them through the sale of the goods involved, according to Section 107, a customhouse may implement its decision in accordance with regulations on administrative proceedings (Law No. 71/1967 Sb. regarding administrative proceedings).

CHAPTER ELEVEN

Common, Transitory, and Concluding Provisions

Section 115

1. The provisions of this law regarding the punishment of forfeiture of goods, the confiscation of goods, the seizure and sale of goods are also applicable to other things and valuables according to the regulations on the foreign exchange economy, provided they were acquired as a result of a customs violation.

2. The provisions of this law on the seizure of goods according to Section 103 are equally applicable to things and other valuables in accordance with regulations on the foreign exchange economy.

Section 116

To the extent to which this law does not otherwise state, the provisions covering the import and export of goods are applicable to the transport of goods in transit and to transit shipments.

Section 117

Customhouses shall handle violations of the foreign exchange economy, which have been identified during the implementation of foreign exchange control involving the export and import of items and valuables, in accordance with the regulations on the foreign

exchange economy (Foreign Exchange Law No. 528/1990 Sb., dated 28 November 1990). In handling violations of the foreign exchange economy, customhouses shall proceed in accordance with general regulations covering the handling of violations.

Section 118

1. The Federal Ministry of the Interior may, in agreement with the Federal Ministry of Foreign Trade, authorize members of the National Security Corps to fulfill some of the functions assigned to customhouses.

2. The Federal Ministry of Foreign Trade may, in agreement with the appropriate organs of state administration, entrust customhouses with the fulfillment of some tasks in accordance with regulations covering health, veterinary, and plant production protection and tasks in accordance with regulations covering the collection of taxes, payments, and fees.

Section 119

1. Customhouses are empowered to accept even foreign currencies to cover customs duties, transport costs, warehousing costs, postal fees, fines, and costs of proceedings.

2. The conditions for handling the remuneration in accordance with the previous paragraph are stipulated by the Federal Ministry of Finances.

Section 119a

If an international agreement, to which the Czech and Slovak Federal Republic is bound, specifies measures which differ from this or which differ from the regulations issued in accordance with it, then the treaty obligations are valid.

Section 119b

As long as the organs of the Customs Administration are engaged in implementing their authorities in accordance with special regulations, they have, to the extent to which these regulations do not state otherwise, the same rights and obligations as they have during customs control. The same holds true of the rights and obligations of the entities subject to this control.

Section 120

1. Proceedings initiated prior to the effective date of this law shall be concluded in accordance with existing regulations.

2. Customs violations committed prior to the effective date of this law shall be handled in accordance with existing regulations.

Section 121

The customs rate table issued by Government Regulation No. 31/1947 Sb., complete with changes and supplements, is considered to be the customs rate table for commercial goods according to this law. The flat rate

table issued by Proclamation No. 6/1969 Sb. of the Ministry of Foreign Trade is considered by this law to be the customs rate table for noncommercial goods.

Section 122

The following are hereby rescinded:

1. Customs Law No. 36/1953 Sb.;
2. Ministry of Foreign Trade Proclamation No. 147/1954 Official Gazette [U.I.], which constituted the railroad customs code;
3. Ministry of Foreign Trade Proclamation No. 149/1954 U.I., which constituted the aviation customs code;
4. Ministry of Foreign Trade Proclamation No. 151/1954 U.I., which constituted the customs postal code;
5. Ministry of Foreign Trade Proclamation No. 82/1961 Sb., which implements the customs law;
6. Ministry of Foreign Trade Proclamation No. 81/1962 Sb., regarding customs duty relief for objects imported for the use of persons and organizations utilizing the preferences and immunities of the Czechoslovak Socialist Republic;
7. Ministry of Foreign Trade Proclamation No. 36/1963 Sb., which issued the customs navigational code;
8. Ministry of Foreign Trade Proclamation No. 106/1953 Sb., which issued the highway customs code;
9. Ministry of Foreign Trade Proclamation No. 7/1965 Sb., regarding the organization of a network of custom-houses and their jurisdictions;
10. Ministry of Foreign Trade Proclamation No. 85/1967 Sb., which changes and augments Proclamation No. 82/1961 Sb., which implements Customs Law No. 36/1953 Sb.;
11. Sections 15; 31, Paragraph 2; and 32, b) and c), of Law No. 60/1961 Sb., regarding the tasks of national committees in safeguarding socialist order.

Section 123

This law becomes effective 1 January 1975.

Law No. 117/1987 Sb. becomes effective on the day of its proclamation (1 November 1983).

Law No. 5/1991 Sb. is effective 1 February 1991.

Law No. 5/1991 Sb.

Article II

To the extent to which the customs law uses the expression "organization," it is understood to mean "legal entities." To the extent to which the expression "person" is used, it is understood to mean a "physical person."

Customs Law Implementing Provisions

*91CH0390B Prague HOSPODARSKE NOVINY
(supplement) in Czech 14 Feb 91 pp 1-16*

[Proclamation by the Federal Ministry of Foreign Trade, dated 21 January 1991, signed by Eng. Brabec, first deputy minister, which serves to implement the Customs Law]

[Text] The Federal Ministry of Foreign Trade, in agreement with the Federal Ministry of Finances, the Federal Ministry of Foreign Affairs, the Federal Ministry of Transportation, the Federal Ministry of Communications, the Ministry of the Interior of the Czech Republic, and the Ministry of the Interior of the Slovak Republic, has decreed the following, in accordance with Section 19, Paragraph 2; Section 22, Paragraph 3; Section 25, Paragraphs 1 and 2; Section 29, Paragraph 3; Section 36, Paragraph 2; Section 41, Paragraph 2; Section 42, Paragraph 2; Section 43, Paragraph 2; Section 44, Paragraph 2; Section 47, Paragraph 7; Section 49, Paragraph 2; Section 54, Paragraph 3; Section 60, Paragraph 2; Section 61, Paragraph 4; Section 77, Paragraph 3; Section 78, Paragraph 5; Section 80, Paragraph 7; Section 81, Paragraph 4; and Section 110, Paragraph 2, of Customs Law No. 44/1974 Collection of Laws [Sb.], within the text of Law No. 5/1991 (hereinafter referred to as "the law"):

CHAPTER ONE

Customs Control

Implementation of Customs Control

(Augments Section 25 of the Law)

Section 1

1. The customhouse shall determine whether to conduct customs control by checking the documents and records or by checking shipping lists and accompanying manifests or by customs examination.
2. A customs examination may be conducted with respect to any goods subject to customs control as long as this proclamation or an international treaty by which the Czech and Slovak Federal Republic is bound does not stipulate otherwise.
3. A customs examination may be external or internal, complete or partial.
4. In the case of an external customs examination, a check is made of the gross weight, the number of pieces of freight, their markings, and numbers, and whether the installed customs seals have been violated or not. An internal examination checks on the type, quantity, and possibly the quality of the goods involved.
5. A participant in a customs proceeding has no influence upon the extent of the customs examination. However, a participant in a customs proceeding may propose that the customs office conduct a complete external or

complete internal customs examination if by so doing the remainder of a customs proceeding may be facilitated.

6. For purposes of customs control, a detailed listing of goods, confirmed by customs organs in the exporting country, may be considered as proof of the content of the shipments or baggage, provided the transit-shipped goods were secured by a customs seal.

7. For purposes of conducting customs inspections, organs of the Customs Administration are authorized to utilize technical as well as other means, including service dogs.

Section 2 The Red-Green System

1. The red-green system constitutes a special method for the conduct of customs control which can be used at customs airfields and customs highway crossing points.

2. The green stripe is intended for those travelers who are not in possession of goods subject to customs duties or who only have goods in their possession which are exempt from customs duties and whose goods, which they are importing or exporting, are not subject to import or export prohibitions and restrictions; at the same time, conditions for the import and export of values regulated by a foreign exchange law (Foreign Exchange Law 528/1990 Collection of Laws [Sb.] must be fulfilled. The red stripe is reserved for other travelers.

3. The green stripe must bear a green mark in the shape of an octagon with the inscription: "Nothing to declare."

4. The red stripe must bear a red mark in the form of a square with the inscription: "Dutiable goods."

Section 3 Working Hours of Customs Offices

1. The working hours for customs offices are stipulated with a view to the requirements of legal and physical entities, particularly of shippers and the postal authorities. Customhouses which do not operate 24 hours a day shall assure the implementation of customs proceedings even outside of regular working hours where goods which spoil easily are involved, where livestock is involved, where goods are intended to eliminate the consequences of disasters, natural catastrophes, and similar events as well as with respect to other types of express shipments, provided the presence of organs of the state administration is assured in accordance with special regulations.

2. Express goods are understood to be goods which need to be run through customs rapidly and with priority for reasons of their character or because they are part of a shipment to provide assistance or because they satisfy a regularly justified urgent need.

CHAPTER TWO

Exemption from Customs Inspection

(Augments Section 29, Paragraph 3, of the Law)

Section 4

1. Goods which are transported during travel abroad and from abroad by the president of the Czech and Slovak Federal Republic, by the chairman and deputy chairman of the Federal Assembly of the Czech and Slovak Federal Republic, by the chairman and deputy chairman of the People's Chamber, by the chairman and deputy chairman of the Chamber of Nations, by the prime minister, deputy prime minister, and members of the Government of the Czech and Slovak Federal Republic, by the chairman of the Federal Statistical Office, by the chairman of the Directorate of Federal Material Reserves, by the chairman of the State Bank of Czechoslovakia, by the chairmen and deputy chairmen of the Czech National Council and the Slovak National Council, by the prime ministers, deputy prime ministers, and members of the Governments of the Czech Republic and of the Slovak Republic, chairmen of the Czech Statistical Office and the Slovak Statistical Office, prosecutors general of the Czech and Slovak Federal Republic, the Czech Republic, and the Slovak Republic, chairmen of the Supreme Courts of the Czech and Slovak Federal Republic, the Czech Republic, and the Slovak Republic, main arbiters of the Czech and Slovak Federal Republic, the Czech Republic, and the Slovak Republic, in conjunction with their functions, and by members in the entourage of these individuals are not subject to customs inspection.

2. Goods which are transported on journeys abroad or from abroad by delegates to the Federal Assembly of the Czech and Slovak Federal Republic, the Czech National Council, the Slovak National Council, judges of the Supreme Courts of the Czech and Slovak Federal Republic, the Czech Republic, and the Slovak Republic, in conjunction with the execution of their duties, are not subject to customs inspection.

3. Goods which are transported on journeys abroad or from abroad by ambassadors, emissaries, and charges d'affaires of the Czech and Slovak Federal Republic accredited abroad, as well as by members of their families traveling with them, are exempt from customs control.

Section 5

Goods which are transported during journeys abroad or from abroad by the following individuals are not subject to customs inspection:

a) The heads of foreign states, prime ministers of foreign states and their deputies, members of foreign governments, chairmen and deputies of legislative bodies of foreign countries, and members of their entourage.

b) Chairmen and members of foreign delegations arriving to attend diplomatic conferences convened by the Czech and Slovak Federal Republic.

c) Diplomatic personnel of foreign missions accredited in the Czech and Slovak Federal Republic.

d) Foreign diplomatic representatives active outside of the territory of the Czech and Slovak Federal Republic if they travel to it and are in transit through it.

e) Consular officials of consular offices of foreign countries, operating in the Czech and Slovak Federal Republic, to the extent to which they are professional consular officers and are not Czechoslovak citizens.

f) Family members of persons listed under a) through e).

g) Other members of foreign nations enjoying diplomatic status.

h) Diplomatic and consular couriers (hereinafter referred to only as "couriers") of foreign nations.

Section 6

1. Exemption from customs inspection also applies to the baggage of individuals listed in Sections 4 and 5 above which is being transported in conjunction with the travel of those individuals, even if the baggage is being shipped via a different transport medium than the traveling individuals.

2. Exemptions from customs inspection do not apply in cases where there are serious reasons to believe that the piece of baggage contains objects, the import, the export, or transit shipment of which is prohibited or restricted. A customs inspection must be conducted in the presence of the person listed in Sections 4 and 5 above or in the presence of a person authorized to act for them.

Section 7

1. Sealed diplomatic mail and consular baggage (hereinafter referred to only as "diplomatic mail"), which is being transported by a courier via the same transport medium as that which is being used by the courier for travel, is also exempt from customs inspection. The courier must show a manifest, which has been compiled and bears the official seal of the office which is dispatching the diplomatic mail. The shipping manifest must list the number of pieces of diplomatic mail and the type of their packaging.

2. Sealed diplomatic mail transported by means other than by courier also is not subject to customs inspection, but must be accompanied by a shipping manifest, compiled by and bearing the official seal of the office which dispatched the diplomatic mail. The shipping manifest must list the number of pieces of diplomatic mail, the type of their packaging, and the address of the office or agency for which the diplomatic mail is intended.

3. Diplomatic mail may contain only diplomatic documents or objects intended for the official use of the mission in question.

CHAPTER THREE

Customs Control in Railroad, Highway, Aviation, and Water Transportation and in Postal Contacts

Customs Control of Goods Transported by Shippers and by the Postal Service

(Augments Section 36, Paragraph 2, of the Law)

Section 8

1. For purposes of customs control, a shipper is obligated to present the border customs office with two copies of a freight manifest, the listing of baggage, the listing of supplies, the listing of inventory organic to the transport medium, and other documents dealing with the goods being shipped. The customs office may accept these documents via an installation for the transmission and processing of data using information carrier facilities; the type of goods may be expressed here in internationally recognized nomenclature (Announcement by the Minister of Foreign Affairs No. 160/1988 Sb. on the International Agreement Regarding the Harmonized Description and Numerical Marking of Goods and the protocol regarding changes to the agreement).

2. Shippers who ship by water may be required to present vessel drawings.

Section 9

1. The freight manifest shall contain the following data: the country of registry of the transport medium, the type of transport medium, the brand, the location of record and the location at which freight was loaded, the names, domiciles, and seats of individuals dispatching and receiving the goods, the country of destination, the quantity and type of transported goods expressed in units of measure and customary nomenclature in commerce, and, in the event the goods are packaged, also the number of items, markings, and types of packaging of the pieces of freight. With respect to collected consignments, the shipper is obligated to present customs authorities with a listing of the consignment items as made out by the person dispatching them. The customs authorities may stipulate which data need not be contained in the shipping manifest. The postal authorities do not provide a shipping manifest.

2. The listing of baggage shall contain data on the quantity and type of baggage being shipped, the name and domicile of the owner of the baggage. The customs authorities may stipulate the occasions upon which a listing of baggage need not be presented or which data need not be included.

3. The listing of supplies organic to the transport medium contains data on the supply of food, beverages, tobacco products, and other supplies intended for use en

route, and possibly also data on the facilities organic to the transport medium, if these are not recorded in the inventory listing.

Section 10

In railroad transportation, the freight manifest is replaced by the railroad train consist listing or the temporary listing must be presented in the event the train is hauling only empty cars which are already included in the railroad car inventory. Railroad cars which are not included in the rolling stock inventory of railroad administrations are recorded in the train consist listing or in the temporary listing, the same as loaded cars. In railroad transportation, the listing of inventory is not required.

Section 11

1. In aviation transportation, the freight manifest contains the name of the operator, the country and registration number of the aircraft, the flight number and date, the station (location) at which freight was loaded, the station (location) where freight is unloaded, the number of the air bill of lading, the number of pieces, types of goods, and an area for operator remarks and for official notations.

2. In aviation transportation, a listing of baggage is not required.

Section 12

The freight manifest, the listing of baggage, the listing of supplies, and the listing of organic inventory is not required if the vessel or aircraft lands for a short period of time for technical reasons, for example, to augment its supplies, to eliminate defects, or to permit travelers to disembark.

Section 13

If exported goods are loaded aboard water or highway transport media near an internal customhouse, the shipper must present that facility with a freight manifest in duplicate; one copy is intended for the internal customs facility, the other for the border customs facility.

Customs Control Aboard Transport Media Used for the Mass Transportation of Passengers Upon Crossing State Borders

(Augments Section 36, Paragraph 2, of the Law)

Section 14

Travelers who are traveling aboard transport media used for the mass transportation of passengers and crew members of such transportation media which are regularly set aside for the transportation of passengers are obligated to present their baggage for customs control in sufficient time so this control may be concluded within the time allotted for such actions.

Section 15

Upon entering this country, a traveler may not leave the transport medium at a border customs facility prior to the conclusion of a customs proceeding and, when going abroad, may leave the transport medium upon conclusion of a customs proceeding only with the approval of the member of the Customs Administration conducting customs control.

Section 16

During the period during which customs proceedings are ongoing, only employees serving aboard transport media and, with the knowledge of a member of the Customs Administration conducting customs control, persons carrying out their official duties at the location may be in the customs area of the border customs facility, in addition to travelers. Other persons may be in the customs area only with the approval of the member of the Customs Administration who is conducting customs control.

Section 17

During the time customs control of a vessel in water transportation is being conducted, any kind of contact with the shore and with other vessels is prohibited; apart from crew members of the vessel, other individuals may board the vessel only in the performance of their official duties and, at that, with the knowledge of the member of the Customs Administration conducting the customs control.

Section 18

If there is a collision or an emergency landing involving a transport medium along a customs route, the shipper is obligated to report this fact to the nearest customs facility without undue delay.

Section 19 Escorting Transport Media

1. If the customs facility, upon the request of the shipper, should decide to escort the transport medium to support customs control, the shipper shall transport members of the Customs Administration to the designated location and back, and, possibly, also compensate them for their travel costs.

2. Navigation organizations, moreover, shall provide escorting members of the Customs Administration free quarters, heating, light, and, in return for compensation, even food.

Section 20 Import of Mail Shipments

1. Import of mail shipments may be transported without customs seals.

2. The postal authorities present the imported postal shipments for customs proceedings to an internal customs facility with the exception of letter forms, regular

letters, and braille communications, whose physical form clearly indicates that they contain only written communications.

3. If the content of postal shipments or their parts becomes damaged during shipment within the country prior to being released into free circulation in the country, the post office will handle this fact with the customs authority which has jurisdiction with respect to releasing the shipment.

4. If damage or spoilage to postal shipments was noticed by the postal authorities at which customs proceedings are in progress, that post office, together with the customs authority, will determine the status of such shipments.

5. To the extent to which the post office takes out and destroys spoiled goods which could threaten human life or could damage other shipments, it is obligated to notify the appropriate customs authorities of this fact.

6. To the extent to which the postal service, pursuant to special regulations, sells postal shipments which have been released by the customs authorities into free circulation within the country, it shall use the proceeds of the sale primarily to defray the costs of the sale, to cover postal fees and customs duties and other fees imposed upon the shipments.

7. The postal service may refuse to carry out actions on behalf of the participant in a customs proceeding if it considers it necessary for operational or for other serious reasons or if the participant in a customs proceeding fails to provide the necessary data within the stipulated time limit.

8. Shipments, with respect to which the postal service does not carry out any activities on behalf of the participant in a customs proceeding, shall be turned over to the customs authorities for certification and the turning over is communicated to the addressee. The customs authorities will release such shipments only if the postal authorities certify, in a postal document, that the shipments may be released to the addressee.

9. A shipment, with respect to which the postal authorities have not undertaken any actions on behalf of the participant in a customs proceeding, can be rejected by the addressee, provided he does not open it at the customs facility.

(Augments Section 47, Paragraph 7, of the Law)

Section 21

Duties, taxes, and fees payable on goods imported as part of postal shipments are collected by the postal authorities in one payment from the participant in a customs proceeding at the time the shipment is delivered. Without collection of the customs duties, taxes, and fees, the postal service will only deliver the shipment to a participant in a customs proceeding if the customs authorities have authorized a deferral of the customs

duty payment or if the customs authorities themselves have handed down a decision regarding the level of duties, taxes, and fees to be paid by the participant in a customs proceeding or by his agent.

(Augments Section 36, Paragraph 2, of the Law)

Section 22 Returning of Shipments

1. If a shipment is to be returned abroad and if its release into free circulation in this country was being handled by the shipper or by the postal service, the shipper or the postal service is obligated to present the shipment, together with all customs and other documents, to the customs authorities to conduct a customs proceeding.

2. If duties, taxes, and fees were assessed against the goods, the shipper or the postal service shall present the shipment to that customs authority which was instrumental in releasing the shipment into free circulation within the country.

(Augments Section 36, Paragraph 2, of the Law)

Section 23 Export of Postal Shipments

1. Letter mail which contains merchandise in addition to written communications may be mailed by the sender for transportation abroad without having to first present it to the customs authorities, as long as the mail shipment contains only goods, the export of which does not require permission or is not prohibited. The shipment must be accompanied by a customs declaration covering the exported merchandise (in this case, the customs declaration is understood to be the green C1 customs label).

2. Letter mail which also contains merchandise, the export of which requires permission or is prohibited, may be posted by the sender for postal transportation abroad after being presented to the customs authorities and after the customs authorities have cleared it for export.

3. Letter mail shipments which are not equipped with a certificate by the customs authorities indicating that they have been released for export are presented by the postal authorities to the internal customs facility for the conduct of customs control prior to crossing the border to go abroad.

Duties of Shippers and the Postal Service

(Augments Section 36, Paragraph 2, of the Law)

Section 24 Actions by Employees of Shippers and the Postal Service

1. In the case of customs proceedings which are conducted upon the proposal of the shipper or the postal service, auxiliary functions are performed by employees of the shipper or of the postal service.

2. Auxiliary operations are considered to be loading, unloading, or transit shipping of goods, delivery of goods to the scales, moving goods to review rooms, the opening

and closing of loaded and empty transport media and containers, pieces of freight, unwrapping and rewrapping goods, the attachment of ladders, catwalks, and mobile stairways, free transportation by boat in a riverport, etc.

3. Should the employees of the shipper or the postal service not assist in performing auxiliary work during customs proceedings themselves, the shipper and the postal service are obligated to arrange the carrying out of this work at their own expense, according to instructions issued by the customs authorities.

Section 25 Rooms, Areas, and Aids Necessary to the Performance of a Customs Proceeding

1. If a regular customs proceeding involving imported, exported, or transit-shipped goods is being undertaken within the facilities of the shipper or the postal service, the shipper or the postal service shall ensure that the rooms necessary to perform customs inspection are provided.

2. The rooms and areas necessary to perform a customs proceeding and for the storage of goods shall be located so that the operating procedures used by the customs facilities and organs collaborating with it could be of maximum effectiveness.

3. The methods for closing off the rooms serving the purposes of a customs proceeding and the storage of goods are to be agreed upon by the shipper or by the postal service with the customs authorities.

4. The shipper or the postal service shall maintain such rooms which they have turned over for use to the customs service in appropriate technical and hygienic conditions, shall be responsible for charring, heating, and lighting them in return for compensation of the actual costs incurred by the shipper or the postal service, insofar as special regulations do not state otherwise.

5. The shipper or postal service shall, at their own expense and in agreement with the customs authorities, provide any aids and installations necessary for the conduct of customs proceedings, for example, scales, ladders, mobile stairways, lamps, safety lamps, tools, and proper lighting for customs control areas.

Section 26 Timetables

1. The shipper shall notify the border customs facilities of the timetable of all transport media crossing the state border and announce any change prior to the time the timetable or its changes become effective.

2. The introduction of special trains, aircraft, or other transport media, the cancellation or delay of transport media by more than 30 minutes, shall be announced by the shipper in time and without undue delay to the border customs facility.

3. If, at the border customs facility, an accumulation of transport media in railroad, aviation, or water transportation occurs, the shipper shall determine the sequence

of customs control actions. If this occurs at a border customs facility in highway transportation, the sequence shall be determined by the customs facility. It will release, on a priority basis, particularly ambulances carrying people who are ill or injured, transport media and facilities and other objects intended to provide assistance in fighting fires, natural disasters, and similar events, live animals and easily spoiled goods, transport media belonging to individuals enjoying diplomatic or consular privileges and immunities in the Czech and Slovak Federal Republic, and buses in regular transportation.

CHAPTER FOUR

Customs Duties

Part One

(Augments Section 42, Paragraph 2, of the Law)

Section 27 Procedure To Be Observed in Applying for the Nomenclature and Rate Classification of Goods

1. An application for a decision regarding the nomenclature and rate categorization of goods is submitted in writing; it is accompanied by the necessary samples or, if this is not possible in view of the character of the goods, by a pictorial depiction and technical description of the goods.

2. Each application may pertain only to one type of goods. The proposal must contain all data which can have an influence on the rate categorization of the goods, particularly data on the composition of the item, the method of production, the method and purpose of use, and the origin of the goods.

3. In the event the Federal Ministry of Foreign Trade should require an expert opinion to support a correct classification, the costs for issuing an expert opinion shall be covered by the participant in a customs proceeding.

Part Two Assessment of Duty

(Augments Section 47, Paragraph 7, of the Law)

Section 28

1. For goods originating in countries:

a) With which the Czech and Slovak Federal Republic has an agreement regarding most favored nation treatment, customs duties are assessed in accordance with contractual rates.

b) Which are subject to preferential customs duties, customs duties are assessed at the rate prescribed by the appropriate regulations of the Czech and Slovak Federal Republic.

c) With which an agreement regarding the total or partial mutual exemption from customs duties has been

negotiated, customs duties are not assessed or, if they are, they are assessed in accordance with lowered customs rates.

2. If an international treaty, which is binding on the Czech and Slovak Federal Republic, does not exist or if there are no other special regulations stipulating otherwise, goods originating in a certain state are considered to be only:

- a) Mineral products extracted from its ground or from its offshore waters.
- b) Crops harvested in that state.
- c) Live animals born and raised in that state.
- d) Animal products from animals living in that state.
- e) Products based on hunting and fishing carried out in that state.
- f) Products of maritime fishery and other products extracted from the sea by vessels of that state.
- g) Goods acquired aboard processing ships of that state exclusively from products listed under f) above.
- h) Products extracted from the ground or from the seabed located outside of coastal waters, to the extent to which this state exercises exclusive rights to this ground or to this territory for operational purposes.
- i) Waste products and waste originating as a result of processing or adjusting activities and scrap items collected in this state and usable in the recovery of raw materials.
- j) Goods acquired in this state exclusively on the basis of products and produce listed under a) through i) above.
- k) Goods, which are produced in this state with the use of raw materials, semifinished products, or finished products originating in another state or the origin of which is unknown under conditions that these goods were adequately processed or reworked in this state; goods are considered to have been adequately processed or reworked in this state if they are goods which have been processed or reworked in this state and if the value of the goods originating in another state or goods whose origin is unknown does not exceed 50 percent of the value of the goods exported by this state. Goods are considered to have been inadequately processed or reworked only by the implementation of actions connected particularly with packaging, sorting, preserving, warehousing, marking, stamping, completing, and connecting of parts.

3. Goods of domestic origin, returning from abroad, on which customs duties were not collected, are released following the application of contractual rates.

(Augments Section 43, Paragraph 2, of the Law)

Section 29

Contractual customs duties are collected on goods originating in states listed in Supplement 1 of this proclamation.

Section 30

1. If imported goods are to be subjected to the assessment of contractual customs duties according to Section 28, Paragraph 1, a), or preferential customs duties according to Section 28, Paragraph 1, b), or if the participant in a customs proceeding proposes that customs duties according to Section 28, Paragraph 1, c), not be assessed or be assessed according to lower customs rates or that contractual customs rates be assessed in accordance with Section 29, the participant in a customs proceeding is obligated to prove the country of origin of the goods involved.

2. In the event contractual customs duties are to be assessed in accordance with Section 28, Paragraph 1, a), and Section 29, sufficient proof is provided by documents accompanying the goods, invoices, or correspondence. If the customs authorities do not consider this proof to be sufficient, the participant in a customs proceeding can document the correctness of the data by submitting a certificate of origin of the goods, issued by the appropriate foreign organ authorized to make such issuances in the country of origin of the goods, by depositing a proclamation regarding the origin of the goods or by submitting a certificate showing the place name.

3. If preferential customs rates are to be assessed in accordance with Section 28, Paragraph 1, b), the participant in a customs proceeding may prove the origin of the goods by means stipulated in special regulations.

4. If the participant in a customs proceeding proposes that customs duties not be assessed in accordance with Section 28, Paragraph 1, c), at all or if assessed, they should be in accordance with lower customs rates, he may prove the origin of the goods by the method stipulated by the appropriate international agreement on the mutual complete or partial exemption from customs duties.

5). In the event the participant in a customs proceeding cannot prove the origin of the goods while submitting a proposal for a customs proceeding, the customs authorities will assess customs duties according to the general customs tariff.

(Augments Section 41, Paragraph 2, of the Law)

Section 31 Unified Customs Tariff

1. A unified customs tariff of 5 percent of the customs value is used in assessing customs duties for goods

intended to satisfy personal needs of physical entities and which are not commercial in character, provided that:

a) The customs value or the cumulative customs value of these goods imported as a result of travel contacts by physical entities having their permanent residence in this country does not exceed 8,000 Czech korunas [Kcs].

b) The customs value or the cumulative customs value of these goods imported as a result of travel contact by physical entities having their permanent residence abroad does not exceed Kcs6,000.

c) The customs value or the cumulative customs value of these goods does not exceed Kcs7,000 in cases where physical entities permanently residing in this country are temporarily staying in extra-European states for purposes of engaging in permitted activities lasting for at least one year if they send these goods at most three times a year and, in the case of sojourns in European countries, once a year, through the mails, through shippers, or through commercial organizations, for minor children and a spouse living with them in a common household in the Czech and Slovak Federal Republic and for persons with respect to whom they have support obligations, who are also living in this country.

d) The customs value or cumulative customs value of these goods imported for the benefit of physical entities in individual shipments does not exceed Kcs5,500.

2. Upon the proposal of a participant in a customs proceeding, the customs authorities will not assess customs duties in accordance with the unified customs tariff rates, but in accordance with the rates listed in the customs tariff table. In other cases than those listed in Paragraph 1, customs duties are assessed in accordance with the rates listed in the customs tariff table.

(Augments Section 47, Paragraph 7, of the Law)

Section 32

1. Customs duties on goods of the same rate number are not assessed if they do not amount to more than Kcs10. The cumulative payment is rounded off to whole korunas downward up to 50 halers and upward of 50 halers.

2. Shortages in customs duty payments are not followed up if they do not amount to more than Kcs10.

Part Three

(Augments Section 49, Paragraph 2, of the Law)

Section 33 Deferral of Customs Duty Payments

1. Customs authorities may permit the deferral of customs duty payments for a maximum of two years.

2. Deferred customs duty payments accrue interest at 20 percent per year for the amount of the payment which was deferred, for the period of deferment, or possibly, if

the customs duty was paid prior to the expiration of that time, up to the day of payment.

3. Interest is not paid on deposited customs sureties if payment of customs duties has been deferred.

4. If the participant in a customs proceeding fails to pay the customs duties on the day they are due or on the last day to which payments may be deferred, he is obligated to pay interest due to the delay to the extent of 25 percent of the surety deposited for the year, for the period from the first day following to the day payment is made.

5. Interest for deferred payments of customs duties and interest for delayed payments of customs duties becomes part of the customs duties due.

Part Four

(Augments Section 54, Paragraph 3, of the Law)

Section 34 Forgiveness and Reduction of Customs Duties

1. Customs duties are forgiven if the goods involved:

a) Were totally destroyed, damaged, or irretrievably lost as a result of an accident or an act of God before they were released into the proposed type of circulation.

b) Were released into the proposed type of circulation, but were totally destroyed, damaged, or irretrievably lost as a result of accidents or acts of God during transportation conducted by the shipper or by the postal authorities, prior to being delivered to the recipient.

c) Were totally destroyed with the approval of the customs authorities and under customs supervision.

2. Customs duties are reduced if:

a) Following receipt of a proposal to conduct a customs proceeding, but before the goods were released into the proposed type of circulation, they were destroyed or damaged as a result of an accident or an act of God so that they cannot be utilized for the original purpose, or

b) The character of the goods which have been released into the proposed type of circulation is changed prior to delivery to the recipient in such a manner that they would be subject to a lower customs rate than that which was originally assessed, or

c) It is found that goods in a mail shipment which had been released into the proposed type of circulation and delivered to the recipient are partially destroyed, damaged, or irretrievably lost.

3. At the request of the participant in a customs proceeding, the organ of the Customs Administration may forgive or reduce the customs duty even in other cases than those listed in Paragraphs 1 and 2 above if there are social, health, or other reasons worthy of consideration or if, in view of the type, quantity, and quality and character of the goods, the purpose of their import and the method by which they were acquired abroad, the collection of customs duties might result in a hardship.

**Part Five Importation of Goods to Free Circulation in
This Country With Total Exemption From Import
Duties**

(Augments Section 44, Paragraph 2, of the Law)

Section 35 Goods for the Use of Foreign Heads of State

All goods imported for the use of foreign heads of state and members of their entourages in connection with their sojourn in this country are exempt from customs duties.

Section 36 Official Gifts, Honorary Prizes, and Awards

Gifts by foreign heads of state, foreign governments and their members, international organizations of which the Czech and Slovak Federal Republic is a member, and other public officials and agencies of other countries and their official institutions, as well as honorary prizes and awards are exempt from customs duties, provided the giving or awarding of such items is documented by a certificate affixed to the surface of the honorary prize or official gift or by certification provided by the donor, the Czechoslovak representative office abroad, the central organ of the Czech and Slovak Federal Republic, the Czech Republic, the Slovak Republic, or another Czechoslovak organ authorized to certify such gifts or awards.

**Section 37 Goods for the Use of Persons and
Organizations Enjoying Diplomatic Privileges and
Immunities**

1. Goods imported for the use of diplomatic personnel and consular officials, to the extent to which these individuals are not Czechoslovak citizens, are exempt from customs duties, provided that they are for the personal use of these individuals or for the use of members of their families living with them in a common household on a basis of mutuality.
2. Goods imported for diplomatic and consular offices located in the Czech and Slovak Federal Republic, including those which are being established, are exempt from customs duties, provided that they will be used for official purposes by these offices on the basis of mutuality.
3. Under conditions stipulated in Paragraphs 1 and 2 above, goods imported for use by international organizations active in the Czech and Slovak Federal Republic and their members and employees are exempt from customs duties, to the extent to which these individuals enjoy the privileges and immunities according to international treaties by which the Czech and Slovak Federal Republic is bound, to the extent stipulated in such treaties.
4. Goods imported for use by administrative and technical personnel of diplomatic and consular offices, as well as international organizations listed in Paragraph 3 above, are exempt from customs duties only to the extent to which such goods are intended for the establishment

of households of these members during the period when they first set up their households.

5. If it is not possible to exempt goods listed in Paragraphs 1 and 2 above from customs duties on the basis of mutuality, the customs authorities may stipulate the extent of the exemption, taking into account the extent to which such exemptions usually apply to diplomatic and consular officials or officials of other representative offices.

Section 38

Customs arrangements are made on the basis of a written proposal, confirmed by the head of the representative office or international organization, who certifies that the goods are intended for the use and needs of the addressee or members of his family living with him in a common household, or possibly for official use.

**Section 39 Goods Involved in Tourist Traffic and in
Shipments**

1. Travelers and crew members of transport media who are importing goods for their personal use in the course of travel (travel requisites) may have them exempt from customs duties, as long as the type and quantity of these goods are commensurate with the personal conditions and the duration of the journey of the individual; in this regard, a maximum of two liters of wine, one liter of alcoholic beverage, 250 cigarettes or a corresponding quantity of tobacco products are exempt, and physical entities whose permanent residence is abroad are also permitted to import 1,000 shotgun shells for hunting and 50 rounds of ball ammunition for hunting purposes.
2. In addition to the cases listed in Paragraph 1 above, goods which are not commercial in character and are imported as a result of the travel of physical entities who permanently reside abroad and whose cumulative customs value does not exceed Kcs1,000 are exempt from customs duties.
3. In addition to cases listed in Paragraph 1 above, goods imported as a result of travel for personal use by individuals whose permanent residence is in Czechoslovakia are exempt from customs duties. For example, clothing, footwear, and lingerie or linens which they acquired abroad to satisfy urgent personal needs and goods which lack commercial character and whose cumulative customs value does not exceed Kcs3,000 if they were acquired abroad by gift or purchased for foreign exchange which the individual is authorized to use for the purchase of goods in accordance with valid regulations.
4. Further exemptions from customs duties apply to goods that are not commercial in character:
 - a) If they are imported for physical entities in shipments whose cumulative customs value does not exceed Kcs500; goods reimported in shipments from abroad in a status which is unchanged from that which existed

immediately prior to their being dispatched, provided these goods were demonstrably released into free circulation abroad.

b) Which physical entities permanently residing in Czechoslovakia, but temporarily staying in extra-European countries for purposes of carrying out permitted activities of more than one year duration, send, at a maximum three times per year, by mail, shipper, or commercial organization, for use by minor children and a spouse living with them in a common household in the Czech and Slovak Federal Republic and for persons whom they are obligated to support who likewise live in the Czechoslovakia, provided the cumulative customs value of these goods does not exceed Kcs2,000 in any one shipment.

c) Which physical entities with permanent residence in Czechoslovakia who are temporarily staying in European countries for purposes of carrying out permitted functions with a duration of at least one year, send, once a year, through the postal authorities, shippers, or commercial organizations, for use by minor children and a spouse living with them in a common household in the Czech and Slovak Federal Republic and for persons whom they are obligated to support who also live in Czechoslovakia, provided the cumulative customs value of the goods does not exceed Kcs2,000.

d) Imported by central organs of the Czech and Slovak Federal Republic, the Czech Republic, and the Slovak Republic.

5. Exemptions from customs duties payable on alcoholic beverages, cigarettes and other tobacco products are granted only to persons older than 18 years of age.

6. If several types of goods are being imported, falling into various parts of the customs tariff table, the customs office will grant the participant in a customs proceeding, at his proposal, an exemption from customs duties in accordance with Paragraphs 2, 3, and 4 above, applicable to goods subjected to a higher customs tariff first.

Movement of Household Effects

Section 40

1. Household effects are defined as goods for personal use which were used for personal purposes by the person moving in their household, for example, household furnishings, motor vehicles and other vehicles, goods for personal consumption, and goods required in the performance of a profession, for example, machinery, appliances, instruments, including the instruments of musicians and other artists.

2. The household effects of foreign nationals who, after permanently residing abroad, move to take up permanent residence in Czechoslovakia are exempt from customs duties, provided the quantity of such household effects is commensurate to the needs of the person moving and under conditions listed below.

3. Goods for personal consumption are exempt from customs duties, provided their quantity is commensurate to the volume of average annual consumption.

4. For purposes of customs exemption, it is not decisive as to how long the household effects in question were in use and whether they show signs of having been used.

5. The person moving shall present customs authorities with two copies of the list of household effects. Moreover, such individuals are obligated to prove that they were registered for permanent residence abroad and that they are moving to take up permanent residence in Czechoslovakia.

6. The entitlement to have household effects exempt from customs duties applies only to those household effects which were imported at least six months prior to issuance of the permit to reside permanently in Czechoslovakia and to household effects imported, at the latest, within two years of the issuance of this permission. Household effects imported gradually are exempt from customs duties, provided that when the first portion of these household effects are imported, customs authorities be notified of all the household effects for which the entitlement to have them exempt from customs duties will be asserted.

Section 41

1. Czechoslovak nationals returning from permanent sojourn abroad to permanent residence in Czechoslovakia have their household effects exempt from customs duties to the extent and under conditions listed under Section 40.

2. The household effects of Czechoslovak nationals returning from abroad following temporary sojourn abroad for purposes of carrying out permitted activities lasting at least one year are exempt from customs duties if they have been exported abroad; exemption also applies to goods which they acquired abroad as long as they are imported in quantities which are appropriate to the satisfaction of their personal needs and the personal needs of members of their family living together with them in a common household or for persons whom they are obligated to support.

3. The exemptions from customs duties listed in Paragraph 2 apply only to household effects and goods imported following the termination of temporary sojourn abroad, but apply, at the latest, to the importation of household effects six months following the termination of such sojourn.

Section 42 Wedding Presents

Wedding presents which are generally given on the occasion of a marriage, donated by persons who permanently or temporarily reside abroad and whose period of sojourn is at least one year, to persons who permanently reside in Czechoslovakia upon the occasion of their marriage, intended for the appropriate satisfaction of their personal needs, are exempt from customs duties.

The exemption applies to wedding presents imported no sooner than three months prior to the marriage and no later than six months after the marriage.

Section 43 Inherited Goods

1. Customs exemption applies to all imported goods which individuals whose permanent place of residence is in Czechoslovakia have acquired by inheritance or bequest.

2. The acquisition of inherited or bequeathed goods is proven by a certification of the organ which handled the inheritance or by the presentation of a listing of inherited items or bequeathed goods, verified by this organ. The acquisition of inherited or bequeathed goods may also be proven by a certificate from the Czechoslovak organ engaged in foreign exchange oversight or by a certification of the Czechoslovak representative office abroad.

3. If the inherited or bequeathed goods are not imported within two years after the heir has acquired the possibility to dispose of such goods, the entitlement to have them exempt from customs or the actual exemption of the goods from customs duties expires.

Section 44 Goods Intended for Scientific, Research, Teaching, Educational, Cultural Training, Investigative, Therapeutic, and Official Purposes and Goods Intended To Support Defense Preparedness and Security

1. Goods imported for educational, training, investigative, and therapeutic purposes for public schools and educational facilities, hospitals, and other public health facilities are exempt from customs duties.

2. Goods imported from abroad for scientific, research, cultural-educational training purposes are exempt from customs duties, as long as they are not intended for economic purposes, for state research institutes, state cultural and cultural-educational institutions.

3. Medicines, therapeutic, orthopedic, and prosthetic devices, and hearing aids as well as aids for individuals with impaired vision are exempt from customs duties in quantities commensurate with the needs of the recipient or of persons living with the recipient in a common household.

4. Aids dispatched to international organizations and conferences or to their offices for official use by organs of the state administration, as well as aids for organizations carrying out or brokering transportation services, are exempt from customs duties.

5. Goods intended to support the defense preparedness and security of the Czech and Slovak Federal Republic, which are imported for use by the appropriate central organ of state administration, are exempt from customs duties.

6. Goods intended for use by the State Bureau of Printing and Engraving to support the printing of valid

Czechoslovak bank notes and the minting of valid Czechoslovak coins are exempt from customs duties.

Section 45 Religious Articles

Religious articles used in the conduct of religious services, imported for use by registered churches, religious societies, monastic orders, and congregations, are exempt from customs duties.

Section 46 Goods of a Humanitarian Character

Consumer goods which are sent as a gift to approved humanitarian organizations and which are intended to be distributed, free of charge, by these organizations or under their control to persons in need of such assistance are exempt from customs duties.

Section 47 Literary, Scientific, and Artistic Works

1. Literary, scientific, and artistic works, such as, for example, manuscripts, author's copies of publications, creative proposals, sound, pictorial, and sound track-equipped pictorial recordings, provided they are sent to be used in accordance with the copyright agreement, are exempt from customs duties.

2. Artistic works created by Czechoslovak artists during their temporary sojourn abroad and imported by them are exempt from customs duties, provided they present the customs authorities with a written declaration stating that the imported work was created by them during their sojourn abroad.

Section 48 Goods in Border Contact

1. Customs exemptions apply to the harvest and other benefits derived from border farms, the use of and benefit from the young of domestic animals on these farms, and the yield from fisheries in border waters, as well as the items of daily use for residents of the border area in border contact, are exempt from customs duties.

2. Border farms are understood to be farms, parts of which are located near the border within Czechoslovakia and parts near the border in a neighboring state.

Section 49 Automotive Fuels, Lubricating Oils, and Greases Required for the Operation of a Transport Medium

1. Automotive fuels, lubricating oils, and greases necessary to the operation of a transport medium in tanks which are firmly built into the transport medium in question are exempt from customs duties.

2. Automotive fuels, lubricating oils, and greases transported in reserve containers are exempt from customs in quantities appropriate to the length of the journey on the territory of the Czech and Slovak Federal Republic intended for consumption by the transport medium.

3. Customs exemptions also apply to automotive fuels, lubricating oils, and greases imported by foreign transport organizations for their own transport media. This

exemption does not apply to automotive fuels, lubricating oils, and greases intended for use by highway transport facilities.

Section 50 Goods Intended To Supply Travelers and Crews in Transport Media

Goods intended to satisfy the personal needs of travelers and crew members of transport media during the course of transportation operations being operated by authorized persons are exempt from customs duties to the extent stipulated in international treaties by which the Czech and Slovak Federal Republic is bound.

Section 51 Items Required for Foreign Trade Activities

Documents, information materials, samples of negligible value, models and preparations which cannot be replaced by documents, advertising material imported in appropriate quantities to the extent to which these items are required to conclude or fulfill agreements in the area of foreign trade activity are exempt from customs duties (the International Treaty on Making It Easier To Import Commercial Samples and Advertising Material, Geneva, 7 November 1952 (published as the Supplement to Proclamation No. 17/1956 Sb. of the Ministry of Foreign Affairs), the Recommendations of the Council for Customs Cooperation Regarding Samples of Negligible Value in the Spirit of the International Agreement on Facilitating the Importation of Commercial Samples and Advertising Material, Brussels, 5 December 1962, T 2-4101).

Section 52 Returned Packaging

1. Reimported packages of domestic origin in which goods were exported are exempt from customs duties.
2. Packagings being imported to replace domestic packagings of the same type, which contained export goods, are also exempt from customs duties.

Section 53 Coffins and Urns

Coffins and urns used for the transportation of bodily remains, as well as floral decorations and small decorated objects imported on the occasion of a funeral or imported for use in or on graves, are exempt from customs duties.

Section 54 Materials Required for the Establishment, Maintenance, and Decoration of Military Cemeteries

Goods imported with the approval of state organs which are suitable for the construction, maintenance, or decoration of military cemeteries are exempt from customs duties.

Section 55 Goods Important to Criminal and Court Proceedings

Goods of importance to criminal and court proceedings are exempt from customs duties, provided the appropriate prosecutor, court, or other organ active in the criminal proceedings confirms this fact.

Part Six Importation of Goods Intended for Free Circulation in Czechoslovakia With Partial Exemption From Customs Duties

(Augments Section 44, Paragraph 2, of the Law)

Section 56

Some types of goods to the extent stipulated in Supplement 2 of this regulation are partially exempt from customs duties.

Part Seven Import of Goods Intended for Blocked Circulation in Czechoslovakia With Temporary Complete Exemption From Import Duties

(Augments Section 44, Paragraph 2, of the Law)

Section 57

1. Goods which have been certified, warehoused, are being transit shipped, and goods which are in transit are temporarily completely exempt from customs duties.
2. The exemption from customs duties for the goods listed in Paragraph 1 above is applicable for the necessary period.

Section 58

1. Temporary complete exemption of goods in registered circulation in Czechoslovakia is applicable to the following types of goods:

- a) Goods intended to be displayed as samples.
- b) Goods intended for experiments, to be copied or tested.
- c) Goods required for the carrying out of a profession (Customs Agreement on the Temporary Import of Devices Necessary To Carry Out a Profession, Brussels, 8 June 1961 (Ministry of Foreign Affairs Announcement No. 29/1964 Sb.)).
- d) Goods required for the establishment of a temporary residence by a foreign individual, engaged in permitted activities, in the Czech and Slovak Federal Republic.
- e) Goods intended for personal use by travelers and crew members of transport media.
- f) Literary and artistic works intended to be displayed.
- g) Pedagogic and scientific materials.
- h) Goods intended for surgical and laboratory purposes.
- i) Goods intended for display or use at expositions, exhibitions, meetings, or similar events.
- j) Goods required for the elimination of the effects of catastrophes.
- k) Goods required for purposes of contests and races.

l) Samples and models of goods (the same provisions as those listed at the end of Section 51, Paragraph 1, apply).

m) Transport media.

n) Livestock for pasturing or for the performance of fieldwork and other operations.

o) Livestock of all types imported for purposes of training, practice purposes, propagation, or veterinary treatment.

p) Return packaging, pallets, and containers.

q) Goods intended to be reworked, adjusted, or repaired.

r) Goods intended for installation or completion.

s) Coffins and urns dispatched for purposes of transporting personal remains.

2. Spare parts imported supplementally for purposes of repairing goods listed under Paragraph 1 above are temporarily completely exempt from customs duties under the same conditions applicable to the goods in question.

3. Temporary complete exemption from customs duties for goods listed in Paragraph 1 above is accorded for the duration of time necessary, not to exceed three years from the time the goods come under customs control.

4. Goods listed in Paragraph 1 above are temporarily completely exempt from customs duties provided they are the property of a physical or legal entity whose permanent residence or seat is located outside of the territory of the Czech and Slovak Federal Republic.

CHAPTER FIVE

Customs Proceedings

Part One

(Augments Section 42, Paragraph 2, of the Law)

Section 59 Withdrawal of Samples

1. After initiation of a customs proceeding, the customs authorities or the participant in a customs proceeding may withdraw samples of goods only to the extent necessary to support their identification, determine their nomenclature classification, and determine their characteristics.

2. The customs authorities may withdraw samples of goods only in the presence of the participant in a customs proceeding and with his approval. The participant in a customs proceeding may withdraw samples of goods only upon the approval of the customs authorities.

3. The customs authorities shall issue a certificate to the participant in a customs proceeding regarding the withdrawal of samples of the goods. The withdrawn samples

of the goods, which were not consumed in pursuance of the given purpose shall be returned by the customs authorities to the participant in a customs proceeding.

4. The customs authorities may require the payment of customs duties for samples of goods taken from participants in a customs proceeding.

Local Jurisdiction of Customs Authorities

Section 60

1. An internal customs facility shall be presented goods for a customs proceeding which are:

a) Imported and exported, which are scheduled to be released into registered circulation, with the exception of goods and transport media imported and exported as a result of tourist traffic for the appropriate satisfaction of personal requirements of travelers or crew members of a transport medium during the course of the journey and for purposes of a short-term sojourn abroad or in Czechoslovakia or if it is not more purposeful for a border customs facility to conduct a customs proceeding.

b) Imported goods which are to be released for warehousing in customs warehouses.

c) Imported goods intended for the free customs zone.

d) Imported goods intended for the construction and completion of a turnkey plant in Czechoslovakia.

e) Goods of Czechoslovak origin being reimported and goods of foreign origin being reexported because there was an obstacle to concluding the business transaction.

f) Imported goods which are to be released to limited circulation in Czechoslovakia, particularly in the form of household effects, wedding gifts, inheritances, and goods being exported as household effects, inheritances, and items to satisfy the personal needs of the person exporting them in support of a long-term sojourn abroad.

g) Goods being imported as a result of travel contacts which are in excess of the customs-exempt quantities, if border customs authorities so decide so as to ensure the smoothness of traffic across the state border.

h) Goods imported and exported as a result of travel and nontravel contacts, if the internal customs authorities so rule in a permit issued according to special regulations (Federal Ministry of Foreign Trade Announcement No. 41/1985 Sb. on Noncommercial Exports and Imports of Items as Defined in Subsequent Regulations).

i) Imported and exported goods which are scheduled to be released into free circulation if these goods cannot easily and effectively be customs inspected.

j) Imported goods where the location at which customs proceedings are to be held is stipulated in the shipping manifest (for example, locations where goods are to be accepted, quality controlled, etc.).

k) Imported and exported commercial samples (provisions stipulated under Section 51, Paragraph 1, apply) and advertising material, provided it is not more purposeful for the border customs authorities to conduct a customs proceeding.

2. For purpose of this regulation, advertising material is understood to be products of low utility value particularly equipped with advertising inscriptions and markings.

3. Imported and exported goods which are to be released into free circulation and which are easily and effectively inspected for customs purposes are to be presented for a customs proceeding:

a) In river and river/maritime transportation where such goods were brought by rail or highway vehicle to the transit-shipping point at the border customs facility in ports on the Danube River and to the internal customs facility in ports on the Labe River (announcement by the Federal Ministry of Foreign Trade, which announces the listing of customs facilities, customs branches, and territorial customs circuits and outlines the customs border zone).

b) In highway transportation to the internal customs facility located at a travel center (see Section 60, Paragraph 3, a), for definition).

c) In rail transportation as piece goods to an internal customs facility located at a railroad station which is open for international shipment of piece goods (see Section 60, Paragraph 3, a), for definition) and to loading and distribution centers for shipments of collected merchandise (see Section 60, Paragraph 3, a), for definition).

d) As goods transported by highway, dispatched as piece goods, destined for an internal customs facility located in a loading and distribution center for the shipment of collected merchandise (see Section 60, Paragraph 3, a), for definition).

e) As goods dispatched in containers to an internal customs facility located in a container transit-shipping facility or in a container terminal (see Section 60, Paragraph 3, a), for definition).

Section 61

Goods which are regularly and effectively examined for customs purposes are considered to be the following:

a) Goods which are freestanding.

b) Goods packaged in bags, bales, crates (including drums for the shipment of cables), barrels with bayonet closures.

c) Goods located in luggage (suitcases, briefcases, etc.);

d) Unpackaged goods.

e) Unpackaged goods assembled on pallets or wrapped in transparent wrappings attached to pallets with shrink-foil wrapping.

f) Liquid goods, bulk cargo, or gases being transported in container cars or in special containers, provided that these goods are secured in these cars or containers with railroad closures or seals affixed by the shipper and that the numbers/characteristics of these seals and closures are shown in the shipping manifest.

g) Goods which are freely loaded on open cars with accessories and parts wrapped in crates, provided that the accessories and parts in crates were packaged at an earlier time under the direct supervision of members of the Customs Administration.

(Augments Section 61, Paragraph 4, of the Law)

Section 62 Customs Proceedings Outside of the Customs Area

1. Customs proceedings are undertaken outside of the customs area in the event this is justified by measures of economy, particularly if it leads to facilitating the shipment of goods or if it is otherwise important to do so, provided this procedure does not disrupt the regular activities of the customs facility.

2. In the event the participant in a customs proceeding requests that a customs proceeding be undertaken outside of the customs area, he must submit his request in sufficient time, must notify the customs facilities regarding the approximate quantity of goods and their type, using customary commercial terminology, and must propose the time such a customs proceeding should be undertaken; a participant in a customs proceeding is obligated to notify the customs facility without undue delay of any other changes in the above data.

3. The customs facility will undertake a customs proceeding outside of the customs area, provided that, at the time proposed by the participant in a customs proceeding, the necessary documents, goods, and possibly the transport medium in which the goods are being shipped are prepared in such a way that a customs proceeding can be immediately initiated and can be concluded without delay.

4. A customs proceeding outside of the customs area will not be undertaken if the customs facilities determine that they will conduct customs control only by checking documents and papers.

Blocked Circulation

(Augments Section 77, Paragraph 3, of the Law)

Section 63

1. The customs facility will decide whether and under what conditions goods shall be released into blocked circulation, how the identity of the goods is to be safeguarded, whether to require a deposit of a customs surety and its size. In the event the participant in a

customs proceeding presents a proposal covering the method of depositing a customs surety, its size will be determined by the customs authorities.

2. The identity of the goods is safeguarded in accordance with the character of the goods and the purpose for which they are being imported or exported by attaching a customs seal, by imprinting the official stamp, by using sealing wax, by providing a precise description, depiction, by removing samples, by recording trademarks and production numbers, or by any other suitable method.

3. A customs closure can be individual or can cover a specific area; an individual customs closure is attached to the actual merchandise or packaging in question, an area closure is attached, for example, to a device which closes off an area within the transport medium or container or a room. Areas within transport media or containers are secured by the attachment of a hanging closure. Packaging which contains goods may be secured with sealing wax or customs stamps. An attached customs closure may be removed only with the approval of the customs authorities.

4. The attachment of customs closures to transport media, containers, and to packaging or goods is recorded in customs and other documents.

5. The attachment of an area customs closure may be foregone if the area within the transport medium or container is adequately secured by a closure attached by the shipper or transport facility.

6. If a customs closure cannot be safely attached, the identity of the goods must be secured and their markings appropriately described in shipping and accompanying documents.

7. Foreign customs closures, markings, numbers, or other identifying marks on goods and in transport or accompanying documents, which have been confirmed by the customs organs of other countries, may be recognized, provided they constitute a reliable guarantee for securing the identity of the goods.

8. Goods secured by an area customs closure may be transit shipped without customs supervision.

9. Goods secured by individual customs closure may be transloaded without customs supervision.

10. The shipper may, without approval from the customs authorities, repackage some certified pieces of freight while under way if this is necessary for special reasons. He shall note the repackaging in the shipping manifest.

11. Goods which are imported, exported, or being transit shipped outside of the framework of foreign trade activities and which are in blocked circulation may be removed or otherwise handled only with the approval of the customs authorities.

12. In releasing goods to blocked circulation, the customs authorities shall set the time for the repeated presentation of the goods to the customs authorities or for reexport or reimport, not to exceed three years from the moment the goods are under customs control.

13. At the proposal of a participant in a customs proceeding, customs authorities may release goods from blocked circulation for reexport or reimport or enter free circulation. It is also possible to terminate blocked circulation provided a participant in a customs proceeding surrenders the goods to the state or the customs authorities, if regulations regarding the protection of the environment are to be preserved, if a participant gives his approval for the destruction of the goods or approves their depreciation at the expense of a participant in a customs proceeding. The customs authorities may accept the surrendering of goods to the state, provided this does not result in any expenditures for the state other than those connected with the sale of the goods.

Registered Circulation in Czechoslovakia

(Augments Section 77, Paragraph 3, and Section 78, Paragraph 5, of the Law)

Section 64

In particular, the following types of goods may be released into circulation of record in this country:

a) Goods intended for experiments, imitation, testing, and display purposes.

b) Goods intended to support the carrying out of a profession (see Section 58, Paragraph 1, c), for definition).

c) Goods for the personal use of travelers and crew members aboard transport media.

d) Literary, scientific, and artistic works used for purposes of display.

e) Goods intended for expositions and exhibitions.

f) Goods intended for competitions and races.

g) Samples and models of goods (see Section 51, Paragraph 1, for definition).

h) Transport media.

i) Live animals for pasturing or for the conduct of fieldwork and other work.

j) Return packaging, pallets, and containers.

k) Goods intended to be reworked, modified, or repaired.

l) Goods intended for temporary use.

Section 65

1. Goods for the personal use of travelers and crew members aboard transport media are considered to be,

for example, clothing, underwear and linens, footwear, normal jewelry, watches, even those made of precious metals, suitcases, briefcases, film and photographic cameras, hunting weapons, portable radios and television sets, tape recorders, baby carriages, wheelchairs, inflatable and other boats, other sporting goods.

2. As long as the goods listed in Paragraph 1 above are commensurate with the personal status of the traveler or crew member aboard a transport medium, correspond to the length and purpose of the journey, the customs authorities shall release such goods into circulation of record without requiring a customs surety for the period of time necessary.

Section 66

1. Transport media are considered to be any vessel (including barges and cargo vessels, even those being shipped aboard another ship or barge), an aircraft, a motorized highway vehicle (including motorcycles), a trailer, a tractor-trailer, and rolling stock inventory, as well as spare parts, accessories, and normal installations for these media (including special tools required for loading, unloading, cargo handling, and cargo protection).

2. A commercial transport medium is understood to be a transport device used by the importing individual to transport persons or goods in return for compensation; a private transport medium is understood to be one which is used by the importing individual exclusively to satisfy his or her personal needs, with the exception of all passenger transportation or goods transportation which is accomplished in return for compensation.

3. Transport media are released to circulation of record in Czechoslovakia provided that:

a) They are registered outside of the territory of the Czech and Slovak Federal Republic in the name of a person who has their permanent residence or seat outside of the Czech and Slovak Federal Republic and are imported and used by persons who have their permanent residence or seats outside of the territory of the Czech and Slovak Federal Republic.

b) Commercial transport media are utilized within the bounds of the permit issued according to special regulations (Law No. 68/1979 Sb. on Highway Transportation in Internal Forwarding Activities, as defined in Law No. 118/1990 Sb.).

c) Private transport media are used by the importing individual exclusively for the satisfaction of his or her personal needs, with the exception of all transport of passengers or goods accomplished in exchange for compensation.

d) Neither commercial nor private transport media shall be rented out, left to someone to use temporarily, or be used in the carrying out of a profession.

4. Transport media are released into circulation of record without requiring the payment of a customs surety. Commercial transport media are released for the necessary period; private transport media are released for the period necessary, but not to exceed one year.

5. Private transport media may be used by another person with a permanent residence on the territory of the Czech and Slovak Federal Republic, provided they are regularly empowered to do so by the same person for whom the transport medium was released into circulation of record.

6. A private transport medium, registered outside of the territory of the Czech and Slovak Federal Republic, may be utilized by a person who has a permanent residence on the territory of the Czech and Slovak Federal Republic, but who is temporarily living outside of the territory of his permanent residence for the conduct of permitted activities and is imported by that person for the purpose of short-term visits to the Czech and Slovak Federal Republic. Such a private transport medium is also temporarily completely exempt from customs duties according to Section 58, Paragraph 1.

7. The provisions of Paragraphs 3, 4, 5, and 6 do not apply to transport media imported for purposes of rental or being left to someone for temporary utilization or to engage in a profession.

Section 67

If goods are to be released into circulation of record for reworking, modification, or repair, the customs authorities shall establish the conditions under which work for these purposes is to be performed. In establishing the conditions, the customs authorities may consider whether the products are to be tested or base their decision on an expert opinion, and shall list the type, quantity, and quality of the goods which are to be acquired following the completion of the work.

(Augments Section 77, Paragraph 3, and Section 78, Paragraph 5, of the Law)

Section 68 Circulation of Record Abroad

1. Customs control of goods in circulation of record abroad is conducted by checking documents.

2. The customs authorities do not require presentation of the goods in question for a customs proceeding in which a decision is made to release the goods from circulation of record abroad into free circulation abroad.

3. Otherwise, appropriate provisions covering circulation of record in Czechoslovakia apply to circulation of record abroad.

(Augments Section 75, Paragraph 2, of the Law)**Section 69 Exit of Goods Abroad**

1. If the customs authorities do not detect any defects during customs control, they shall confirm the exit of the goods abroad in accompanying documents.

2. The border customs facility shall conduct an internal customs inspection, particularly in the event customs closures have been disrupted or if there is reason to believe that the content of the shipment has been altered or that the goods have been handled in a prohibited manner.

3. The postal service does not have to present shipments released by the internal customs facilities to the border customs authorities; the exit of these shipments is certified by the border customs facilities on the basis of freight manifests.

(Augments Section 77, Paragraph 3, of the Law)**Section 70 Searching for Certified Goods**

If the certifying customs facility determines that the certified goods were not presented to the receiving customs authorities at all or only partially, it will send a tracing letter to the individual who was obligated to present the goods in question to the receiving customs facility for a customs proceeding.

(Augments Section 80, Paragraph 7, of the Law)**Section 71 Temporary Storage of Goods**

1. Goods may be temporarily stored only in operating warehouses of the shipper and postal service which are so equipped that they can be safely closed off. The facilities are closed by the shipper and the postal service; the customs authorities may attach a joint closure.

2. If goods are stored in an operating warehouse of the shipper or the postal service and are to be subjected to a customs proceeding, the customs authorities shall determine the number of pieces of freight and their markings, numbers, and types of packaging, and their gross weight.

3. If the customs facilities do not have sufficient room to accommodate goods stored as a result of their own initiative, the shipper or the postal service shall make it possible for customs to store goods in their operating warehouses, provided operational and local conditions permit this.

4. The following charges are levied against goods stored in customs warehouses for each fractional month of storage:

a) Five percent of the value of the warehoused goods, but at least Kcs50, if the duration of storage does not exceed five days (the day the goods are stored is not counted).

b) Ten percent of the value of the warehoused goods, but at least Kcs100, if the duration of storage exceeds five days.

5. If the items stored in customs warehouses are lists, documents, documentation, and other written materials, storage charges of Kcs20 are levied for each warehoused component for each fractional month of storage.

6. Storage fees for storing goods in customs warehouses for periods longer than one month are double those listed under Paragraphs 4, b., and 5.

7. The cumulative storage charges are rounded off to whole korunas, downward.

(Augments Section 77, Paragraph 3, of the Law)**Section 72 Transit Traffic**

In transit traffic, a participant in a customs proceeding is obligated to present, both to the exit and also entry border customs facility, documents which make it clear that the goods being transported are of domestic origin and are being shipped through the territory of another state.

Part Two Customs Warehouses**(Augments Section 81, Paragraph 4, of the Law)****Section 73**

1. Upon the proposal of a legal or physical entity, the appropriate customs facility may decide on the establishment of a customs warehouse.

2. A customs warehousing facility is a secured area, a building or an area in which imported goods are stored if the owner of the goods in question is a person whose permanent residence or seat is outside of the territory of the Czech and Slovak Federal Republic.

3. Customs warehouses may be established as public facilities or as private facilities.

4. A public customs warehouse may be used by any person to store goods; a private customs warehouse is for the exclusive storage of goods by the operator of the warehouse facility.

5. Goods are released to customs warehouses without requiring the deposit of a customs surety.

Section 74

1. A proposal to establish a customs warehouse shall contain data essential to making that decision, particularly data on:

a) The warehouse operator.

b) The area, building, or space of the warehouse and its location.

c) The date the customs warehouse was established.

d) Persons who will guarantee the payment of any customs duties or fees to organs of the Customs Administration.

e) Technical conditions governing the customs warehouse.

f) Conditions for the administration and security of the customs warehouse.

g) Conditions having to do with the warehousing of goods, accounting records, and the provision of inventories of the goods.

2. A proposal for establishing a private customs warehouse shall contain not only the data listed in Paragraph 1 above, but also data on the:

a) Owner of the goods.

b) Type of goods to be stored in the customs warehouse.

3. If, in the course of a release proceeding or after permission has been granted to establish a customs warehouse, the conditions listed in the proposal to establish a customs warehouse change, the proposer is obligated to notify the appropriate customs facility of these changes within 15 days of the day these changes came to his attention.

Section 75

1. Dangerous goods which can contaminate other stored goods or which require special handling may be stored only in customs warehouses specially equipped to handle them.

2. To the extent to which the establishment of a customs warehouse, listed in Paragraph 1 above, requires permission in accordance with special regulations (for example, Law No. 547/1990 Sb. on Handling Some Types of Goods and Technologies and Their Control; Law No. 105/1990 Sb. on Private Entrepreneurial Activities by Citizens) such a permit must be presented together with the proposal.

Section 76

1. As long as the appropriate customs facility does not stipulate otherwise, goods which are to be stored in a customs warehouse must be presented to the customs facility along with documents required for the execution of a customs proceeding.

2. For purposes of implementing customs control, the customs office may particularly require:

a) That customs warehouses be locked with two different keys (a key in the possession of the operator of the warehouse and a key in the possession of the customs office).

b) That it be given oversight over the customs warehouse.

c) The maintenance of accounting records regarding the warehoused goods in a form approved by the customs office.

d) That the customs office conduct an inventory of the warehoused goods.

Section 77

1. The customs office shall release goods for storing in a customs warehouse; the time limit for storing is determined with a view toward the requirements of foreign trade.

2. Within a customs warehouse, it is possible, with the knowledge of the customs facilities, to undertake permitted operations necessary to assure the preservation of the goods and normal manipulations conducted for purposes of improving the packaging or sales quality of the goods or modifying them for transportation, for example, the division of goods or the assembly of pieces of cargo, the selection sorting of goods, replenishment of fluids, repackaging, cleaning, newly marking, augmenting, inspecting, denaturing, and sampling. In carrying out these actions, it is necessary to adhere to customs regulations.

Section 78

The ownership of goods stored in a customs warehouse may change; this fact must be reported to the customs facilities and documented without undue delay.

Section 79

1. If warehoused goods are damaged or destroyed as a result of an accident or an act of God, the customs facility will release such goods into free circulation in Czechoslovakia, as if they had been damaged or destroyed while stored in a customs warehouse. Proof of the damage or destruction must be presented to the customs authorities.

2. The waste or remainder which is left following the destruction or depreciation of goods is subject to the same kind of customs duties upon release into free circulation inside Czechoslovakia which the customs authorities would have assessed and collected had such waste or remainder been stored in this condition.

Section 80

If goods stored in customs warehouses have been destroyed or depreciated with the approval of the customs authorities, the operator of a customs warehouse shall make a record of the destruction or depreciation of the goods; one copy of this record is to be presented to the customs authorities.

Section 81

1. Public customs warehouses may be used to store all types of goods, including goods subject to prohibitions and restrictions, provided the prohibitions and restrictions are not imposed for veterinary or plant protection reasons, for reasons of public morality or order, for reasons of public security, health protection, environmental protection, for the protection of items of museum

and gallery value, of cultural and national cultural memorabilia having artistic, historic, or archeological value.

2. Public customs warehouses may not be used to also store goods subject to prohibitions and restrictions having to do with the protection of patents, trade marks, and copyrights.

3. The operator of a public customs warehouse is obligated to make a record of the goods which cannot be stored in a public customs warehouse. He shall publish such a listing in a suitable manner; one copy of the listing shall be turned over by the operator to the customs authorities.

Section 82

1. Private customs warehouses may be used to store only goods listed in a customs decision on establishing a customs warehouse. The prohibitions and restrictions listed under Section 81 are also applicable.

2. A private customs warehouse is accessible only to those importers listed in the decision by the customs authorities on establishing a customs warehouse.

CHAPTER SIX

Free Customs Zone

(Augments Section 19, Paragraph 2, of the Law)

Section 83

1. Free customs zones are established particularly in locations which have an advantageous geographic position, such as riverports, airfields, important transport junctions.

2. Goods may be placed in free customs zones without regard to their quantity, origin, place of destination, or location of import, including goods subject to prohibitions and restrictions, provided that such prohibitions and restrictions are not imposed for veterinary reasons, plant protection reasons, for reasons of public morality or public order, for reasons of public safety, health protection, environmental protection, for reasons of protecting items with museum and gallery value, cultural and national cultural memorabilia having historical, artistic, or archeological value, and for purposes of protecting patents, trademarks, and copyrights.

3. Free customs zones may accommodate not only goods which have just been imported from abroad and which are owned by a person who is domiciled or has a seat outside of the territory of the Czech and Slovak Federal Republic, but also goods owned by a person who is domiciled or has a seat on the territory of the Czech and Slovak Federal Republic.

4. The duration of the time goods may remain in a free customs zone is not restricted.

Section 84

To the extent to which a permit, specified by special regulations, is required for the establishment of a free customs zone, such a permit must be presented at the same time as the proposal to establish such a zone.

Section 85

1. A proposal to establish a free customs zone shall contain data essential to making that decision, and particularly:

a) The title and address of the operator of the free customs zone.

b) The cadastral number of the lot on which the free customs zone is to be established, and the dimensions of that lot.

c) The type of activities which are to be carried out within the free customs zone.

d) The proposed date for the establishment of a free customs zone.

e) The technical conditions governing the free customs zone.

f) The conditions of administration and security of the free customs zone.

g) The conditions having to do with accounting records and inventories of goods.

2. Together with a proposal to establish a free customs zone, it is necessary to present a document certifying the ownership or use rights of the person who has submitted the proposal pertaining to the parcel of land on which the free customs zone is to be established.

3. If the facts listed in the proposal to establish a free customs zone should change during the course of the proceedings designed to permit such an establishment or following the issuance of a permit to establish a free customs zone, the proposing party is obligated to notify the Federal Ministry of Foreign Trade of these changes within 15 days from the day such changes came to that party's attention.

Section 86

1. Dangerous goods, goods which could depreciate other goods or which require special equipment may be located only in areas specially equipped for such purposes.

2. To the extent to which the location of goods listed in Paragraph 1 above requires permission in accordance with special regulations (see Section 75, Paragraph 2, for definition), such a permission must be submitted together with the proposal.

Section 87

1. The area of a free customs zone must be fenced in by a fence which is at least three meters in height.
2. The areas, the entry and exit locations of a free customs zone may be placed under the direct supervision of a member of the Customs Administration.
3. Persons and transport media which enter and leave the free customs zone may be subjected to customs inspection.
4. Entry into a free customs zone will be permitted by customs authorities for persons who have been punished for violating customs regulations.
5. The customs facility in whose territorial circuit the free customs zone is located (hereinafter referred to only as the "customs facility") may check goods which are entering or leaving or goods which are located within the free customs zone. To facilitate such control, the operator of a free customs zone shall maintain records of goods which enter, leave, or are located within the free customs zone, augmented by data prescribed by the customs facility in such a way so that identification of the goods is made possible and an overview of their movement is obtained. The accounting records must be placed at the disposal of the customs facility to facilitate control, as considered necessary by the customs facility. Upon request, the operator of a free customs zone shall provide a copy of shipping and accompanying documents which accompany goods upon entering or leaving the free customs zone to the customs facility.
6. In the event goods are moved within the free customs zone, appropriate documents must be at the disposal of the customs facility.
7. In justified cases, on the basis of a request by the operator of a free customs zone, the customs facility may conduct permanent supervision within the free customs zone. Costs connected therewith are to be borne by the operator of the free customs zone.

Section 88

The operator of a free customs zone is obligated to make a record of goods which are unsuitable for location within a free customs zone and goods whose location in a free customs zone is prohibited. He shall publicize this listing in a suitable manner and provide a copy of the listing to the customs facility.

Section 89

1. The operator of a free customs zone shall make an inventory listing of machines, tools, transport media, and other facilities imported into a free customs zone and intended for the performance of warehousing operations, production activities, and other important actions, office machinery, and other items. The above-listed inventory must make it clear whether the listed inventory was imported into the free customs zone from

abroad or transferred from the territory of the Czech and Slovak Federal Republic from outside of the free customs zone.

2. The operator of a free customs zone shall notify the customs authorities without undue delay of all changes affecting the quantity of the inventory listed in the inventory listing.

3. The inventory transferred into the free customs zone from territory of the Czech and Slovak Federal Republic located outside the area of the free customs zone which is being transferred back to the territory of the Czech and Slovak Federal Republic shall be written off from the inventory listing on the basis of a listing of the inventory being removed, as compiled by the operator of the free customs zone. In the event inventory which is imported into the free customs zone from abroad is transferred to the territory of the Czech and Slovak Federal Republic outside of the area of the free customs zone, this inventory is to be released as if it had been imported directly from abroad.

4. The inventory listing shall contain the following:

- a) The name and address of the operator of the free customs zone.
- b) The name and address of the owner of the inventory.
- c) The designation of the customs office undertaking customs control within the free customs zone.
- d) The name and address of the free customs zone.
- e) The sequential number of the inventory listing, beginning each year with number one.
- f) A detailed description (individual nomenclature, type, production number, etc.), quantity, weight, and customs value of the inventory.
- g) A "remarks" column for remarks on various manipulations involving the inventory (for example, export, depreciation under customs supervision).
- h) Columns for signatures and stamps of the operator of a free customs zone and of the customs facility and the date the inventory listing was compiled.

Section 90

1. The export of goods from a free customs zone to a foreign country is conducted on the basis of a listing of the exported goods, compiled by the operator of the free customs zone in triplicate and on the basis of commercial invoices.
2. The export of goods from free customs zones to foreign countries is not subject to the prohibitions and restrictions connected with the crossing of goods across the state border.

3. If goods imported into the free customs zone from abroad are transferred to the territory of the Czech and Slovak Federal Republic outside of the area of the free customs zone, they are released as if they had been imported to the Czech and Slovak Federal Republic directly from abroad.

4. Goods and inventory imported into a free customs zone or waste products, as well as secondary products resulting from the process of reworking, modification, or repair of imported goods may, provided regulations for protecting the environment are observed, be destroyed or depreciated on the basis of a request by the operator of a free customs zone with the approval of the owner, under customs supervision. The destruction or depreciation will be recorded by the operator of a free customs zone by making an entry; one copy shall be handed to the customs facility. The destroyed or depreciated items are written off in the appropriate records. Costs connected with destruction or depreciation do not accrue to the state.

Section 91

According to need, but at least once each year, the customs facility will check the goods, means of production, and other inventory imported into a free customs zone according to the prescribed records.

CHAPTER SEVEN

Procedures Involved in the Sale and Other Handling of Goods

(Augments Section 110, Paragraph 2, of the Law)

Section 92

1. Goods which have been declared forfeited or which were confiscated during a proceeding involving customs violations, goods which were declared forfeited or which were confiscated as a result of criminal proceedings regarding criminal acts committed during the import, export, or transit shipment of goods, as well as goods which have been surrendered to the state by a participant in a customs proceeding, are considered to be under the temporary administration of customs facilities.

2. The sale or other handling of the goods listed in Paragraph 1 above is governed by regulations on the temporary administration of national property (Announcement No. 61/1986 Sb. of the Federal Ministry of Finances on the Temporary Administration of National Property).

3. The provisions of Paragraphs 1 and 2 above also apply to items and other values according to regulations covering the foreign exchange economy to the extent to which they were acquired as a result of customs violations.

CHAPTER EIGHT

Special and Concluding Provisions

(Augments Section 22, Paragraph 3, of the Law)

Section 93 Gold for Industrial Purposes

Gold for industrial purposes is understood to be gold which is imported, exported, or being transit shipped exclusively within the framework of foreign trade activities for industrial reworking, modification, or processing.

Section 94

The following legislation is rescinded:

1. Federal Ministry of Foreign Trade Decree No. 51/1986 Sb., implementing Customs Law No. 44/1974 Sb.
2. Federal Ministry of Foreign Trade Decree No. 45/1986 Sb., which issues the customs tariff tables for noncommercial goods with elucidations.
3. Federal Ministry of Foreign Trade Decree No. 10/1988 Sb., which changes Decree No. 45/1986 Sb., which issues the customs tariff tables for noncommercial goods with elucidations.
4. Federal Ministry of Foreign Trade Decree No. 181/1988 Sb., which changes Decree No. 51/1986 Sb., which implements the Customs Law.
5. Federal Ministry of Foreign Trade Decree No. 224/1988 Sb., which changes and augments Decree No. 51/1986 Sb. of the Federal Ministry of Foreign Trade, which implements Custom Law No. 44/1974 Sb. as presented as Decree No. 181/1988 Sb.
6. Federal Ministry of Foreign Trade Decree No. 84/1989 Sb. on Customs Duty Relief on the Import of Some Types of Noncommercial Goods.
7. Federal Ministry of Foreign Trade Decree No. 178/1989 Sb., providing clarification of the customs rate table for commercial goods.
8. Federal Ministry of Foreign Trade Decree No. 183/1990 Sb. on the Collection of Contractual Customs Duties on Goods Imported From Countries With Which an Agreement on the Mutual Granting of Customs Advantages Has Not Been Signed.
9. Federal Ministry of Foreign Trade Decree No. 236/1990 Sb., which augments Federal Ministry of Foreign Trade Decree No. 51/1986 Sb., which implements Customs Law No. 44/1974 Sb. in the text of Decree No. 181/1988 Sb. and Decree No. 224/1988 Sb.
10. Federal Ministry of Foreign Trade Decree No. 424/1990 Sb., which changes and augments the Federal Ministry of Foreign Trade Decree No. 51/1986 Sb., which implements Customs Law No. 44/1974 Sb. and Decree No. 84/1989 Sb. on Customs Duty Relief on the Import of Some Types of Noncommercial Goods.

Section 95

This decree becomes effective 1 February 1991.

Supplement 1. Listing of Countries With Which an Agreement on the Mutual Granting of Customs Advantages Has Not Been Signed and on Whose Goods Which Are Imported to the Czech and Slovak Federal Republic Contractual Customs Duties Are Collected

Albanian People's Socialist Republic
Algerian Democratic People's Republic
Bahamas
Chinese People's Republic
Dominican Republic
Fiji
Guatemala
Cape Verde Islands
Kiribati Republic
Korean People's Democratic Republic
Kingdom of Saudi Arabia
Kingdom of Swaziland

Kingdom of Togo
Mongolian People's Republic
Papua New Guinea
Republic of Paraguay
Republic of Guinea-Bissau
Republic of Equatorial Guinea
Salvadoran Republic
Seychelles Republic
Bahrain
Qatar
United Arab Emirates
Sultanate of Brunei
St. Lucia
St. Christopher & Nevis
Holy See
St. Vincent/Grenadines
Solomon Islands
Taiwan—Province of the Chinese People's Republic
Tuvalu
Socialist Republic of Vietnam

Supplement 2. Goods Which Are Partially Exempt From Import Duties*

Number in Customs Tariff Table	Nomenclature	Customs Rate Per Customs Table, %	
		General	Reduced
1901	Malt extract; food products made of flour, grits, starch, starch flour, or malt extracts which contain cocoa powder or contain less than 50% cocoa powder by weight which are not listed elsewhere; food products bearing Nos. 0401 through 0404 which do not contain cocoa powder or contain less than 10% cocoa powder by weight not listed elsewhere		
1901 10 9	—Preparation for alimentation of children in retail packages	30.0	15.0
1901 20 6	—Mixtures and doughs for preparation of bakery goods, fine or durable baked goods No. 1905	30.0	16.0
2008	Fruit, nuts, and other edible plant products otherwise modified or preserved, including those that have added sugar or other sweeteners or alcohol not listed or included elsewhere		
2008 20 3	—Pineapples	45.0	8.0
2008 30 1	—Citrus fruit	45.0	8.0
2008 40 8	—Pears	45.0	20.0
2008 50 5	—Apricots	45.0	20.0
2008 60 2	—Cherries	45.0	20.0
2008 70 0	—Peaches	45.0	20.0
2008 80 7	—Strawberries	45.0	20.0
	—Other, including other mixtures than 2008 19 0		
2008 92 1	—Mixtures	45.0	20.0
2008 99 8	—Other	45.0	20.0
5405 00 9	Synthetic monofilament whose weight by length is 67 decitex or greater and none of whose diameters exceed 1 mm; ribbons and similar shapes (for example, synthetic straw) made of artificial textile materials whose width does not exceed 5 mm	47.0	5.0
5501	Artificial silk cables		
5501 10 5	—Made of nylon or other polyamides	70.0	9.0
5501 20 2	—Made of polyesters	50.0	9.0
5501 30 0	—Made of acrylics or modacrylics	66.0	9.0

Number in Customs Tariff Table	Nomenclature	Customs Rate Per Customs Table, %	
		General	Reduced
5501 90 3	—Other	69.0	9.0
5502 00 4	Rayon cable	70.0	9.0
5503	Synthetic staple fibers which are not carded, combed, or otherwise processed for spinning		
5503 10 8	—Made of nylon or other polyamides	70.0	9.0
5503 20 5	—Made of polyesters	45.0	9.0
5503 30 2	—Made of acrylics or modacrylics	67.0	9.0
5503 40 0	—Made of polypropylene	45.0	9.0
5503 90 6	—Other	70.0	9.0
5504	Synthetic staple fibers which are not carded, combed, or otherwise processed for spinning		
5504 10 4	—Made of viscose fiber	70.0	9.0
5504 90 2	—Other	70.0	9.0
5506	Synthetic staple fibers which are carded, combed, or otherwise processed for spinning		
5506 10 7	—Made of nylon or other polyamides	62.0	10.0
5506 20 4	—Made of polyesters	62.0	10.0
5506 30 1	—Made of acrylics or modacrylics	62.0	10.0
5506 90 5	—Other	62.0	10.0
5507 00 6	Synthetic staple fibers which are carded, combed, or otherwise processed for spinning	58.0	10.0
5508	Sewing thread made of chemical staple fibers also modified for retail sales		
5508 20 7	—Made of synthetic staple fibers	45.0	20.0
5509	Yarn (other than sewing thread) made of synthetic staple fibers not modified for retail sales		
	—Containing at least 85% by weight of staple fibers of nylon or other polyamides:		
5509 11 4	—Single yarn	51.0	8.0
5509 12 2	—Multiple (twisted) or cable yarn	51.0	8.0
	—Containing at least 85% by weight of polyester staple fibers		:
5509 21 1	—Single yarn	51.0	8.0
5509 22 0	—Multiple (twisted) or cable yarn	51.0	8.0
	—Containing at least 85% by weight of acrylic or modacrylic staple fibers:		
5509 31 9	—Single yarn	51.0	8.0
5509 32 7	—Multiple (twisted) or cable yarn	51.0	8.0
	—Other yarns containing at least 85% by weight of synthetic staple fibers:		
5509 41 6	—Single yarn	51.0	8.0
5509 42 4	—Multiple (twisted) or cable yarn	51.0	8.0
	—Other yarns of polyester staple fibers:		
5509 51 3	—In principal or exclusive mixtures with synthetic staple fibers	51.0	8.0
5509 52 1	—In principal or exclusive mixtures with wool or fine animal hairs	51.0	8.0
5509 53 0	—In principal or exclusive mixtures with cotton	51.0	9.0
5509 59 9	—Other	51.0	9.0
	—Other yarns of acrylic or modacrylic staple fibers:		
5509 61 1	—In principal or exclusive mixtures with wool or fine animal hairs	51.0	9.0
5509 62 9	—In principal or exclusive mixtures with cotton	51.0	9.0

Number in Customs Tariff Table	Nomenclature	Customs Rate Per Customs Table, %	
		General	Reduced
5509 69 6	—Other	51.0	9.0
	—Other yarns:		
5509 91 2	—In principal or exclusive mixtures with wool or fine animal hairs	51.0	9.0
5509 92 1	—In principal or exclusive mixtures with cotton	51.0	9.0
5509 99 8	—Other	51.0	9.0
5510	Yarn (other than sewing thread) made of synthetic staple fibers not modified for retail sales		
	—Containing at least 85% by weight of synthetic staple fibers:		
5510 11 2	—Single yarn	54.0	9.0
5510 12 1	—Multiple (twisted) or cable yarn	54.0	9.0
5510 20 1	—Other yarns in principal or exclusive mixtures with wool or fine animal hairs	54.0	9.0
5510 30 9	—Other yarns in principal or exclusive mixtures with cotton	54.0	9.0
5510 90 2	—Other yarns	54.0	9.0
5511	Yarn (other than sewing thread) made of chemical staple fibers adapted for retail sales		
5511 30 5	—Made of synthetic staple fibers	44.0	20.0
6403	Footwear and soles made of rubber, plastics, leather, or composition leather and leather uppers		
	—Other footwear and soles made of leather:		
6403 51 4	—Footwear covering the ankle	12.0	8.2
6403 59 0	—Other	12.0	8.2
	—Other footwear:		
6403 91 3	—Footwear covering the ankle	12.0	8.2
6403 99 9	—Other	12.0	8.2
6404	Footwear with rubber, plastic, leather, or composition leather soles and textile uppers		
	—Footwear with external sole made of rubber or plastic:		
6404 19 7	—Other	12.0	8.2
6404 20 1	—Footwear with leather soles or composition leather soles	12.0	8.2
6405	Other footwear		
6405 20 7	—With uppers made of textile materials	18.0	11.2
6908	Glazed ceramic tile and tile cubes, tile panels and wall tiles; glazed ceramic mosaic tile and similar products, also provided on a suitable base		
6908 90 1	—Other	39.0	19.5
6911	Kitchen and tableware and other objects for household, toilet articles made of porcelain		
6911 10 2	—Kitchen and tableware	19.0	11.6
6914	Other ceramic products		
6914 10 1	—Made of porcelain	31.0	15.5
7007	Hardened or layered safety glass		
	—Hardened safety glass:		
7007 11 6	—In dimensions and shapes suitable for use in transport media, aircraft, ships, and spacecraft	32.0	16.0
7007 19 1	—Other	32.0	16.0
8527	Radio, telephone, radiotelegraph, or broadcast receivers, as well as such devices combined in one casing with a recording device or sound reproduction device or with a clock		

Number in Customs Tariff Table	Nomenclature	Customs Rate Per Customs Table, %	
		General	Reduced
	—Radio receivers functioning with need to attach them to an external source of energy, including instruments for reception of radiotelephony or radiotelegraphy:		
8527 11 3	—In combination with a recorder or a sound reproduction device	21.0	12.4
8546	Electric insulators made of any material		
8546 20 7	—Ceramic insulators	29.0	14.8

* Supplement to CSSR Government Regulation No. 228/1988 Sb., which issues the customs tariff table for commercial goods as contained in the text of CSFR Government Regulation No. 519/1990 Sb.

**Constitutional Court Ruling on Damage Claims
Against Soviets**

91CH0417X Budapest MAGYAR KOZLONY
in Hungarian No 26, 15 Dec 90 pp 2440-2444

[Constitutional Court ruling No. 30/1990 AB of 15
December 1990 on damage claims against Soviet troops
stationed in Hungary]

[Text]

**IN THE NAME OF THE HUNGARIAN
REPUBLIC!**

This is in response to a complaint filed by Istvan Biro, Jr. which raises a constitutional issue, and further, in regard to a petition filed by Debrecen resident, Attorney Dr. Attila Gyorfi, and Ocsa resident Laszlo Barany which seeks after-the-fact judicial review of certain legal provisions [hereinafter summarily: "Complaints," "Complainants"]. At issue are legal provisions governing the enforcement of damage claims against members of Soviet troops stationed in the territory of the Hungarian People's Republic which stem from their actions in the course of performing service related duties [hereinafter: "damages caused by Soviet troops"]. The Constitutional Court issues the following:

RULING

The Constitutional Court rejects the petition filed by Dr. Attila Gyorfi and Laszlo Barany to declare unconstitutional and to annul the provisions of Decree with the Force of Law No. 54 of 1957 [hereinafter: "Decree"] concerning the proclamation of an agreement between the government of the Hungarian People's Republic and the Government of the Federation of Soviet Socialist Republics, signed in Budapest on 27 May 1957 [hereinafter: "Agreement"]. The Agreement pertains to the situation of Soviet troops temporarily stationed in the territory of the Hungarian People's Republic.

However, based on Paragraph 21 Section (7) of Law No. 32 of 1989 (Law Concerning the Constitutional Court), the Constitutional Court ex officio determines the following: The minister of defense did not perform the legislative duties authorized by Paragraph 3 of the Decree. This failure to act created an unconstitutional situation in which laws applied on the basis of the consummated Agreement on the one hand, and domestic law on the other became mutually inconsistent. This condition violates the provisions of Paragraph 7 Section (1) of the constitution.

For this reason the Constitutional Court calls upon the minister of defense to perform his legislative duty by 31 March 1991, by initiating the adoption of a high level legal provision with the concurrence of the minister of justice and the foreign minister. The Constitutional Court establishes this requirement in due regard to the weight and significance of the matter at issue.

The Constitutional Court suspends consideration of the complaint filed by Istvan Biro, Jr. pending adoption of the above mentioned legal provision. The complaint raises a constitutional issue.

The Constitutional Court orders publication of this ruling in MAGYAR KOZLONY.

ARGUMENT: I

Complainants contend that pursuant to the Decree, the enforcement of claims for damages caused by Soviet troops are not dealt with in the framework of judicial proceedings, but by the Hungarian-Soviet Joint Commission [hereinafter: "Joint Commission"]. The proceedings of this body are nonjudicial in character. No legal recourse whatsoever is available to challenge the decisions of this organization. This limitation is spelled out in the Joint Commission's rules and regulations.

In the Complainants' view, these provisions of the Decree violate the fundamental rights of Hungarian citizens as guaranteed by the constitution.

Paragraph 57 Section (1) of the constitution provides that every citizen is entitled to the right to have "his rights and duties adjudged by a legally constituted independent and impartial court in a fair and open trial." Section (5) of the same Paragraph provides that "all persons shall be entitled to legal recourse pursuant to law against decisions rendered by courts, state administrative organs, or other authorities which violate a person's rights or just interest."

A procedural order which deviates from these constitutional provisions is also the subject of Attorney Dr. Attila Gyorfi's complaint. His grievance stems from the fact that even though evidentiary proceedings relative to damages caused by withdrawing Soviet troops took place before civil courts, the summary opinions of these courts were not binding with respect to the Joint Commission, and because no legal recourse was available against the determinations of the Joint Commission, Dr. Gyorfi recognized these factors as violations of fundamental rights.

The submission of Istvan Biro, Jr., pertains to his specific case. He also complained about the fact that evidentiary proceedings were conducted before a Hungarian court upon the Joint Commission's request, and pursuant to the rules and regulations of the Joint Commission. The issuance of a "summary opinion" concerning the evidentiary proceedings concludes such court proceedings. Although based on the completed evidentiary proceeding, the capital city court recommended that the complainant be awarded the amount of nonmonetary damages sought, the Joint Commission disregarded the recommendation because it was not bound by the "summary opinion." Lacking an opportunity for legal recourse, Biro received only half the

amount the court regarded as fair settlement. The reasoning supportive of the Joint Commission's changed view concerning the fair amount of settlement was not known to Biro.

In Biro's view, his rights were violated by the unconstitutional acts of referring his case to the Joint Commission, and of ruling out an opportunity for legal recourse.

ARGUMENT: II

The Constitutional Court obtained the documentation related to Istvan Biro, Jr.'s tort claim. The court also communicated with the Foreign Ministry, the international division of the Ministry of Justice, and the Joint Commission.

In its response, the Foreign Ministry reported on the circumstances of the Agreement and about the functioning and jurisdiction of the Joint Commission. The Joint Commission was established by virtue of Article 17 of the Agreement. Thereafter, the ministry made mention of limitations with respect to inquiries concerning the constitutionality of international agreements. Specifically, the ministry made reference to Law No. 32 of 1989 concerning the Constitutional Court which prohibited the after-the-fact scrutiny of standards contained in international agreements.

No internationally accepted cause for unilateral challenges to international agreements exists.

The Foreign Ministry was aware of problems stemming from the lack of court jurisdiction and legal recourse relative to complaints involving constitutionality and similar matters.

In essence, the response received from the international division of the Ministry of Justice stated the same. The Ministry of Justice submitted a detailed comparison between rights specified in Paragraph 57 Section (1) of the constitution and similar principles in foreign law. Based on the Law concerning the Constitutional Court and in a manner similar to the Foreign Ministry, the Ministry of Justice found no authority for the after-the-fact constitutional review of international agreements.

The Ministry of Justice indicated that in cases involving differences between domestic law and an already consummated international agreement, international law required the adjustment of domestic law so that it conformed with the international agreement. This also applies to Decree with the Force of Law No. 27 of 1982. It established procedural requirements relative to international agreements. The provisions of this Decree must be observed, and consistency between international agreements and domestic law must be established accordingly. The Justice Ministry's response also made the point that essentially, these safeguards were also spelled out in Paragraph 7 Section (1) of the constitution. It provides that "the legal system of the Hungarian Republic shall accept the generally recognized rules of

international law, and shall ensure consistency between legal obligations agreed to under international law, and domestic law."

As far as challenging the international agreement was concerned, the Ministry of Justice explained that a theoretical possibility for such action existed only if "the agreement violated one of the mandatory rules (*ius cogens*) of general international law at the time it was consummated." No *ius cogens* can be applied to Hungary at this time, therefore no grounds for challenging the international agreement exist. Thus, the theoretically possible solution cannot be applied.

No realistic opportunity to amend the Agreement exists because the agreement will lose force following the completion of Soviet troop withdrawal. This will occur on 30 May 1991.

Relative to the constitutional complaints, but also as a matter of principle, the Ministry of Justice response points to the provisions of Paragraph 7 Section (1) of the Civil Code of Laws. These provisions have been in force at the time the Agreement was consummated, and continue to be in force today. This provision states that although the enforcement of rights is the function of courts, deviations from this rule could be provided for by law. Accordingly, in the opinion of the Ministry of Justice, the Agreement cannot be viewed as unconstitutional.

Yet, relative to this specific case and similar cases, the international division of the Ministry of Justice recognized a need to settle these issues because of the problems that may flow from these issues.

The response received from the chairman of the Joint Commission's Hungarian branch provided a detailed analysis of Istvan Biro, Jr.'s case and the actions taken thus far. The chairman claimed that the order and practice that evolved thus far within the Joint Commission were consistent with law, in the context of both the Decree, and a legal aid agreement proclaimed by Decree with the Force of Law No. 22 of 1958. The chairman also believed that the establishment and operation of the Joint Commission were based on legal authority granted by the provisions of Paragraph 7 Section (1) of the Civil Code of Laws. In his view, consistency with Hungarian legal provisions was established by the fact that Paragraph 1 of Ministry of Justice Decree No. 7 of 17 August 1958 provided an opportunity for evidentiary proceedings to be conducted by Hungarian courts in response to requests made by the Joint Commission, and by the requirement that "summary opinions," which concluded such evidentiary proceedings, become part of the Joint Commission's proceedings.

The response also indicated that even though the Agreement failed to address the issue of finality, Paragraph 16 of the Joint Commission's Operating Rules provided as follows: "The determinations of the committee are final. Such determinations shall not be subject to appeal, and shall not be the subjects of petitions filed in courts." The

operating rules provided a narrow opportunity for making changes if new circumstances or new proof came to light.

Relative to the case of Istvan Biro, Jr. the response claimed that the Joint Commission indemnified the complainant to the extent possible.

This response nevertheless conveys the sense of tension which attends indemnification cases.

ARGUMENT: III

Regarding the after-the-fact constitutional review of international agreements, and relative to the possibility of challenging or amending the Agreement, the Constitutional Court shares the legal view expressed by the Foreign Ministry, the Ministry of Justice, and the Joint Commission. Indeed, the Constitutional Court has no authority to perform an after-the-fact review of the Agreement. For this reason, based on the complaints submitted, the Constitutional Court examined only the provisions of domestic law now in force, i.e., the Decree. This Decree constitutes law and therefore is not exempt from under constitutional scrutiny. The Constitutional Court compared the provisions of the Decree with constitutional provisions now in force.

Thus, the examination extended to comparing Paragraph 2 Article 9.(1), Article 10.(1), and Article 17 of the Decree on the one hand, with Paragraph 57 Sections (1) and (5) and Paragraph 7 Section (1) of the constitution. The above mentioned provisions of the Decree are the subjects of the complaints.

Paragraph 2 Article 9.(1) of the Decree states that "The government of the Federation of the Soviet Socialist Republics shall indemnify the government of the Hungarian People's Republic for damages caused to the Hungarian state as a result of actions taken or failures to act by Soviet military units or by individual persons within such units, and shall indemnify Hungarian organs, citizens, or foreign citizens within the territory of the Hungarian People's Republic for damages caused by Soviet military units, or military personnel belonging to such units in the course of performing their service related duties.

"In all cases, the extent of indemnification shall be determined by the Joint Commission established pursuant to Article 17 of this Agreement. Such determinations shall be based on claims filed, in due regard to provisions of Hungarian law."

Article 10.(1) provides essentially the same order for the settlement of claims arising from damages caused by Hungarian state organs to the property of Soviet troops or to Soviet persons.

Article 17 specifies that "A Hungarian-Soviet Joint Commission shall be formed to resolve issues arising from the interpretation and application of the present

Agreement, and from planned supplementary agreements. Each party to the Agreement shall designate three representatives to serve on the commission.

"The Joint Commission shall operate in a manner consistent with rules adopted by the Joint Commission."

In and of itself, Paragraph 2 Section 9.(1) of the Decree delegates to the Joint Commission only those cases which involve damages caused by members of Soviet troops in the course of performing their official duties. The Joint Commission determines the extent of indemnification under this delegated authority. It also stipulates that the Joint Commission render its decisions in due regard to Hungarian law.

The problem stems from the fact that procedural rules applicable to such cases were not established as part of the Decree. Instead, such rules were provided in the framework of the "Operating Rules of the Hungarian-Soviet Joint Commission and of the rules and regulations of its secretariat."

Even though these rules declared that the Joint Commission "must not render determinations contrary to the manner in which laws are applied by Hungarian courts," additional provisions contained in these rules significantly deviated from Hungarian procedural rules.

According to Paragraph 12 the Joint Commission shall generally render its decisions in closed meetings. Members of the Joint Commission are not judges, they need not necessarily have an education in the field of law, and their "determinations ... are final. Such determinations shall not be subject to appeal, and shall not be the subjects of petitions filed in courts" (Paragraph 16). "Relative to damage claims amounting to less than 100,000 forints, the chairmen of the two branches may render determinations without convening the Joint Commission" (Paragraph 19). Nevertheless, such determinations constitute determinations made by the Joint Commission. These rules conflict with the provisions of Paragraph 57 Sections (1) and (5) of the constitution. They also violate the prohibition from discrimination contained in Paragraph 70/A of the constitution, because based on the procedural rule a practice evolved which exceeded the provisions contained in the Decree. Thus, the Joint Commission determines not only the extent to which indemnification is to be provided. It also determines the legal basis of claims and conducts related evidentiary proceedings. In other words, the practice that evolved on the basis of the Joint Commission's Rules and Regulations diverted typical civil law cases to the nonjudicial Joint Commission based on the sole criterion of who caused and who claimed damages. This kind of exception was not authorized by Paragraph 7 Section (1) of the Civil Code of Laws. An appropriate interpretation of Paragraph 7 of the Civil Code of Laws indicates that the possible deviation applies only to individual classes of cases. Within the excepted class of cases the procedure must always be applied uniformly

with respect to everyone. For this reason, the Constitutional Court refuses to accept the ministries' position with respect to Paragraph 7 Section 1 of the Civil Code of Laws.

In examining the legal character of the rules and regulations, the Constitutional Court determined that the rules and regulations were not clearly Hungarian in character, nor did they constitute law. Nor could the rules and regulations be regarded as other legal means available to state management, as provided for in the Decree with the Force of Law No. 11 of 1957 concerning legislation.

Thus, based on the above, even though the rules and regulations violate constitutional provisions, Paragraph 1 Section (b) of the Law Concerning the Constitutional Court does not authorize the Constitutional Court to take controlling action after-the-fact or to annul the provisions of the rules and regulations.

Although the jurisdictional reach of the Constitutional Court permits a review of the Decree as to constitutionality, it is the court's judgment that the unconstitutional legal application described earlier was not based directly on the Decree. This is so, because fundamentally, the Decree regulates interstate relations. It does not rule out the possibility of framing a Hungarian law to govern the relationship between the Hungarian state and persons who suffered damages, in a manner consistent with the constitution in force and without violating the international Agreement. The Hungarian state is a party to the international agreement.

In due regard to the above, the Constitutional Court rejects complaints which seek a declaration of the unconstitutionality, and the annulment of the Decree and of the rules and regulations.

At the same time, based on Paragraph 1 Section (e) of the law concerning the Constitutional Court, the Constitutional Court makes an ex officio determination. Based on the above, the Constitutional Court finds that an unconstitutional situation evolved in the course of settling claims for damages caused by Soviet troops. The unconstitutional situation resulted from the failure to ensure consistency between the international agreement and domestic law. Such consistency was not provided for by Decree with the Force of Law No. 22 of 1958 and by Ministry of Justice Decree No. 7 of 17 August 1958. These decrees provided for the proclamation and implementation of the mutual legal aid agreement between the Government of the Hungarian People's Republic and the Government of the Federation of Soviet Socialist Republics signed in Budapest on 24 April 1958. The Agreement pertains to matters related to the temporary stationing of Soviet troops within the territory of the Hungarian People's Republic. Ministry of Justice Decree No. 7 of 17 August 1958 provides discretionary authority to the Joint Commission to request the capital city court to take witness testimony, etc. in the course of

evidentiary proceedings. On the other hand, the summary opinion of the court is not binding with respect to the Joint Commission.

Accordingly, the main reason for the existing unconstitutional situation is the lack of an appropriate provision in domestic law. In the judgment of the Constitutional Court, clear responsibility for this situation rests with the minister of defense. This is because the minister of defense failed to perform the legislative duty assigned to him by the provisions of Paragraph 3 of the Decree which proclaimed the Agreement.

For this reason, in its ruling the Constitutional Court calls upon the minister of defense to remedy his past failure to act.

The Constitutional Court holds that as long as a lack of consistency between the already consummated international agreement, and domestic law has violated the fundamental rights of citizens guaranteed by the constitution, the Hungarian state should fulfill its obligations established in Paragraph 7 Section (1) of the constitution. This can be accomplished by establishing internal rules which settle the present situation in a manner consistent with the constitution. The action to be taken should provide a constitutional balance based on the state's acceptance of direct responsibility toward its citizens, without violating the state's obligations agreed to in the framework of the international Agreement. Considering the significance of this matter, the legislative failure to act will have to be remedied by proclaiming a high level legal provision.

ARGUMENT: IV

The following pertains to the specific case of Istvan Biro, Jr. Based on the complaint that he filed and on documents pertaining to the case, the Constitutional Court finds that Istvan Biro, Jr. suffered permanent damage as a result of an accident caused by a Soviet military vehicle on a public road. Biro sought annuity indemnification, compensation for damages and for loss of income, and for nonmonetary damages suffered.

The Joint Commission awarded nonmonetary damages only to the extent of 50 percent of the claim, despite the fact that the capital city court recommended satisfaction of the claim in full. The capital city court conducted the evidentiary proceeding at the Joint Commission's request.

Since Istvan Biro had no available legal recourse against the determination, he tried to remedy his case by unsuccessfully complaining all along. In the end, Biro submitted his complaint to the Constitutional Court immediately after the establishment of the court. The complaint was accepted by the Constitutional Court as one that involved a constitutional issue and was filed in a timely fashion. Regarding the specific constitutional issue presented in the claim, the Constitutional Court believes that the new legal provision to be framed will have an effect on the complaint. For this reason the

Constitutional Court decided to abstain from dealing with the merits of the case until promulgation of the new legal provision. This should also mean that it would be appropriate to establish the force of the new legal provision so that it applies to this case.

The deadline for remedying the failure to act is based on Paragraph 49 Section (1) of the law concerning the Constitutional Court. Publication of the Ruling is based on Paragraph 40 of the law concerning the Constitutional Court.

[Signed] Dr. Geza Herczegh, deputy chairman of the Constitutional Court; Dr. Antal Adam, Dr. Tamas Labady, Dr. Andras Szabo, Dr. Imre Voros, Dr. Geza Kilenyi, Dr. Peter Schmidt, Dr. Odon Tersztyanszky, Dr. Janos Zlinszky, justices of the Constitutional Court.

Constitutional Court Case Number: 266/B/1990

Law on Function, Jurisdiction of County Commissioners

Text of Law

91CH0416A Budapest MAGYAR KOZLONY
in Hungarian No 125, 12 Dec 90 pp 2426-2427

["Text" of Law No. 90 on the legal status, office, and functions of county commissioners enacted by the National Assembly at its 2 December 1990 session]

[Text]

Paragraph 1

Hungarian citizenship, an ability to act, a clean record, and completion of studies in the fields of law and political science at the university level shall be the appointment criteria applied to county commissioners.

Paragraph 2

(1) A county commissioner shall not:

a) Be a National Assembly representative or a representative in a local autonomous governmental body.

b) Hold a second job, pursue a secondary occupation, or establish a legal relationship for the pursuit of some other work, except if such work qualifies as scientific, educational, or artistic work, or as some other intellectual activity protected by law.

c) Be a member of a supervisory committee or of a board of directors.

d) Accept honorariums for public appearances related to his official functions.

(2) A county commissioner shall not hold office in a political party, and shall not pursue activities which involve public appearances on behalf of a party.

(3) A candidate for county commissioner shall not be appointed, and a county commissioner shall be relieved of his duties if the incompatibility criteria enumerated in Sections (1) and (2) prevail.

Paragraph 3

The mandate of county commissioners shall expire when:

a) The mandate of the president of the republic expires

b) The county commissioner is relieved of his duties

c) The county commissioner resigns his office

d) The county commissioner deceases

Paragraph 4

Provisions applicable to titular state secretaries shall be appropriately applied to county commissioners with respect to matters not provided for in this Law.

The Office of the County Commissioner

Paragraph 5

(1) The office of the county commissioner shall perform state administrative functions and shall be financed from budgeted state funds. The operating expenditures of the offices of county commissioners shall be budgeted in a separate account of the state budget, under the chapter providing for the Ministry of the Interior.

(2) The county commissioner may establish field offices in each county within the region of his jurisdiction.

Paragraph 6

(1) The office of the county commissioner shall be under the direction of the county commissioner, and shall be managed by his chief of staff. It is the responsibility of the chief of staff to see to it that legality prevails and that professional requirements are met in the operations of the office (field offices).

(2) In case of impediment, the chief of staff shall act for and on behalf of the county commissioner.

Paragraph 7

(1) The chief of staff shall be appointed by the county commissioner for an indefinite term, and the county commissioner shall exercise the authority of an employer over the chief of staff.

(2) Chiefs of staff shall be appointed, relieved of their duties, and made subject to disciplinary action only with the prior concurrence of the minister of the interior.

(3) Labor law provisions, as those apply to state administrative workers, shall apply to chiefs of staff regarding matters not provided for in this law. From the standpoint of grade classification the chief of staff shall be regarded as holding the rank of a ministerial main division head.

Certain Functions of the County Commissioner**Paragraph 8**

(1) As part of the state's function to ensure the legality of actions taken by local autonomous governmental bodies, the county commissioner examines whether:

a) The organizations and internal organizational and operational rules of local governments are consistent with law and with the provisions of other internal rules.

b) The functioning of, and ordinances and resolutions brought by local governments are consistent with law and with the provisions of internal rules, except for matters provided in Section (2) below.

(2) The authority of the county commissioner to ensure legality of action shall not extend to resolutions brought by local autonomous government bodies:

a) On the basis of which debates concerning labor issues, or judicial or state administrative proceedings must be initiated based on separate law.

b) Whose oversight is subject to the authority of another office specified by separate law.

Paragraph 9

As authorized by the minister of the interior, the county commissioner shall participate in performing the interior minister's functions relative to local autonomous governmental bodies, the modernization of public management, the training of professionals in the field of public administration, and in organizing the professional manpower supply.

Paragraph 10

The advance views of the county commissioner shall be sought regarding:

a) The establishment of the authority of a state administrative division subordinate to the central government, within the jurisdiction of the county commissioner

b) The appointment of the heads of state administrative organs defined in (a) above.

Paragraph 11

This law shall take effect on the day it is proclaimed. At the same time, Cabinet Decree No. 84-Korm of 13 November 1990 concerning the professional qualifications of county commissioners shall lose force.

[Signed] Arpad Goncz, president of the Republic;
Gyorgy Szabad, president of the National Assembly.

Legislative Intent

91CH0416B Budapest MAGYAR KOZLONY
in Hungarian No 125, 12 Dec 90 pp 2427-2428

[Intent of the legislative proposal concerning the legal status, office, and functions of county commissioners]

[Text]

General Intent

The institution of county commissioners is new in Hungarian public administration. Law No. 65 of 1990 concerning local autonomous governmental bodies (Local Government Law) provides only the basic outline for the legal status of county commissioners and their functioning, and does not rule out the possibility of, and need for further provisions.

In establishing the legal status of county commissioners, one should keep in mind that in describing the basic outline of the functions of county commissioners, the framers of the Local Government Law dealt with both the political and professional elements of public administration. Paragraph 100, Sections (1) and (2) of the Local Government Law state that the county commissioner shall be appointed by the president of the republic based on the prime minister's recommendation. The term of his appointment shall coincide with the mandate of the president of the republic, and the county commissioner shall hold the rank of a titular state secretary. These provisions suggest that the county commissioner is a political appointee who provides direction, and that his position is directly affected by politics.

At the same time, certain public law authorities are missing from the functional scope defined in Paragraph 98 of the Local Government Law. These include analyses to support central decisionmaking, state administrative regulatory functions, and other policymaking functions. The most important components of this functional scope are the oversight of legality of action, the exercise of the official authority of the state administration in the first and second instances, as well as other state administrative and coordinating tasks. Accordingly, the county commissioner's functions possess a fundamental state administrative professional and executive character.

Defining the legal status of county commissioners, and legal conditions needed for the institutional development of the network of offices represented an urgent legislative task ever since the closing of the local elections record. Rules concerning the legal status of the county commissioner have not been finalized. Detailed provisions covering state administrative tasks and authorities will be the subjects of additional legislation.

Section-by-Section Analysis**Paragraph 1**

The general and special appointment criteria correspond with the peculiar character of the functions of county

commissioners. The general criteria, ability to act, clean record, Hungarian citizenship, present themselves as rather small limitations. In due regard to the character of the functions assigned to the county commissioner, completion of university level studies in the fields of law and political science is an appointment criterion.

Paragraph 2

Incompatibility criteria were established on the basis of legal provisions now in effect, as those apply to state secretaries. (Provisions different from those applicable to state secretaries are required in conjunction with the scope of incompatibility cases and with the termination of employment relationships.) The law must express the fact that being a county commissioner is incompatible with the holding of representative mandates either in the National Assembly or in local autonomous governmental bodies. This criterion is in addition to those applicable to state secretaries. This must be stated because the county commissioner is not an employee of his own office and therefore is not a state administrative employee. Thus, the incompatibility criteria which prohibit National Assembly representatives from becoming state administrative employees (Paragraph 20 Section (5) of the constitution) cannot be applied to county commissioners. However, at the same time, the requirement for separation of powers warrants by all means the application of these incompatibility criteria. Similarly, the function of overseeing the legality of actions taken by autonomous governmental bodies cannot be reconciled with the mandates of representatives serving local autonomous governmental bodies.

Paragraph 3

The term of office of county commissioners coincides with the mandate of the president of the republic (Local Government Law Paragraph 100 Section (1)). Since the Local Government Law establishes the duration of the county commissioner's mandate based on the mandate of the president of the republic, and not on the basis of the five year term specified in Paragraph 29A Section (1) of the constitution, it follows that the term of office of the county commissioner should coincide with the mandate of the president of the republic who appointed him. For this reason, in contrast with rules applicable to state secretaries, discontinuation of the mandate of the president of the Republic for any reason constitutes a special cause for the discontinuation of the mandates of county commissioners.

Paragraph 4

The rank of titular state secretary conveyed by the Local Government Law to county commissioners means that county commissioners must be regarded as titular state secretaries even though they were not appointed as such. This means that county commissioners are entitled to the same rights as others at this level of the state administrative hierarchy. As a result of this provision, it became unnecessary to establish separate rules for the

compensation and benefits to which county commissioner's are entitled. Accordingly, it will suffice to express in the framework of this law that relative to matters not provided for in the law concerning the legal status of county commissioners, provisions applicable to state secretaries, or more accurately, to titular state secretaries, must be appropriately applied regarding county commissioners.

Paragraph 5

The office of the county commissioner assists the county commissioner in the performance of his functions. The rapid and successful performance of regulatory activities throughout several counties necessitates the establishment of field offices in each county. The county commissioner is able to perform his functions as a result of the legal, professional and analytical tasks performed by his office. The characteristics which determine the place of the county commissioner's office in the state organizational system are reflected by the functions and authority of the county commissioner, as per Paragraph 98 of the Local Government Law, and by his line relationships. Correspondingly, the office of the county commissioner is funded by the state budget and performs regulatory functions. Its operating expenditures are budgeted in a separate account within the Interior Ministry budget.

Paragraph 6

The activities pursued by the county commissioner and by his office are professional state administrative functions. Expectations of continuity, legality, and professionalism in public administration demand that persons who provide overall directions and whose status is subject to change, be separated from the stable, professional organizational structure. This separation is accomplished as a result of the appointment of the head of the office, the chief of staff for an indefinite period.

It would be appropriate to assign the exercise of the appointing, promoting, and disciplinary authority to an organ independent from the county commissioner, rather than to the county commissioner. Such assignment was not enabled by Paragraph 100 Section (3) of the Local Government Law. These provisions call for the appointment of employees serving at the office by the county commissioner, and view the chief of staff as an employee. Accordingly, based on the law, an opportunity exists only in terms of establishing a requirement for prior concurrence with respect to the appointment and relief of the chief of staff, and regarding disciplinary proceedings against the chief of staff. The proposal assigns the authority of prior concurrence to the minister of the interior.

Paragraph 7

The functions and authority of the county commissioner are tied to the person of the county commissioner. The Local Government Law does not provide for either

transferring, or for designating a substitute for the exercise of this authority. This limitation might become the source of a number of practical problems, particularly with respect to the performance of state administrative functions. The continuous performance of state administrative functions must be ensured in the event that the mandate of the county commissioner ceases, or if the county commissioner is impeded for any reason. For this reason, it is appropriate to express in the framework of this law that the chief of staff may substitute for the county commissioner in the performance of his functions.

Paragraph 8

To protect the rights of autonomous governmental bodies, the Local Government Law "limits" the oversight authority of the county commissioner exclusively to the legality of action reflected in judgmental decisions made by autonomous governmental bodies, thus excluding considerations of appropriateness (Paragraph 98 Section (a) of the Local Government Law). On the other hand, this limitation leaves ample room for the examination of the appropriateness, efficiency, etc. of autonomous governmental decisions in the area where decisions are not of a judgmental character. The legal oversight function is part of the state's authority to oversee the legality of action taken by governmental bodies. In order to permit the oversight of the legality of action function to prevail in the framework of the state's legal policy goals, the purpose of the county commissioner's legal oversight function, and the areas exempted from under his legal oversight must be clearly defined. This fact must be stated: The primary purpose of legal oversight is to ensure the legality of the local organizations and of their operations, and to determine consistency between related rules and the law. Legal oversight generally extends to local regulations promulgated and other actions taken by autonomous governmental bodies. Exceptions are situations in which legal provisions require that legal oversight take place in the framework of special proceedings, or assign the legal oversight function under the authority of other divisions (the prosecutor's office, the State Accounting Office, etc.).

Paragraphs 9-11

Within the scope designated by the Local Government Law, the county commissioner must play an active role in the development of public administration, and in formulating a modern functional order in public administration. Legal foundations must be established to permit the county commissioner to cooperate with the interior minister in performing his functions relative to autonomous governmental bodies, which aim for the general development of public administration, and for the training and continued education of public administration professionals. Beyond this, authorities that are indispensable from the standpoint of performing the county commissioner's coordinating role must be established. To accomplish this, the proposal makes the designation of the jurisdiction of centrally directed state

administrative organs, and the appointment of the heads of such state administrative organs subject to comment by the county commissioners.

Since the earliest possible appointment of county commissioners, the development of office structures, and the establishment of personnel and material conditions for these offices constitutes an urgent task, the law takes effect on the day it is proclaimed.

Amendments to Law on Burden Sharing for Business Use of State Property

91CH0410A Budapest HETI VILAGGAZDASAG
in Hungarian Jan 91 pp 53-54

[Law No. 43 of 1989 on the share of state property to which the state is entitled, as amended by Law No. 50 of 1990 and Law No. 99 of 1990 in an integrated form, published in special HETI VILAGGAZDASAG issue on taxation; cross references to annotations omitted without indication; technical provisions, annotations, certain effective dates appearing at the end of the text omitted]

[Excerpt] To cover expenditures related to the exercise of governmental authority, and to proportionately share the burden with business organizations, the National Assembly has created the following act concerning rules for contributions payable by organizations which manage or use state property:

The Obligation To Pay

Paragraph 1

The following organizations shall contribute to the state based on their taxed balances: State enterprises, trusts, and unless otherwise provided for in the resolution which established a trust, trust enterprises after state property under their management; corporations established by transforming state property after the business shares (stock) they retained based on Paragraph 23 Section (1) of Law No. 13 of 1989; and further, cooperatives after part of the property accounted for as state property.

Basis of Contribution

Paragraph 2

(1) The amount to be contributed shall be that part of the taxed balance derived pursuant to Section (3), which corresponds with the ratio of state assets and founding capital as shown in the year-end financial statement.

(2) From the standpoint of state property transformed into corporations the total worth of business shares (stock) retained by the corporation shall be regarded as state property.

(3) In calculating the basis of contributions the provisions of Paragraph 18 and Paragraph 19 Subsection (a) of Law No. 9 of 1988 concerning Entrepreneurial Profit

Taxes shall be observed respectively from the standpoint of taxed balances and amounts transferred.

Extent of Contribution

Paragraph 3

(1) The extent of contribution shall be 25 percent of the proportionate share of the taxed balance (Paragraph 2 Section (1)).

(2) State enterprises transformed into corporations and cooperatives shall contribute amounts which reflect the same percentage of the taxed balance as the percentage ratio of dividends paid to members (stockholders) as owners and the taxed balance, proportionately adjusted to the size of the share owned by the various members (shareholders).

Retaining Contributions

Paragraph 4

(1) Organizations pursuing activities defined in Paragraph 13 Section (1) Subsections (a) and (b) of the Law on Entrepreneurial Profit Taxes and obligated to pay contributions may retain proportionate amounts of contributions from the sales revenues derived from these activities as part of the total sales revenues. The ratio of sales revenues shall be determined pursuant to Paragraph 13 Section (3) and Paragraph 29 Subsection (a) of the Entrepreneurial Profit Tax Law.

(2) Organizations pursuing activities pursuant to Paragraph 13 Section (1) Subsections (a) and (b) of the Law on Entrepreneurial Profit Taxes and obligated to pay contributions may retain proportionate amounts of contributions pursuant to Section (1) which correspond with the percentage of entrepreneurial tax benefits to which they are entitled based on these activities.

(3) The Hungarian Telecommunications Enterprise may retain the contribution payable for purposes of telecommunications development.

Procedural Rules and Rules for Calculating Advance Payments

Paragraph 5

(1) The determination and payment of contributions shall be the function of the organizations obligated to contribute.

(2) Provisions of the law concerning the Order of Taxation shall govern with respect to the payment of contributions, unless otherwise provided in this act.

(3) Contributions after state property shall be made in advance pursuant to the following provisions:

a) Except as provided for in Subsections (b) and (c), state enterprises, trusts and unless otherwise provided for in the resolution which established a trust, trust enterprises which operated during the year preceding the

subject year shall pay monthly an amount equaling one-twelfth of the actual amount of contribution paid in the previous tax year.

b) Organizations obligated to make contributions described in Subsection (a) which maintain dual book-keeping shall pay, alternatively reclaim the difference between their obligation established pursuant to data contained in the 30 June ledger extract, and the advance payment due on 15 June.

c) Organizations obligated to make contributions described in Subsection (a) which are classified as belonging to the agricultural or forestry branches of the people's economy, shall make advance payments based on the actual amount of mandatory contributions paid in the previous year as follows: 10 percent in the first quarter, 20 percent in the second quarter and 30 percent in the third quarter.

d) Organizations transformed into corporations and cooperatives obligated to make contributions shall pay advance contributions respectively after the business shares (stock) retained, or after that part of property which is accounted for as state property only if they paid dividends to the owners in the course of the year. At that point the amount of advance contribution payable shall be the same as the amount of the advance dividend paid to the owners, adjusted on the basis of percentage of business share (stock) owned.

e) In the event that an organization breaks up, separates itself, joins or merges with the organization (hereinafter: organizational change), advance payments shall be determined pursuant to the provisions of Subsections (a) and (c), based on the actual mandatory obligation as adjusted on the basis of (divided or combined) data reported to the tax authorities.

f) Organizations newly established (formed) during the tax year and obligated to pay contributions shall not pay advance contributions.

(4) The amount of advance contribution to be paid by organizations obligated to pay contributions, as defined in Section (3) Subsections (a), (c), and (e), shall be determined by the tax authorities in order to pay. Organizations obligated to pay contributions as defined in Section (3) Subsection (e) shall report their obligation to pay contributions within 15 days after the organizational change.

Closing Provisions

Paragraph 6

(1) This law takes effect on 1 January 1990. [passage omitted]

Amended Personal Income Tax Law

91CH0409A Budapest HETI VILAGGAZDASAG
in Hungarian Jan 91 pp 9-24

[Law No. 45 of 1989, as amended by Law No. 20 of 1990, Law No. 58 of 1990, and Law No. 102 of 1990 on income taxes payable by private persons, published in special HETI VILAGGAZDASAG issue on taxes; cross references to annotations omitted without indication; technical provisions, annotations, effective dates, delegations of authority, and Attachment 1 (implementing provisions) appearing at the end of the text omitted]

[Excerpt] Satisfaction of the common needs of society and the performance of the state's functions demand that private persons also pay their direct share of the public burden. To accomplish this, the National Assembly creates the following Act, in due regard to taxation experience gained thus far:

CHAPTER I: THE DUTY TO PAY TAXES**Paragraph 1**

All income earned by private persons shall be subject to taxation.

Paragraph 2

The term "income" shall mean the whole or part of any pecuniary value (earnings) acquired by a private person on any ground. Part of income shall be construed as a proportion of income defined in this Act, or as income reduced by recognized expenses.

Paragraph 3

The following shall not qualify as income:

- a) Credits and loans received from, and repaid to creditors.
- b) Tax refunds and refunds on advance tax payments.
- c) Anything of pecuniary value invested in a venture at the time of its withdrawal from the venture, except if the amount of such value was deducted from the total income at the time of investment (Paragraph 35); or if no tax obligation existed at the time of transformation subsequent to the investment pursuant to Paragraph 11 Section (1) or Paragraph 43 Section (2) of Law No. 8 of 1989, or pursuant to Paragraph 47/A Section (3) or Paragraph 48/A Section (3) of Law No. 3 of 1971 as amended; and further, the amount paid by a worker for the nominal value of employee shares provided by a stock corporation as compensation.
- d) Pecuniary value acquired in the course of an act found to be a criminal act in the final judgment of a court.
- e) Pecuniary interest acquired in the form of a business share; share of assets, anything of pecuniary value, certificate attesting to the ownership of assets, shares given to a private person holding membership in a

cooperative, irrespective of the time when such value was given, and irrespective of the date when such value was accumulated; and further, the nominal value of a certificate attesting to the ownership of assets and employee shares given to an employee by his employer without compensation (payment of value) as offset by compensation paid by the employee (hereinafter summarily: free of charge securities), except if such free of charge securities are sold by the private person or if other conditions enumerated in Paragraph 33 prevail.

f) Advance payments made by the payor for expenses to be incurred, and to be subsequently documented by the private person to the payor, or reimbursement by the payor of expenses advanced by the private person from his own funds, based on a documented expense report.

g) Pecuniary value acquired in the course of exchanging currency (foreign exchange), pursuant to conditions specified in the foreign exchange law, or pursuant to an authorized method.

Paragraph 4

(1) The duty to pay taxes includes reporting and recording obligations, as well as obligations to file tax returns, determine taxes, pay taxes in advance, prepare documentation, preserve documentation, and to make financial statements pursuant to the provisions of this Act.

(2) The duty to pay taxes begins on the day the income producing activity begins or on the day the legal relationship which results in the production of income begins.

(3) The duty to pay taxes is not affected by the existence or nonexistence of a permit issued by the authorities for the private person's performance of an income producing activity, or by the form in which income is earned (e.g. money, securities, movable property, real property, pecuniary interest or some other like-kind provision).

(4) The private person shall preserve documentation and records related to the duty to pay taxes until authority to assess taxes lapses or, in case of delayed taxes (Paragraph 44), for five years beginning on the last day of the calendar year in which the taxes were due.

Paragraph 5

(1) The duty to pay taxes extends to:

- a) Income earned in Hungary.
- b) Income earned abroad, if the private person's residence, or his usual place of stay is in Hungary (domestic residence).

(2) Any income whose source is in Hungary, including income earned within duty free zones, constitutes domestic income. In particular, income derived from the following sources shall qualify as domestic income:

- a) Work relationships with employers domiciled in Hungary.

b) Activities performed in Hungary.

c) Sales consummated in Hungary.

d) Assets located in Hungary.

(3) Any income whose source is abroad constitutes foreign income. In particular, income derived from the following sources shall qualify as foreign income:

a) Income derived from activities performed abroad based on a work relationship or agreement with an employer domiciled abroad or with a consignor (hereinafter: employment abroad).

b) Income derived from assets located abroad.

c) In cases specified in this Act, income derived from sales to buyers abroad.

(4) The taxable amount of, and advance tax payment and taxes related to income received in the form of foreign currencies shall be calculated based on the forint value that prevailed on the date of payment, computed on the basis of the official purchase exchange rate of the given currency, as fixed by the Hungarian National Bank. The forint value of income received in the form of foreign currencies and other income not exchanged into forints prior to the end of the year shall be calculated based on the official purchase exchange rate fixed by the MNB [Hungarian National Bank] on the last day of the year.

Paragraph 6

(1) Income paid by the foreign member of a firm which operates with foreign participation to an employee with no permanent residence in Hungary for the employee's activities performed in the firm shall be regarded as foreign income. Provisions of Paragraph 9 Section (5) shall not apply to such income.

(2) Income defined in Paragraphs 11 and 12 shall be regarded as foreign income if the person originally entitled to such income sells directly to a foreign buyer, and even if such person uses a domestic middleman organization to perform his activities abroad or to consummate sales abroad.

(3) If the entrepreneurial activities of an individual entrepreneur (Paragraph 19) also produce foreign income, the actual proportion of the foreign income within the total income shall be regarded as foreign income.

(4) Whether income is actually transferred or brought to Hungary shall not constitute a condition from the standpoint of taxation.

Tax Exemption

Paragraph 7

(1) A private person shall be exempt from paying taxes, and income shall be exempt from taxation if the exemption was granted on the basis of an international agreement or reciprocity. The finance minister's opinion shall govern reciprocity issues.

(2) Unless otherwise provided in this Act, the following shall be exempt from taxation:

1. Maternity benefits, funeral assistance, supplemental income, household supplements, aid to orphans, severance payments, social welfare payments, housing rental contributions, widow's pension received in consideration of an orphan in need of aid to orphans, and widow's permanent annuity based on an accidental injury received, all in the framework of state social welfare policies or social security.

2. Family supplements.

3. Pension payments received from abroad.

4. Child care support payments, personal annuities for the blind, annuities for the handicapped, social welfare and educational support, family support payments to families of conscripts, fees related to the wards of the nation, funds provided for the care of war veterans, as well as regular social welfare and temporary annuities paid to handicapped workers.

5. Like-kind educational, health care and social welfare provisions.

6. Scholarships, social welfare funds, income supplements and awards paid to skilled worker trainees and to daytime students enrolled in intermediate and higher level educational institutions.

7. The regular pay of, and other funds provided to conscripts and to students in military institutes not holding advanced degrees, and further, the regular pay of private persons serving civilian duty as defined in the Council of Minister's decree, and the onetime pay provided to conscripts upon discharge.

8. Fees and compensation paid for the family care and upbringing of minors who are wards of institutions or of the state, and for sick care provided to persons placed in homes.

9. Independent life start-up support provided to persons brought up in institutions or by the state.

10. Conditional support provided for the purpose of settlement to persons starting a career, to the extent defined by law.

11. Like-kind provisions, including the redemption of such provisions in exchange for money, determined by law or prior to 1 January 1987, as determined prior to 1 July 1989; and further, a portion of the amount not

exceeding 30,000 forints paid in exchange for redeeming the whole of household farmland or land received in the form of pay, or produce of the same value received in the form of pay. The latter shall be calculated on the basis of the weighted average price effective as of the month of October in a given tax year, as established by the Budapest Commodity Exchange. If only part of the household farmland or land received in the form of pay is redeemed, a proportionate part of the amount or of the volume of produce shall be taken into consideration from the standpoint of tax exemption.

12. Social welfare benefits provided for the purchase, construction or renewal of housing and for the acquisition of entitlement to rent housing; mortgage payment subsidies defined as such by law; subsidies provided by employers or local councils which are not subject to repayment; and housing construction subsidies provided for professionals in unfavorably situated large agricultural plants.

13. Compensation received for surrendering entitlement to rental housing (including amounts paid to colessees moving out in response to a court order in exchange for the right to use housing based on provisions of the family law); and further, income derived from the mutual exchange of entitlement to rent housing, and from the exchange of housing property for entitlement to rent housing.

14. Housing rental income earned as a result of a legal relationship in the rental of housing, based on action taken by the authorities; compensation received by lessees for work performed on state rental housing which would otherwise have been the obligation of the lessor.

15. Income received as a result of transferring real estate or rights of pecuniary value acquired more than 10 years ago, or for surrendering such rights.

16. That part of income received from the sale of real estate acquired not more than 10 years ago, and from the establishment, transfer or surrender of rights of pecuniary value acquired not more than 10 years ago, which a private person expended within the time period specified in Paragraph 8, Section (1) for the purpose of acquiring housing ownership rights, user rights, for profit utilization rights, an entitlement to rent or for the construction or expansion of a housing unit, for the benefit of the private person, his spouse, former spouse or blood relative, including adopted, orphaned or foster children as well as the adopting parents, step parents, or foster parents.

17. Income derived from a spouse's redemption of real estate or other right of pecuniary value when joint ownership under a marriage has ceased.

18. Public utilities development subsidies defined in the Council of Ministers' decree.

19. Meals provided like-kind at the workplace by an employer.

20. The value of vouchers redeemable exclusively for food, provided by employers (Paragraph 67, Section (31)) in lieu of actual meals not provided at the workplace, or amounts not exceeding 800 forints per month paid in lieu of actual meals not provided at the workplace.

21. Part of the subletting (lodging) fees paid for (agreed to be covered) by the employer of a private person not covered by the provisions of Paragraph 9, Section (5), up to a monthly amount of 4,000 forints.

22. The full amount of subletting (lodging) fees paid (agreed to be covered) on behalf of a professional member of the armed forces.

23. Work clothing, uniforms, protective gear provided in like-kind by employers, and reimbursements paid by employers for uniforms and protective gear. Reimbursement (redemption) for work clothing shall be tax exempt only if payment by the employer covers work clothing needed because the performance of the employee's work greatly soils or deteriorates his clothing (hereinafter jointly: reimbursement for work clothing).

24. Amounts paid for fuel conservation.

25. That part of scholarship funds used abroad which does not exceed 150 percent of the reimbursement to which a worker employed abroad for an extended period of time would be entitled in the form of first class per diem during the same period as the duration of the scholarship (the full amount of expenses in excess of 150 percent shall be verified in the context of the total expense).

26. That part of per diem received abroad which does not exceed the amount of first class per diem (the excess expenses shall be verified in the context of the total expense).

27. Donor fees and fees for medicinal experiments on humans paid by health care institutions, and fees paid to private persons on whom medicinal drugs were tested in the approval process of the medicinal drug (implement).

28. Alimony received on the basis of an obligation established by law, indemnification, including the purchase price of real estate transferred under eminent domain, restitutions, except for restitutions for loss of income; income provided under Paragraph 356 Section 3 of the Civil Code of Laws and under separate legal provisions for extraordinary work performance.

29. Payments received on insurance claims, except for payments which replace income.

30. Casualty and restitution annuities determined prior to 1 January 1988, except if the amount of such annuities has been raised based on aggregate average earnings.

31. Income derived on the basis of agreements concerning alimony payments, lifelong benefits or inheritance.

32. Inheritance, gifts received from private persons; retirement gifts received from employers, other gifts up to a 500 forint value individually, and other property of pecuniary value whose acquisition involves an obligation to pay dues; winnings from lotteries not subject to license, provided that the total value of tickets issued and the total value of winnings does not exceed 50,000 forints; casino and slot machine winnings.

33. Objects won from social organizations, in competitions or in contests up to a 5,000 forint value, and further, irrespective of value, medals and trophies won in competitions or contests.

34. Work therapy awards paid to sick people or people under the care of health or social welfare institutions.

35. Amounts of up to 100,000 forints paid to inventors per invention for the transfer, use as collateral or for profit utilization (hereinafter: sale) of inventions for which letters patent have been issued.

36. Income up to 500,000 forints derived from agricultural small production (Paragraphs 14-16).

37. Annual amounts of up to 100,000 forints received from the not businesslike sale of movable property, except securities.

38. Income derived from the recreational for profit utilization (village tourism) of personally owned housing in places which do not qualify as special therapeutic, special recreational, therapeutic or recreational municipalities and in already developed farming areas, provided that the facilities so used offer not more than 10 beds, and assuming that the annual income derived from such utilization does not exceed 300,000 forints annually, and further provided that the permanent residence of the private person who owns the premises is located in the real property being utilized.

39. Scholarships paid to private persons from foundation funds, and further, amounts paid for specific purposes by foundations and as a matter of public interest obligations, under specific conditions provided for in a Council of Ministers decree.

40. Interest earned on deposits in Mutual Savings Banks [KST], school savings stamps, transfer depository accounts, demand deposits in savings accounts, demand deposits in checking accounts, and on foreign exchange accounts, provided that the amount of deposit is used for the purchase, construction or expansion of housing; interest as well as premiums paid on youth savings deposits; dividends and interest paid on bonds or treasury certificates issued prior to 1 January 1988.

41. Income derived from securities issued by the MNB in foreign currencies.

42. [Repealed]

43. The value of volunteer work and revenues derived from charitable functions, provided that the amount of such value is accounted for as wages or honorariums, and provided that the person who performed such volunteer work does not accept such payments and pledges the amount of such payment for some public interest purpose.

44. Amounts not exceeding 3,000 forints per month received for volunteer social work performed in health care or social welfare institutions, and for spiritual counselling.

45. Pecuniary value received by clergymen from private persons for the performance of religious rituals.

46. Income derived from work performed in Hungary in the course of professional practice by students enrolled in institutions of intermediate or higher education abroad.

47. Money awards granted in conjunction with the insignia, decorations and awards of the Hungarian Republic.

48. Life insurance premiums paid, and contributions made to pension funds by an employer in favor of a private persons for future annuity or lump sum payments which are part of the fringe benefits provided by the employer (Paragraph 41, Section (4)). The exemption regarding pension contributions applies only if the entitlement to the receipt of the annuity is tied to a persons eligibility to receive pension, or to the person having reached the retirement age.

Paragraph 8

(1) The time period mentioned in Paragraph 7 Section 2 Subsection 16 shall be as follows: the year in which the sale was consummated and the year thereafter relative to the purchase or expansion of housing, or the acquisition of entitlement to rental housing, and the year in which the sale was consummated and the subsequent four years in case of housing construction. In this context the six month period prior to the specified time periods shall be regarded as the year when the sale was consummated.

(2) In applying the provisions of Paragraph 7 Section (2) Subsection 16 private persons shall evidence the purchase of housing or the acquisition of the right to the for profit utilization of housing with the original or a copy of the relevant contract submitted to the land office, the right to rent housing and the acquisition of the right to use housing with the related contract, and the right to build or expand housing with the use permit. Private persons shall also provide proof of the manner in which the funds were utilized. If the income was used to benefit a relative, the degree of relationship shall also be proven.

(3) Until such time that the deadline specified in Section (1) has passed, the tax authorities shall regard the taxes payable after the income referred to in Paragraph 7

Section (2) Subsection 16 as delayed taxes (Paragraph 44). Private persons shall present the evidence mentioned in Section (2) to the tax authorities within 15 days after the deadline. In the event that a private person is able to show prior to the deadline that by no fault of his he was unable to comply with the deadline, the tax authorities may extend the deadline defined in Section (1) by one year in case of housing construction, or by six months, at most, in all other cases.

(4) In applying the provisions of Paragraph 7 Section (2) Subsections 28 and 29 the following shall not qualify as restitution for lost income, or as payments for damages:

a) Amounts paid in lieu of alimony payments based on obligations established by law.

b) Restitutions to cover expenses incurred by the person who suffered damages, not even if such expenses were incurred in order to secure income.

c) That part of annuities (or lump sum settlements) representing reimbursement of expenses and income replacement which constitute reimbursement of expenses.

(5) An original inventor may claim the 100,000 forint tax exemption (Paragraph 7 Section (2) Subsection 35) only once if he receives amounts of money for the sale of his invention over a period of several years (in installments), or if he sells his invention several times. In the event that the patent to an invention is owned by several persons, each person shall be entitled to a 100,000 forint tax exemption.

CHAPTER II: DETERMINATION OF INCOME

Income Derived From Work Relationships

Paragraph 9

(1) Except as provided for in Section (5), all earnings derived from work relationships shall constitute income.

(2)-(4) [Repealed]

(5) Fifty-five percent of the employment related earnings of persons with no permanent residence in Hungary, but who are employed and paid by firms which operate with foreign participation, or by legal entities domiciled abroad but active in Hungary, or by individually owned firms, partnerships, and by cooperative arrangements based on personal agreements which do not constitute legal entities shall be regarded income. Like-kind housing provisions or compensation received for housing costs shall be considered as part of the earnings. In the event that the agreement establishing the work relationship so provides, the cost of foreign travel and foreign assignment covered by the payor shall not be regarded as earnings. Except for severance payments described in Paragraph 7 Section (2) Subsection (1), the full amount of payments described in Paragraph 10, and

severance payments received in conjunction with the termination of the work relationships shall qualify as income.

Paragraph 10 (1) Derived From work relations:

a) [Repealed]

b) Life insurance premiums paid and pension contributions made by a private person's employer (Paragraph 41 Section (4)) for the private person's benefit shall be regarded as income resulting from a work relationship.

(2) [Repealed]

Income Derived From Inventions

Paragraph 11

(1) Revenues derived from the sale of inventions as offset by the deductible expenses (Paragraph 31) shall constitute income. In applying this Paragraph, the tax exempt amount specified in Paragraph 7 Section (2) Subsection 35 shall not be regarded as part of the income.

(2) In the event that the private person who holds an original patent does not wish to account for his expenses, the following percentages of income derived from the sale of a letter patent shall be regarded as income:

a) Thirty-five percent of the amount up to 500,000 forints.

b) Fifty percent of the amount over and above 500,000 forints. Reimbursed expenses related to these activities shall also be considered as income.

(3) In the event that an original patent holder has not received his letter patent, his income shall be calculated as part of the tax base, and shall be reported pursuant to Paragraph 30.

(4) In cases described in Section (3), the payor who utilizes the invention for profit shall deduct the advance tax payment pursuant to the provisions of either Section (1) or Section (2), based on the private person's choice. Such deduction is contingent on the payor's issuance of a guaranty to pay the tax differential, and the tax authorities' acceptance of such guarantee.

(5) In cases involving guaranties pursuant to Section (4), the tax authorities shall recognize the tax differential on income derived pursuant to Paragraph 30 and Sections (1) and (2) as delayed tax (Paragraph 44).

(6) In the event that the payor who provides a guaranty goes out of business without a legal successor prior to receipt of the letter patent, and in the event that the tax differential recorded as a delayed tax payment cannot be collected from his assets, the tax differential shall become due and payable by the private person, unless the private person reaches an agreement with another payor to provide such guaranty and the tax authority accepts such guarantee.

Income Derived From Scientific and Creative Artistic Activities

Paragraph 12

(1) Earnings derived from scientific and creative artistic work performed outside of employment, or outside of ventures pursued individually (Paragraph 19) or as partnerships (Paragraph 18), and further, earnings derived from copyrighted creations (hereinafter collectively in this Paragraph: scientific and artistic work, and copyrighted creations) as offset by the deductible expenses (Paragraph 31) shall constitute income.

(2) In the event that the person originally entitled to such income wishes not to account for his expenses, the following percentages of income derived from scientific and artistic work, and copyrighted creations as defined in Section (3), shall be regarded as income:

a) Thirty-five percent of the amount up to 200,000 forints.

b) Sixty percent of the amount over and above 200,000 forints. Reimbursed expenses related to these activities shall also be considered as income.

(3) As referred to in Section (2):

a) The term "scientific activities" shall mean teaching in institutions of higher education (Paragraph 98, Law No. 1 of 1985); provision of expert opinion in judicial proceedings; the functions of technical experts, literary advisers and editors; scientific research activities funded by the National Scientific Research Fund and conducted in the framework of the National Medium Range Research Development Plan; research activities conducted on the basis of direct assignments received from ministries or government organizations of a national scope and funded by the ministries' research funds; and scientific research activities funded by foundations of a scientific scope; professional technical graphic design and professional translating activities.

b) The term "artistic activities" shall mean art restoration, architectural art activities, choreography, visual presentations planning, theatrical direction, musical arrangements, the operation of television and movie cameras, performing art activities, and the teaching of art in educational institutions.

(4) The income content of the creator's fees paid by the creative community to a member of the fine arts creative community shall be determined pursuant to the provisions of this paragraph, provided that the creative community does not account for expenses incurred in the course of creating the copyrighted product.

Paragraph 13

(1) Provisions of Paragraphs 11-12 shall also govern regarding the determination of a private person's income which is part of the earnings covered by these paragraphs

but was derived from the private person's employer under an agreement consummated outside the work relationship.

(2) In applying the provisions of Section (1), earnings derived from agreements consummated outside the work relationship shall mean compensation received by a person from his employer for the performance of tasks which are not part of that person's official duties, or for an invention related to his duties.

(3) Provisions of Paragraphs 11-12 shall govern regarding the income earned by a partner in a partnership, which was not derived from the performance of tasks within the purview of his personal obligation to act, but on the basis of a separate agreement from earnings referred to in Paragraphs 11-12, and was received from the partnership in which he is a partner, provided that the partnership did not account for the expenses incurred by the partner in the course of earning such funds.

(4) If the earnings governed by Paragraphs 11 or 12 are derived in part from abroad and in part from Hungary, all income determined on the basis of such earnings must be proportionately regarded as foreign or domestic income. The same applies if a person elects to divide his income pursuant to the provisions of Paragraph 32 Section (3) Subsection (b) relative to certain income referred to in Paragraphs 11-12.

(5) In the event that a private person wishes to account for his expenses within Paragraphs 11 or 12, expenses incurred in a given year relative to all such earnings shall be accounted for.

Income Derived From Agricultural Small Production

Paragraph 14

(1) Ten percent of revenues derived from agricultural small production (Paragraph 15) but not exceeding 2 million forints, which is in excess of the tax-exempt amount referred to in Paragraph 7 Section (2) Subsection 36, and was spent on the breeding of livestock or for the production of livestock products shall be regarded as income. In all other cases 30 percent of such revenues shall be regarded as income.

(2) In the event that revenues derived from agricultural small production stem in part from animal breeding and in part from cultivating plants, the tax-exempt part defined in Paragraph 7 Section (2) Subsection 36 shall be deducted from part of the revenues in the same proportion as the source of origin of the total revenues was divided between animal husbandry and plant cultivation.

(3) In the framework of agricultural small production, the selling price of produce or of animals shall be regarded as revenue even if the small producer is not entitled to part of the selling price. The value of the animal at the time it was farmed out for fattening shall

be deducted from revenues which resulted from the sale of the animal farmed out by the firm.

(4) In the event that the agricultural small production activity is pursued jointly, earnings of close relatives above the age of 16 residing in the same household (Paragraph 685 Subsection (b) Civil Code of Laws) shall be counted jointly and the resultant income shall be divided among such relatives in equal proportions. In such cases the small producer may claim the exemption defined in Paragraph 7 Section (2) Subsection 36 only on a joint basis.

(5) Private persons engaged in agricultural small productions may elect to provide an itemized accounting of their expenses based on rules provided in Paragraph 31, instead of the income accounting method defined in Section (1). In such cases the expenses incurred on the basis of agricultural small production shall be accounted for in the context of total revenues. That part of the thus defined income shall be tax exempt which corresponds to the proportion of tax exempt revenues defined in Paragraph 7 Section (2) Subsection 36, in the framework of all revenues produced as a result of agricultural small production.

Paragraph 15

(1) In the context of this Act, the following activities pursued outside of a work relationship shall qualify as agricultural small production:

a) Cultivation of plants (METJ 91 [Agricultural and Forest Products Classification 91]).

b) Production and establishment of plantations for gardening products (METJ 92), except for flowers and decorative plants (METJ 92-4).

c) Livestock breeding and the production of animal products (METJ 93), except for:

- Horses to be used for sporting purposes (METJ 93-42-01)
- Race horses (METJ 93-42-02)
- Live game (METJ 93-71)
- Hunting game (METJ 93-72)
- Dogs (METJ 93-82-01)
- Cats (METJ 93-81-02)
- Laboratory animals (METJ 93-85)
- Decorative and zoo animals (METJ 93-86)
- Cast antlers (METJ 93-91-07)
- Tusks (METJ 93-91-08)
- Trophies (METJ 93-91-09)

d) Collection and propagation of forest seeds and seedlings, forestation (METJ 94-1), and the collection and production of forest byproducts (METJ 94-39).

(2) Production of the following products shall be treated in the same way as those enumerated in Section (1), provided that the private person engaged in production does not qualify as an individual entrepreneur based on this Act, and provided that the private person uses his

home grown basic products: Wax comb foundation (ITJ [Industrial Products Classification] 69-99-31)

Dairy products (ITJ 82)

Preserves (ITJ 83-11)

Purees, jams (ITJ 93-12)

Jellies (ITJ 83-13)

Dried, dehydrated, pulverized, candied fruits (ITJ 83-14)

Fruit juices (ITJ 83-15)

Fruit syrups and condensed fruits (ITJ 83-16)

Dried and pulverized vegetables (ITJ 83-23)

Vegetable based drinks (ITJ 83-26)

Tomato juice (ITJ 83-35)

Pickles (ITJ 83-4)

Preserved semiproducts and preparatory products (ITJ 83-7)

Grape must and condensed grape must (ITJ 88-31-1, 2)

Semifermented wine made of grapes for purposes of wine production (ITJ 88-31-3)

Barreled wine made of grapes (ITJ 88-31-41-1, 2, 3)

Fruit must, condensed fruit must (ITJ 88-39-1, 2)

Semifermented wine made of fruits for purposes of wine production (ITJ 88-39-3)

Other wine made of fruits (ITJ 88-39-49)

Artificially dried tobacco (ITJ 89-11)

Kernels (ITJ 89-4)

From among other food industry products (from ITJ 89-81): cleaned, hulled, or peeled potatoes; from among vegetables: carrots, turnips, and onions.

(3) The Central Statistical Office's classification dated 1 November 1990 shall apply regarding products designated by ITJ and METJ numbers. Subsequent (interim) changes in classification shall not change the obligation to pay taxes.

Paragraph 16

(1) In the context of this Act, an activity shall be deemed to constitute agricultural small production pursuant to Paragraph 15 Section (1) even if such activity is pursued on the basis of a separate agreement, outside of a person's employment function or time, in the framework of shared work, provided that the related agreement applies to the entire production process, or to the entire manual production process, or to the harvesting, including cleaning, sorting, and packaging of products designated in Subsections (a) and (b) of Paragraph 15 Section (1).

(2) In the event that shared work pertains only to all manual work or harvesting of the products enumerated under Subsections (a) and (b) of Paragraph 15 Section (1), the share of products received by the share worker shall be regarded as income. The income content of the related sales revenues calculated on the basis of Paragraph 14 Section (1) shall be calculated by the firm which contracts the share worker. The firm has a duty to inform

the small producer of such income content. Sales revenues determined this way shall be combined with other sales revenues resulting from small production.

Income Derived From Partnerships

Paragraph 17

All pecuniary value conveyed by a firm (Law No. 6 of 1988), an agricultural, industrial or service specialized cooperative group, a school cooperative group which functions in an institution of higher education, and a private person subject to the provisions of the Law on Entrepreneurial Profit Taxes (hereinafter: partnerships), and further, work cooperatives providing legal representation which operate as legal entities (hereinafter also including work cooperatives specializing in patent law) to a partner (shareholder, entrepreneur) in recognition of the legal relationship of being a partner shall constitute income.

Paragraph 18

A partner's income derived from the taxed revenues of a partnership shall be regarded as income derived from securities (Paragraph 26). With respect to lawyers' work cooperatives which operate as legal entities, part of the income derived by partners in the cooperative based on their legal relationship with the cooperative shall be regarded as income derived from securities. The extent to which such income shall be regarded as income derived from securities shall be determined by the proportion of taxed resources within the funds of the cooperative.

Income Derived From Individual Ventures

Paragraph 19

(1) The total amount of revenues derived from individual ventures, as offset by authorized, direct expenses incurred in support of the activities (Paragraph 31) and by benefits defined in Paragraph 20 shall constitute income. In the event that an individual entrepreneur pursues several ventures, the amount of income shall be determined by taking into consideration the total amount of revenues received as a result of all activities as offset by all authorized expenses.

(2) If in the course of his venture an individual entrepreneur realizes solely his own invention, only 50 percent of the income defined in Section (1) derived from the venture shall be regarded as income from the standpoint of taxation.

(3) If an individual entrepreneur pursues other business activities in addition to realizing his own invention, the benefit provided under Section (2) shall be applied proportionately to the income derived from the venture consistent with the ratio represented by revenues derived from the invention within the total revenues.

(4) In cases described in Sections (2) and (3) the provisions of Paragraph 11 concerning the determination of income shall not apply.

(5) In the context of this Act an individual entrepreneur is a private person not subject to the provisions of the Law on Entrepreneurial Profit Taxes, and who:

a) Holds an entrepreneur's identification card.

b) Pursues agricultural small production (including jointly the persons enumerated in Paragraph 14 Section (4)), provided that such person derives revenues in excess of 2 million forints from agricultural small production activities.

c) Qualifies as a small tradesman or private merchant on the basis of legal provisions that preceded the law on individual enterprise, as well as one who operates as part of a legal entity on a contractual basis.

d) Practices law individually.

e) Is registered with the tax authorities as an individual entrepreneur and designated his activities, provided that his revenues (income) derived from such activities are otherwise subject to the provisions of Paragraphs 11, 12, 14, 25, or 30.

(6) In the event that persons pursuing joint activities (family) defined in Paragraph 14 Section (4) and in Paragraph 14 Section (5) Subsection (b) qualify as individual entrepreneurs, only one of these persons shall be regarded as an individual entrepreneur. The individual to be qualified as an individual entrepreneur shall be chosen by all participating persons, and the tax liability of all persons shall remain intact. On the other hand, the income derived from jointly performed activities shall be divided among such persons in equal proportions.

Paragraph 20

An individual entrepreneur engaged in the training of a skilled worker apprentice, or who employs an at least 50 percent disabled person may reduce his revenues derived from the venture by 1,000 forints per month and per such person trained or employed. An individual entrepreneur shall be entitled to this benefit for 24 months, if he continuously provides primary employment to a person who has been employed in public work projects for at least six months immediately preceding his employment by the individual entrepreneur, or who has received unemployment compensation for at least six months.

Paragraph 21

(1) In the event that an individual entrepreneur registers as a person subject to the provisions of the Law on Entrepreneurial Profit Taxes, and if he continues only part of his earlier individual entrepreneurial activities pursuant to the rules of entrepreneurial profit taxation, the rules applicable to discontinued activities shall be applied only to the actually discontinued activities.

(2) If an individual entrepreneur simultaneously pursues several kinds of individual entrepreneurial activities and registers as a person subject to the Law on Entrepreneurial Profit Taxes, he shall apply exclusively the rules provided in the Law on Entrepreneurial Profit Taxes regarding tax obligations related to all of his individual entrepreneurial activities.

**Income Derived From the Transfer of Real Property,
Movable Property, or a Right to Pecuniary Value**

Paragraph 22

(1) Revenues resulting from the sale of real property, from the non businesslike sale of movable property, as well as from the establishment, transfer, surrender or final surrender of the exercise of rights having a pecuniary value, as reduced pursuant to the provisions of Section (2) shall constitute income. In cases involving real property or rights having a pecuniary value, the amount of revenues shall equal the market value used as the basis of assessments.

(2) The amount of revenues shall be reduced by the market value of real property, movable property of right having a pecuniary value at the time of acquisition, by the expenses incurred in the course of acquiring and selling such property or rights, as well as by the amounts invested to increase the value of such property and rights, provided that such investments were not accounted for as expenses earlier (Paragraph 31).

Paragraph 23

(1) In determining the market value of real property or of rights having a pecuniary value the provisions of the law concerning dues shall be applied appropriately.

(2) In cases involving movable property brought to Hungary from abroad, the market value shall be the same as the value used in assessing customs duties.

(3) In cases involving real estate sold by a legal entity to a private person, the full purchase price reflected in the agreement shall be regarded as the market value at the time of acquisition, unless the agreement had to be presented for purposes of assessing dues.

(4) In the event that the market value at the time of the acquisition of real property, movable property or right having a pecuniary value cannot be established, 25 percent of the market value considered as a basis of assessing dues at the time of sale shall be regarded as income.

Paragraph 24

(1) Regarding real property, the date of acquisition shall be the day on which the related valid agreement (document, determination issued by the authorities or by a court) is submitted to the land office, alternatively, prior to 1 July 1986, to the office of dues. If inheritance is involved, the day when the inheritance was released shall be regarded as the date of acquisition. If a legal entity

sold real property to a private person prior to 1 January 1989, the date when the real property was acquired shall be regarded as the day when the contract was consummated.

(2) The date when real property was sold shall be the day when the relevant valid contract (document, determination issued by the authorities or by a court) was submitted to the land office.

(3) In applying the provisions of Paragraph 22 Section (2) the acquisition date of real property received in exchange in the course of land ownership settlement or expropriation shall be the day when the original real property was acquired.

(4) With respect to buildings (or parts of buildings) erected on land area after the date of acquisition shall be the same as the date when the land area was acquired.

**Income Derived From the for Profit Utilization of
Certain Real Property**

Paragraph 25

(1) Revenues derived from the rental of places of abode, and from the leasing of buildings for housing purposes, as offset by authorized expenses (Paragraph 31) shall be regarded as income.

(2) In the event that a private person does not wish to account for his expenses, the amount of income shall be derived from the revenues pursuant to the following provisions:

a) Seventy percent of the revenues derived from a private person's for profit utilization of an apartment or a resort place as a place of abode (e.g. rental housing, sublease, rental of beds, paying guests) shall constitute income. Commissions paid to the foreign tourism organization relative to this activity shall not be regarded as part of the revenues.

b) Eighty percent of the revenues derived from the lease of a building or part of a building shall be regarded as income, unless the provisions of Section (1) apply to such building or part of a building.

(3) In applying the provisions of Section (2) general sales taxes shall not be regarded as part of the revenues. Expense reimbursement related to the for profit utilization (rental) activities shall also be part of the revenues.

Income Derived From Savings Deposits and Securities

Paragraph 26

All earnings (e.g. interest, premiums, dividends, annuities, gain on exchange rates) resulting from savings deposits and savings certificates (hereinafter jointly: savings deposits), bonds, treasury certificates, certificates of deposit, membership loans, business shares in cooperatives, shares of assets in cooperatives, special purpose cooperative share certificates, contributions to production development in cooperatives, contribution

of assets, certificates attesting to the ownership of assets, stocks and from other securities defined in separate law (hereinafter jointly: securities) shall constitute income.

**Small Amounts of Income and Income Derived From
Certain Other Payments**

Paragraph 27

(1) All moneys received by a private person shall constitute income:

a) Up to 2,000 forints paid by the payor on the basis of a contract, or otherwise based on the provisions of Paragraphs 12 and 30, and further, irrespective of the amount, if paid in the form of a land allowance.

b) Relative to blocks of owner occupied apartments (owner occupied resort facilities) if jointly owned premises are let, irrespective of the number of contracts and of whether the amounts received are paid to the joint owners or used directly to pay for joint expenses.

c) Commissions paid for the sale of lotto tickets.

d) Winnings not regarded as tax-free under Paragraph 7 Section (2) Subsection 32 (hereinafter: taxable winnings).

(2) In the event that the private person informs the payor in writing that he intends to combine the income defined under Section (1) Subsection (a) with all the taxable income he received, payments shall be made pursuant to the provisions of Paragraphs 12 or 30.

Income Derived From Work Performed Abroad

Paragraph 28

Fifty-five percent of a private person's earnings resulting from work performed abroad shall be considered as income. Earnings include the rental cost of housing provided like-kind or the amount of housing allowance received. Reimbursement of travel expenses ordered by the foreign employer shall not be regarded as earnings.

Paragraph 29

Regarding earnings derived from work performed abroad, which would otherwise fall under the provisions of Paragraphs 11-12, the private person shall have an option to account for his income in a manner specified in Paragraphs 11-12, or in Paragraph 28.

Other Income

Paragraph 30

(1) With respect to earnings not covered by the provisions of Paragraphs 9-29, and regarding compensation received as a result of agreeing to perform an added service not covered by Paragraphs 9, 11, 12, 19, and 25 to a firm, and rendering such service of pecuniary value under separate contract, the amount of income shall be derived based on the total amount of earnings as offset by authorized expenses (Paragraph 31), provided that

the member of the firm does not account for the expenses related to his earnings as part of the expenses incurred by the venture.

(2) [Repealed]

(3) In the event that pecuniary interest acquired in the form of free of charge securities defined in Paragraph 3 Subsection (e) is sold, or if other conditions specified in Paragraph 33 prevail, the nominal value of such stock at the time it was acquired shall be regarded as earnings. This amount shall not be offset by expenses.

(4) In due regard to the provisions of Paragraph 8 Section (4), restitutions for loss of income and payments on insurance claims for loss of income (Paragraph 7 Section (2) Subsections 28 and 29) constitute earnings which shall not be offset by expenses.

(5) From the standpoint of meal allowances paid in cash by the payor, sublease (lodging) fees covered by the payor, or moneys received as a result of recreational expenses covered by the payor, the amount in excess of the tax-free amount (Paragraph 7 Section (2) Subsections 20 and 21 and Paragraph 65 Section (5)) constitutes earnings which shall not be offset by expenses.

(6) Legally authorized and other expense reimbursements and average expense calculations, including the reimbursement of travel or automobile use expenses to the private person on any ground (hereinafter: expense reimbursement), constitute earnings which shall be regarded as income, once offset by documented and authorized expenses (Paragraph 31/A), (except if the private person receives expense reimbursement for expenditures incurred relative to earnings whose income portion is defined in this Act on the basis of a given proportion of the earnings).

Expense Accounting and Record Keeping

Paragraph 31

(1) Unless otherwise provided for by law, actual, documented expenses directly related to the income earning activity and to the acquisition of such activity and incurred during the calendar year shall be regarded as authorized expenses.

(2) Except for the provisions of Sections (3)-(4), the maximum extent to which expenses may be accounted for is the amount of earnings in a given calendar year.

(3) Production and handling costs incurred by the individual entrepreneur relative to his entrepreneurial activities may be regarded as expenses up to the amount of earnings derived from the individual enterprise in a given calendar year; expenses exceeding such earnings may be accounted for against the following year's earnings.

(4) Detailed conditions and rules for expense accounting and record keeping provisions are contained in Attachments 1 and 2 of this Act. [attachments omitted]

Paragraph 31/A

(1) Irrespective of the amount of expense reimbursement made pursuant to Paragraph 30 Section (6), as long as such reimbursement is based on law:

a) Expenses may be deducted to the extent provided by law, without proving (documentation, travel records, etc.) such expenses.

b) If an accounting for expenses based on the type of payment made, documentation, travel records, etc., is more favorable to the private person, he may account for the expenses pursuant to the provisions of Paragraph 31.

(2) The provisions of Section (1) Subsection (b) shall apply to (other) expense reimbursement not based on law.

(3) The provisions of Section (1) Subsection (b) shall apply to contributions to cover the cost of attending training courses and the reimbursement of educational expenses and of registration fees for attending scientific conferences and congresses.

(4) An amount not exceeding 30 percent of the annual wages or fees of outside workers shall be regarded as expenses authorized pursuant to Section (1) Subsection (a) if expenses are reimbursed on an annual basis, and provided that the private person does not account for additional expenses pursuant to Section (1) Subsection (a) stemming from this kind of legal relationship.

(5) In applying the provisions of Section (1) Subsection (a), with respect to average automobile expenses the extent of expenses specified by law may be applied to the average expense incurred with respect to only one payor, and the choice of that payor shall be made at the private person's discretion.

(6) The fact that the objective scope of, and conditions for such entitlement, as well as the method and extent of expense reimbursement and of determining the average be specified in legal provisions governing expense reimbursements shall be a condition for applying the provisions of Section (1) Subsection (a).

CHAPTER III: TAX BASE, TAX RATE, TAX BENEFITS

Tax Base

Paragraph 32

(1) Except for: income received from savings deposits, securities, small amounts received and certain other payments, earnings derived from work performance abroad and other income originating from abroad, as well as for income derived from free of charge securities defined in Paragraph 3 Subsection (e), all income earned by a private person in a given calendar year shall be combined (total income). Income withdrawn from ventures already taxed pursuant to rules provided by law may be invested again without creating a new tax obligation.

(2) The tax rate pursuant to Paragraph 37 Section (1) shall be established on the basis of the total income as reduced by the amounts specified in Paragraphs 34-35 (tax base).

(3) In the course of determining the total income:

a) Income derived from the sale, for profit utilization or transfer of jointly owned property by persons married to each other shall be allocated in equal proportions between the spouses. This provision shall not apply to income derived from an individual venture.

b) In the event that a private person acquires in a single year Paragraph 11-12 income earned in the course of several years of activity, such income may be divided into three parts provided that the income exceeds 50 percent of the private person's previous year's tax base, and further provided that the private person owes no delayed taxes with respect to the income to be divided.

c) Income derived from the transfer of real property may be divided into three parts at most, provided that the private person owes no delayed taxes with respect to this, or part of this income. The income shall not be divided into more parts than the number of full years the private person owned the subject real property.

d) Monthly amounts of state severance pay defined by law and received in conjunction with the termination of a work relationship may be applied only for the number of full months beginning with the termination of the work relationship and ending with the end of the tax year. Such application may be made as long as the total amount of severance pay received has not been accounted for.

(4) In the event that income is divided into parts pursuant to Section (3) Subsections (b)-(c), one third or one half of such income shall be combined with the rest of the combined income earned by the private person in the subject year, and the highest tax rate applicable to that amount must be determined. The tax due on two thirds (half) of the divided income shall be determined by applying this tax rate, and shall be paid together with the tax due on all the income earned in the subject year.

(5) That part of the amount of state severance pay referred to in Section (3) Subsection (d) which was not taken into consideration in the course of determining total income, shall be regarded as income earned in the course of the following tax year. In the event that the number of months not considered in the given tax year exceeds 12, the monthly amounts applicable to the excess months shall be regarded as income earned in the second year.

Paragraph 33

(1) Income shall be regarded as earned income on the day the person receives such income. Non monetary benefits shall be regarded as having been acquired on the day the recipient takes possession, amounts credited shall be

deemed to have been earned on the day they are credited, and financial obligations of customers and persons having placed orders, as defined in Section II.5 of Attachment 1 shall be added to the revenues on the day such obligations have ceased. In the event that a payor transfers a payment not based on a work relationship to a private person and withholds taxes, the income shall be regarded as earned on the day of transfer or mailing, provided that the private person actually receives such funds prior to declaring his income (Paragraph 41 Sections (4)-(5)) or prior to filing his tax return.

(2) If the previous calendar year's wages, fees, employer funded sick or child care fees based on a work relationship are paid by 15 January of the following year, such payments shall be regarded as income earned on the last day of the previous calendar year. In applying this provision the day of transfer or mailing shall be regarded as the day payment was made.

(3) Life insurance premiums and pension contributions made by a private person's employer for the benefit of the private person create a tax obligation only at the time when the private person acquires a dispositional right over the insurance or pension amount, provided that such amounts are not otherwise tax exempt (Paragraph 7 Section (2) Subsection 48).

(4) Relative to pecuniary value received by a private person in the form of free of charge securities (Paragraph 3 Subsection (e)), the private person shall incur a record keeping obligation when acquiring such securities, and shall incur other tax obligations when the pecuniary interest in such securities is sold, except as provided for in Sections (5)-(6), or if the private person fails to verify within 15 days from date of receipt of notice from the tax authorities that he possesses such pecuniary value, or that he has the right to such value, as well as in cases in which the cooperative (the issuer) ceases to exist without a legal successor.

(5) In due regard to the provisions of Section (6), an exception from under the rules provided in Section (4) shall be constituted when a member leaving the cooperative, or a member of a cooperative that has been discontinued without legal successor receives like-kind pecuniary value in exchange for his free of charge securities, and if such member invests such like-kind pecuniary value in an unchanged form in his own venture as an individual entrepreneur. Another exception to the Section (4) rules is a situation in which a private person receives a share of the assets (business share, stock, etc.) from the legal successor to the issuing firm in exchange for his free of charge securities, as long as the private person does not withdraw his share of assets from the newly transformed firm, or until any one of the conditions enumerated in Section (4) occurs.

(6) Taxes shall be paid after the invested pecuniary value pursuant to the provisions of Section (4) in the event that the individual entrepreneurial activity ceases, or at the time the pecuniary value is withdrawn from the venture.

Paragraph 34

(1) Items that may be deducted from the total income when determining the tax base shall be as follows:

a) Amounts expended for purposes of a foundation domiciled in Hungary (Civil Code of Laws, Paragraphs 74/A-74/E).

b) Amounts expended in support of public interest obligations (Civil Code of Laws, Paragraphs 593-596).

c) Two thousand forints per months from the income earned by a severely handicapped person, provided that the handicapped condition prevails for at least one day in a given month.

d) Amounts not exceeding 300 forints per month expended (deducted) during the tax year for membership dues in an employee interest group.

e) Interest payments related to annual installment payments for stock or business shares purchased in the framework of the Employee's Participation Program.

f) Employee contributions deducted from (paid by) the private person.

g) The amount of local taxes assessed to (due from) and paid by the private person, except for local taxes which the individual entrepreneur (Paragraph 19 Section (5) Subsections (a)-(c)) is able to account for as expenses based on the provisions of Section III/4 of Attachment 1.

(2) The amounts referred to in Section (1) Subsections (a) and (b) shall be deducted from the total income in the year in which the payments were made. If such amounts exceed the total income of the private person, deductions shall be made from the total income of subsequent years until such time that the entire amount has been deducted.

(3) One thousand forints per month, per child, or per handicapped child pursuant to Subsection (c) may be deducted from the private person's total income, provided that the private person raises a child in his own household, beginning with the month the child was born until the month in which the child reaches the age of six, or if he raises at least:

a) Three children

b) Two children as a single parent, or

c) A severely handicapped child.

(4) The benefit provided under Section (3) may be taken advantage of by one private person designated in a joint statement issued by the private persons who bring up the child, provided that entitlement to such benefit prevails in the given month for at least one day.

(5) Private persons are entitled to receive the benefit specified in Section (3) Subsections (a) and (b) beginning in the month that the child is born until the month in

which the child reaches the age of 14. The benefit defined in Subsections (a) and (b) continues to be available after children older than 14 years, but prior to their 30th birthday for months, including breaks, in which the child is enrolled in the daytime courses of an elementary, intermediate, or higher educational institution. In cases defined in Section (3) Subsection (c) the eligibility for receiving the benefit begins in the month the child is born. Based on one child, the benefit may be taken advantage of only once.

Paragraph 35

(1) The following may be deducted from the total income, and from income derived from work performed abroad or from income derived otherwise from abroad—to the extent that the private person possesses these assets on the last day of the year. The maximum extent of deduction shall be 30 percent of the total income, even if more than one deduction could be made:

a) Amounts paid in a given year for the acquisition of stock, shares and certificates attesting to the ownership of assets issued by a venture registered in Hungary, and further: business shares (capital stock) in a limited liability corporation, cooperative business shares, and shares of assets, as well as for other securities defined as such by law or in a government decree.

b) The amount invested by an individual entrepreneur (Paragraph 19 Section (5)) for the acquisition of fixed assets in the form of machinery, equipment, vehicles, and the establishment of plantations in a given year to benefit his own venture, under special conditions defined in Section (5) below.

c) The amount invested in a given year by an agricultural small producer who qualifies as an individual entrepreneur, for the purchase of outlying arable land to be cultivated for agricultural purposes.

d) Amounts paid in a given year for state owned securities and property which qualify as fixed assets (not including housing property), in the course of sales organized by the State Property Agency; within such amounts, however, only the self financed portion is subject to deduction if the purchase is accomplished based on loans received from the Livelihood Fund or from MNB privatization loans.

e) Amounts expended in a given year on installment payments for the purchase of stock or business shares in the framework of the Employee Participation Program.

(2) As far as a private person indicates in his tax return that a delayed tax is due (Paragraph 44 Section (1)), the maximum deductible amount under the provisions of Section (1) shall be based on the percentage designated in Section (1) of the total income, as offset by the proportion of the total income reflected by the delayed taxes. In the event that the private person received state severance pay as a result of termination of employment, the full amount of such severance pay may be deducted from the

total income defined in Section (1). The latter provision shall not be applied if a private person used the method specified in Paragraph 32 Section (3) Subsection (d), and in Section (5) to compute his total income.

(3) A private person shall have an obligation to declare, determine and pay taxes after the expended pecuniary value defined in Section (1) if that pecuniary value is sold, or if the private person fails to verify within 15 days from date of receipt of notice from the tax authorities that he possesses such pecuniary value, or that he has a right to such value, as well as in cases in which the firm (venture) ceases to exist without a legal successor. The same procedure shall also apply in cases where the private person permanently leaves the territory of the Hungarian Republic.

(4) If the private person incurs the obligations defined in Section (3):

a) Within two years following the last day of the year in which the acquisition took place, taxes payable for the year in which the pecuniary value was acquired shall be settled on the basis of filing an income tax return verified by the private person.

b) After two years following the last day of the year in which the acquisition took place, the deducted amounts shall be added to the total income of the private person in the year in which the obligation was incurred.

(5) An independent entrepreneur shall not change his status so as to fall under the authority of the entrepreneurial profit tax law before he fulfilled his tax obligations pursuant to Sections (3)-(4). Expenses related to fixed assets to which the individual entrepreneur applies the provisions of Section (1) Subsections (b) and (d) may be accounted for only through the application of depreciation provisions contained in Section III/1 of Attachment 1.

Paragraph 36

Except as provided for in Paragraph 34 Section (1) Subsections (a) and (b), the total value of the items deducted pursuant to the provisions of Paragraphs 34 and 35 shall not exceed the amount of total income (Paragraph 32 Section (1)) and of income derived from work performed abroad, and of other foreign income.

Paragraph 37

(1)

The Tax Rate	
Tax base (forints)	Tax rate
0-55,000	0%
55,000 - 90,000	12% of the amount in excess of 55,000 forints
90,001 - 120,000	4,200 forints plus 18% of the amount in excess of 90,000 forints

The Tax Rate (Continued)

Tax base (forints)	Tax rate
120,001 - 150,000	9,600 forints plus 30% of the amount in excess of 120,000 forints
150,001 - 300,000	18,600 forints plus 32% of the amount in excess of 150,000 forints
300,001 - 500,000	66,000 forints plus 40% of the amount in excess of 300,000 forints
500,001 and more	146,600 forints plus 50% of the amount in excess of 500,000 forints

(2) A 20 percent tax rate shall be applied to the taxable interest on savings deposits, as well as on income derived from securities, the payment of small amounts, land allowances, the leasing of common premises in blocks of jointly owned apartments, the sale of lotto and toto tickets, taxable winnings, and on income calculated on the basis of the nominal value of taxable pecuniary value received pursuant to Paragraph 3 Subsection (e).

(3) Unless otherwise provided for in international agreements or as a result of reciprocity, income derived from work performed abroad or otherwise from abroad the tax rate shall be 20 percent on the income as offset by income taxes paid abroad.

Tax Benefits

Paragraph 38

(1) No taxes shall be paid after:

a) Retirement benefits, old age and disability annuities received by members of agricultural cooperatives, widows annuities paid to the widows of members of agricultural cooperatives, increased levels of old age annuities paid to members of specialized cooperatives, disability benefits (hereinafter jointly: pension payment) and further, after the total amount of members' supplement.

b) The combined amount of pension payments and other income earned during a given year up to 108,000 forints.

(2) Section (1) shall not be applied to private persons who enjoy tax-free pension income.

(3) A private person disabled to the extent of at least 67 percent who does not receive disability pension shall be regarded in the context of this Act as a person who receives pension payments.

(4) The amount of tax payable shall be determined as follows: the amount of tax derived from the tax base pursuant to the provisions of Paragraph 37 Section (1) shall be reduced by an amount which equals the taxes payable by a person having the same total income as the combined total amount of income defined in Section (1).

Paragraph 39

(1) The following amounts paid by the private person may be deducted from the tax calculated pursuant to the provisions of Paragraph 37 Section (1):

a) Twenty percent of annual savings not exceeding 60,000 forints set aside for the purpose of the purchase, construction or enlargement of a residential lot and residential dwelling, which is deposited at a financial institution to the account of the person who saves these funds, and which has not been used within one year from date of the deposit and is managed separate from other funds.

b) Twenty percent of pension contributions, or of 10 years or longer term life insurance premiums paid during the calendar year, not exceeding 7,200 forints annually, unless the individual entrepreneur has accounted for these funds as expenses.

c) [Repealed]

(2) In the event that a private person withdraws the amount of savings defined in Section (1) Subsection (a), and is unable to prove that within one year from the date of opening the advance housing savings account he used the amount withdrawn for the purchase, construction or expansion of his own residence or for the purchase of his own residential lot, the amount of tax benefit taken advantage of, as increased by late payment penalties shall be paid by the private person who took advantage of the tax benefit. In this context the term "his own" shall also mean residential property owned or to be owned by the private person's spouse, former spouse or blood relative, including adopted, orphaned, or foster children as well as the adopting parents, step parents, or foster parents. The term "opening the advance housing savings account" shall also mean the entering into an agreement with a financial institution to accumulate such savings. Late payment penalties shall be calculated beginning on 20 March of the year in which the tax benefit was taken advantage of as evidenced by the private person's tax return (statement). In such instances taxes due on the interest earned shall be paid by the private person, unless the financial institution already deducted such taxes.

(3) In the event that the private person discontinues the payment of pension contributions or insurance premiums defined in Section (1) Subsection (b) within three years from the date of entering into an agreement, the tax benefit taken advantage of shall be repaid by the private person pursuant to the provisions of Section (2).

(4) Private persons incurring a tax obligation based on the provisions of Paragraph 33 Section (3) shall also be entitled to the tax benefit provided for in Section (1) Subsection (b). In the event that the tax obligation is incurred after paying contributions and premiums for several years, the benefit to which the private person was entitled after each individual year's contributions or premium payments may be deducted in a lump sum in

the year when the tax obligation is incurred. Such lump sum settlement of the tax obligations shall amount to the same as if the private person had discharged his tax obligations in each individual year.

Paragraph 39/A

(1) An amount of 250 forints (employed persons' tax benefit) may be deducted from the tax (advance tax payment) defined in Paragraph 37 Section (1) for each month the work relationship exists in the calendar year, pursuant to Paragraph 9 Section (1). The tax reduction may be applied to only one work relationship at any given time. In a manner consistent with previous provisions, private persons receiving training subsidies, unemployment compensation or temporary unemployment benefits are also entitled to the employed person's tax benefit.

(2) No employed persons' tax benefit shall enure to private persons:

a) In any month in which the private person spent more than 10 work days on paid leave, not including unpaid leave taken in order to care of a child or a disabled single parent.

b) After payments made in Hungary to persons working abroad for an extended period of time, during his stay abroad.

c) If the person had no obligation to perform work based on his overall work assignment, except for persons whose compensation is calculated on an annual basis.

d) The provisions of Subsection (c) shall not be applied if a person failed to discharge his obligation to perform work based on a right or duty established by law, or, with respect to persons whose compensation is calculated on an annual basis, if such persons failed to discharge their obligations to perform their annually scheduled work.

Paragraph 40

(1) In applying the provisions of Paragraph 39 Section (1), a private person shall present to the tax authorities within 90 days from the date on which the savings were withdrawn the following documents: the building permit and invoices evidencing the use of funds in case of housing construction or the expansion of housing; the agreement and a receipt showing the submission of documents to the land office in case of purchasing a residence or a residential lot; and documents verifying the family relationship if the amount withdrawn was used for the benefit of relatives.

(2) In no event shall the combined total amount of benefits provided for under Paragraph 39 Section (1) exceed the amount of taxes due (as determined by Paragraph 32 Section (2)).

CHAPTER IV: DETERMINING, PAYING, AND DELAYING THE PAYMENT OF TAXES DUE

Method of Determining Taxes Due

Paragraph 41

(1) Except as provided for in Section (2), private persons shall determine the amount of their total income and of their taxes due, shall report such amounts, and shall pay the advance taxes and taxes due consistent with the provisions of this Act and of procedural rules promulgated by the tax authority (voluntary tax reporting).

(2) Except as provided for in Section (3) and in Paragraph 43 Section (2), tax exempt income, income derived from savings deposits and securities, as well as small amounts of income and other payments need not be reported. From among the tax exempt items, the value of meal vouchers, the amounts paid by the employer in lieu of meals, for subletting (lodging), in lieu of providing work clothing, in the form of social welfare assistance, and for recreation shall be reported by the employer in his accounting or reporting required by the provisions of Section (4), and further, by the private person in his tax return if such person is otherwise obligated to file a tax return. Income derived from the payment of small amounts and from land allowances shall be reported if the private person informs the payor of such amounts and allowances and of his intent to combine these amounts with his total taxable income. If paid by a person other than a payor, gains resulting from exchange rate differentials, and income (Paragraph 30 Section (3)) derived from the sale (Paragraph 33) of free of charge securities (Paragraph 3 Subsection (e)) shall also be reported.

(3) Irrespective of the provisions of Section (2), income subject to taxation or to the payment of advance taxes which is derived from the performance of work abroad, and other foreign income shall be reported.

(4) In the event that a private person's sole, non tax exempt income is derived from a work relationship or from a membership in a firm, company established under civil law or specialized group, and provided that the private person declares to the employer, firm, company established under civil law, or specialized group (hereinafter jointly: employer) that the income received from the employer is his sole non tax exempt income, the employer shall determine, deduct and pay the tax base and the taxes respectively in due regard to the provisions of Paragraphs 34, 38 and 39, and shall refund such taxes to the private person in case of excess withholding. This provision shall not be applied if the private person has no employer on the last day of the tax year.

(5) From the standpoint of legal sanctions, the declaration made by the private person pursuant to Section (4) shall be regarded as a tax return. In the event that the private person disputes the determination of the amount of taxes he must pay, he may seek recourse from the tax authority.

(6) [Repealed]

Paragraph 42

(1) In the event that a private person derives a combination of taxable income subject to reporting from only one employer, but as a result of several legal relationships, the employer shall proceed pursuant to the provisions of Paragraph 41 Section (4), if the person does not intend to account for his expenses. This provision shall not apply if the circumstances described in Paragraph 31/A Section (1) Subsection (a) prevail. The provisions of Paragraph 41 Section (4) shall not be applied if the private person derives income in a given tax year from agricultural small production (Paragraph 14), an individual venture (Paragraph 19), or from the transfer of real or movable property or of a right of pecuniary value (Paragraph 22).

(2) The provisions of Paragraph 41 Section (4) shall also apply to cases in which the private person derived income from several employers in the course of the year, but only if such income was not derived at any given point in time simultaneously from more than one employer. In applying the provisions of this Paragraph, the budget accounting offices of local councils shall be regarded as employers.

(3) The provisions of Paragraph 41 Section (4) shall also apply to cases in which the private person derives income from one employer only in addition to his retirement benefits, taxable social security benefits or pay received in consideration of the performance of reserve military duty.

(4) A private person shall not make a declaration pursuant to the provisions of Paragraph 41 Section (4) if he derives income pursuant to the provisions of Paragraph 32 Sections (3) and (5), has tax obligations pursuant to the provisions of Paragraph 33 Section (4), deducts (maintains records of) amounts from the total income in a manner provided for in Paragraph 35, or delays the payment of taxes on certain income (Paragraph 44).

Paragraph 43

(1) Taxes on taxable interest earned on savings deposits shall be determined and paid by the financial institutions based on the amount of interest credited or paid to the private person. In the event that the tax exempt interest earned on youth savings deposits and on housing related savings deposits (Paragraph 7 Section (2) Subsection 40) becomes taxable based on a declaration made by private persons who withdraws such deposits, the tax due on the interest shall be determined and paid by the financial institution at the time of withdrawal.

(2) Taxes on income derived from securities (Paragraphs 18 and 26), and from the sale of taxable pecuniary value as defined in Paragraph 3 Subsection (e), including additional conditions specified in Paragraph 33, shall be determined, deducted and paid by the payor on the day that such income is credited or paid. The private person

who receives the income shall determine and pay the taxes on such income if the payment of income referred to in this Section is made by a person other than a payor.

(3) The payor of taxable winnings shall deduct the taxes specified in Paragraph 37 Section (2) in one amount from the amount of winnings, and shall pay such taxes.

(4) Unless the private person intends to combine such income with his total income, taxes on small amounts of money or on land allowances, as well as on income received from the leasing of common premises in a jointly owned block of apartments (recreational facility), and on income derived from the sale of toto and lotto tickets shall be determined, deducted and paid by the payor.

Delayed Taxes

Paragraph 44

(1) The following shall constitute delayed taxes:

a) [Repealed]

b) Taxes on income derived from the sale of real property within 10 years, until such time that the conditions specified in Paragraph 7 Section (2) Subsection 16 are fulfilled.

c) Taxes on income differentials derived from inventions for which no letters patent have been granted, as calculated on the basis of Paragraph 30 or Paragraph 11 Sections (1)-(2) in cases where the provisions of Paragraph 11 Sections (4)-(5) apply, until such time that letters or patent are granted or refused.

d) Taxes on income derived from amounts owed by customers and persons who placed orders when the activities of an individual entrepreneur cease, until such time that the debts are paid off.

(2) The amount of delayed taxes shall be the difference between the tax calculated on the tax base inclusive, alternatively exclusive of the income described in Section (1), as reduced by the amount of tax benefits.

(3) In the event that the situations described in Section (1) occur simultaneously, the amount of delayed tax determined pursuant to the provisions of Section (1) shall be distributed between the various grounds upon which delayed taxes are authorized in proportion to the amount of the respective income earned.

(4) The delayed tax shall be paid in the event that the condition described in Section (1) Subsections (b) and/or (c) does not occur, and if the condition described in Section (1) Subsection (d) occurs. In the event that any of the conditions described in Section (1) does not occur or occurs only in part, the proportionate amount of taxes under the various grounds for delayed taxes shall be paid.

(5) If the condition described in Section (1) Subsection (b) does not materialize pursuant to the provisions of

Paragraph 8, the delayed tax shall be paid in a manner consistent with the provisions of Paragraph 39 Section (2) (late payment penalty).

(6) Private persons shall account for the prevailing amount of delayed tax payment obligations annually, as part of their tax returns.

(7) In the event that a private person leaves the territory of the Hungarian Republic permanently, he shall be obligated to pay the amount of delayed taxes with his tax return and with the tax payment made on the occasion of his departure.

Obligation To Pay Taxes in Advance

Paragraph 45

(1) Advance income taxes shall be paid in a manner and to the extent required by this Act.

(2) The payor (Paragraph 67 Section (30)) shall deduct advance taxes from the amounts paid by him, unless such amounts are governed by the provisions of Paragraph 43. No advance taxes shall be deducted from tax exempt income (Paragraph 7), from income derived from agricultural small production (Paragraphs 14-16), from the ownership transfer of real or movable property or of rights having a pecuniary value (Paragraph 22), from pay provided to soldiers, border guards and non-commissioned officers while on reserve duty, and from amounts paid to individual entrepreneurs in such capacities. Advance taxes shall not be deducted from income provided exclusively in kind, or in the form of movable property, but advance tax deductions for such in-kind payment or for payment in the form of movable property shall be made by the payor on the subsequent occasion when payment is made in the form of money and the payor deducts advance tax payments from the amount of money paid.

(3) Advance taxes due after income derived from a work relationship shall be calculated in due regard to the time proportionate share of amounts provided for in Paragraph 34 Section (1) Subsections (a)-(d), (f) and (g), and to employee tax benefits (Paragraph 39/A). In the event that the private person demands that the payor effect payment directly for a purpose which reduces the total income pursuant to the provisions of Paragraph 34 Section (1) Subsections (a) and (b), the payor shall not deduct advance tax payments from such amounts.

Paragraph 46

(1) The amount to be deducted by employers (Paragraph 67 Subsection 31) from the payment of regular income derived from work relationships shall be calculated as follows: One-twelfth of the tax due on a given monthly income multiplied by 12, and reduced by the amount of employee tax benefits (Paragraph 39/A).

(2) Advance tax payments on irregularly paid income derived from a work relationship shall be deducted by the employer by multiplying the regular income received

during the previous month by 12, then adding the amount of irregular income. Taxes on the resultant amount shall be calculated according to the general rules (Paragraph 37 Section (1)). Thereafter the tax amount derived must be reduced by the amount representing the monthly tax multiplied by 12 which the private person would have paid otherwise.

(3) If a private person derives Section (1) income from a work relationship in addition to receiving pension benefit payments, the employer shall calculate and deduct advance taxes as follows: Multiply the combined total amount of the private person's monthly pension benefit payment and his regular income in a given month by 12. Calculate the taxes based on the resultant amount pursuant to Paragraph 37 Section (1). Deduct from the resultant figure the taxes due after the pension, but in no event less than the tax to be paid after the amount specified in Paragraph 38 Section (1) Subsection (b). The amount thus derived shall be divided by 12.

(4) In the event that the private person, in addition to receiving retirement benefits, receives irregular income from a work relationship, the employer shall calculate and deduct advance taxes as follows: The combined amount of the monthly retirement benefit and the previous month's regular income shall be multiplied by 12. Add the irregular income to that amount. No advance taxes shall be deducted if the resultant amount does not exceed the extent defined in Paragraph 38 Section (1) Subsection (b). But if the resultant amount exceeds the amount specified in Paragraph 38 Section (1) Subsection (b), the tax calculated based on the provisions of Paragraph 37 Section (1) shall be reduced by the tax amount due on the combined amount of the monthly retirement benefit and the monthly regular income multiplied by 12, or by the tax due on the amount specified in Paragraph 38 Section (1), if the latter amounts to more.

Paragraph 47

(1) In the event that the employer pays regular income derived from a work relationship in several installments within a month, the amount of advance taxes shall be calculated and deducted on the basis of the actual monthly income. The employer may retain advance taxes proportionate to the payment made in the course of the months for settlement at the end of the month.

(2) If regular income is derived simultaneously from several work relationships, advance taxes shall be calculated and deducted by assuming that the private person acquired such income on a monthly basis. The same procedure applies if the employer grants retroactive wage increase for several months in the course of the tax year.

(3) The following types of income are to be treated as irregular income: awards, premiums unless accounted for on a monthly basis, payments based on profit sharing, anniversary awards, onetime financial assistance provided to conscripts upon their enlistment.

payments after mileage ["traffic"] provided to transportation workers, loyalty awards for miners, supplemental pay for working in hot work environments, core guard award [as published], payment in lieu of leave of absence, incremental income provided for excess work performed over an above the required performance level to workers paid on the basis of performance, and life insurance premiums and pension contributions paid by the employer on behalf of the private person. Employers may also regard other payments as irregular income, provided that as a result of doing so the amount of tax differential to be settled at the end of the year does not change.

(4) In the event that employment is terminated in the course of a given months, the original employer shall deduct the advance tax pursuant to general rules applicable to income derived from employment. If the private person establishes a new work relationship within the same month, the new employer shall calculate the advance tax payments on the basis of regular income derived from all work relationships. This amount shall be reduced, however, by the advance tax already deducted by the original employer.

Paragraph 48

(1) Unless otherwise provided for in this Act, the payor shall deduct advance tax payments from income payable, by calculating the deduction pursuant to the provisions of Paragraph 37 Section (1) and by adding to the resultant amount the amount specified as the upper limit of the zero tax rate in Paragraph 37 Section (1). Regarding income referred to in Paragraph 38 Section (1), and regarding private persons referred to in Paragraph 38 Section (3), the advance tax deduction shall be calculated on the basis of Paragraph 37 Section (1) and Paragraph 38 Section (4), and by adding to the resultant amount the amount of retirement benefits received. In the event that the payor pays income to the private person several times in the course of a year, he shall add up the amounts of income paid to the same private person in the course of the year, and shall add the amount thus derived to the amount specified as the upper limit of the zero tax rate in Paragraph 37 Section (1) and to the retirement benefits. The difference between the amount of taxes thus derived, and the advance tax payments already deducted shall be deducted as advance tax payments.

(2) In the course of calculating the advance tax payments pursuant to Section (1), the amount of documented, authorized reimbursed expenses to the extent permitted in Paragraph 31/A Section (1) Subsection (a), and the amount the private persons intends to account for as expenses pursuant to his declaration shall be disregarded.

(3) Regarding income derived from partnerships, advance taxes shall be calculated on the basis of total income derived since the beginning of the year, as offset by advance tax payments made earlier after the income

derived from the venture. With respect to private persons who derive income from ventures in addition to retirement benefits (Paragraph 38 Sections (1) and (3)), the annual amount of retirement benefits shall be taken into consideration when calculating advance tax payments, in due regard to the provisions of Paragraph 38 Section (4). A private person not having a work relationship with his own venture, shall pay advance taxes after the income derived from his venture, pursuant to the provisions of Section (1). With respect to income derived from partnerships, the advance tax may be deducted pursuant to the provisions of Paragraphs 46 and 52, based on an agreement with the member.

(4) Individual entrepreneurs shall pay advance taxes pursuant to the provisions of Section (3) after amounts withdrawn for personal use from the revenues produced by the individual entrepreneurial activity.

Paragraph 49

(1) An amount equaling 20 percent of the quarterly income shall be paid quarterly in the form of advance taxes after income derived from inventions (Paragraph 11), certain scientific and artistic activities (Paragraph 12), the for profit utilization of certain real property (Paragraph 25), as well as after other income governed by Paragraph 30, provided that such income is not received from a payor.

(2) Payors shall deduct 20 percent in the form of advance taxes from income paid to the following private persons who are not employed, and who do not perform their functions in the framework of a venture:

- a) KST administrators
- b) Persons in charge of selling tickets to performances
- c) Persons who sell local transportation fare cards
- d) Insurance agents
- e) Newspaper distributors
- f) Business managers of trade union basic organizations
- g) Book, phonograph record, and programmed tape cassette sales agents
- h) Persons who catch hamsters and sell hamster skin [as published]
- i) Persons authorized by the National Savings Bank to administer transfers of deposits at workplaces
- j) Lottery agents who sell lottery tickets in envelopes [as published]

(3) Payors shall deduct in the form of advance tax payments 20 percent of state severance payments made to private persons. The advance taxes thus deducted shall be taken into consideration by the private person when preparing his tax return in proportion to income

referred to in Paragraph 32 Section (3) Subsection (d) and Paragraph 32 Section (5).

(4) The procedure provided for in Section (2) shall also apply with respect to payments made to persons with no permanent residence in Hungary, which were not derived from a work relationship and which could otherwise be combined, provided that such payments are not tax exempt based on Paragraph 7 Section (1).

(5) In the event that a payor domiciled abroad or a diplomatic mission operating in Hungary failed to deduct advance taxes, the private person shall pay such taxes pursuant to the provisions of Section (1).

Paragraph 50

(1) In the event that the employer pays for taxable social security provisions, or if the directorate charged with the payment of pensions pays accidental injury benefits, the employer shall add such payments to the regular monthly income, and shall deduct advance taxes on that basis. If several months' sick pay is paid in one sum, advance tax payments shall be calculated and deducted based on the provisions of Paragraph 47 Section (2).

(2) If the social security directorate pays taxable social security provisions not including retirement benefits, or if payment is made to persons performing reserve military duty for the armed forces or armed bodies, the advance tax shall be calculated and deducted as follows, unless otherwise provided by law: The total amount paid shall be divided by the number of days for which payment is made. The amount thus derived shall be multiplied by 365 (computed for a full year). The tax to be paid on the amount thus derived shall be calculated pursuant to the provisions of Paragraph 37 Section (1), divided by 365 and then multiplied by the actual number of days for which the pay was made.

(3) Advance taxes on income derived from work performed by private persons while serving their prison sentences shall be calculated and deducted in one amount, counted from the beginning of the year (or beginning on the day when the private person began serving his sentence). Advance taxes on income derived by persons sentenced to perform correctional-educational work or reinforced correctional-educational work shall be calculated pursuant to rules governing work relationships.

(4) No advance taxes shall be deducted from income derived from payors defined in Paragraphs 10, 11, 12 and 30, by private persons enrolled in daytime classes in an educational institution or from professional practice work organized by educational institutions during school breaks or in the course of the school year, as long as the income paid by a given payor does not exceed the amount specified as the upper limit of the zero tax rate in Paragraph 37 Section (1).

Paragraph 51

(1) In the event that a private person is employed to perform seasonal work in a given tax year, or if a private person is employed for a period less than six months, advance taxes may be deducted either pursuant to the provisions of Paragraphs 46-47, or based on the income derived from this source in one lump sum. The choice in this regard rests with the private person.

(2) No advance taxes shall be deducted if the provisions of Paragraph 48 Section (1) as well as of Paragraph 49 Sections (2) and (3) apply, provided that the private person makes a written statement to the effect that his total combined income—including the income at issue—will not exceed the amount specified as the upper limit of the zero tax rate in Paragraph 37 Section (1).

(3) No advance taxes shall be deducted if the provisions of Paragraph 48 Section (1) as well as of Paragraph 49 Sections (2) are applied, provided that the private person referred to in Paragraph 38 Section (3) with an income specified in Paragraph 38 Section (1) makes a written statement to the effect that his combined total income to be derived from his annual retirement benefits and from other sources—including the income at issue—will not exceed the limits established in Paragraph 38 Section (1) Subsection (b).

(4) The employer may change the amount of advance taxes already deducted from private persons who retire, enter military service, enter civilian service of begin to receive child care support payments by treating the advance tax as if he had deducted those payments since the beginning of the year. Relative to persons beginning their retirement, the retirement benefits to be paid during the balance of the year shall also be taken into consideration.

(5) Advance taxes shall be deducted by the payor irrespective of the income distribution described in Paragraph 32 Section (3).

(6) Advance taxes deducted by mistake may be rectified by the payor within the tax year. Otherwise the difference must be settled in the framework of the year end tax settlement (tax declaration).

Paragraph 52

(1) An employer shall be authorized to deduct advance taxes from all income earned by a private person having a work (member) relationship with the employer, which is subject to the advance payment of taxes and which originates from that employer, by using a method different than the one provided for in Paragraphs 46-51, provided that such method has been approved in advance by the tax authority, and as long as at the end of the year the tax differential after such income is reduced as a result of the method used. In the course of using such

method the payments referred to in Paragraph 51 Section (2) may also be taken into consideration. The effect of this provision also extends to budget accounting offices at local councils.

(2) Any private person whose advance taxes are determined by the payor pursuant to the provisions of Paragraph 48 Section (1), may submit a written request to the payor to deduct higher amounts of taxes than required by the general rules.

Payment of Taxes

Paragraph 53

(1) A private person shall be obligated to pay the difference between the amount of tax to be paid and the advance tax payments deducted (tax differential) to the tax authorities by the date specified in the law on administrative procedure for taxation. In the event that the amount of taxes paid in or deducted during a calendar year exceeds the amount of taxes, the tax authority shall refund such excess amounts, except if the private person owes past due taxes, or if he indicates on his tax return that the excess amount remain on his tax account. Except as provided for in Paragraph 41 Section (4), tax differentials not exceeding 100 forints shall not be repaid, and such amounts will not be refunded by the tax authority.

(2) The tax authority may authorize the payment of the tax differential in installments within not more than a 12 month period, pursuant to the provisions of the law on administrative procedure for taxation.

Paragraph 54

(1) Once the payor deducts advance taxes, the tax authorities may demand the payment of such advance taxes only from the payor.

(2) If a person pays taxes by having his taxes deducted (Paragraph 43), the person who deducts the taxes shall be responsible for the determination, deduction and payment of taxes, and the tax authorities shall not establish such responsibility with respect to the private person.

(3) In the event that the tax authority finds that the employer's determination regarding the amount of taxes provides an insufficient amount of taxes, the shortfall of taxes shall be paid by the private person.

Enforcement of the Obligation To Pay Taxes

Paragraph 55

[Repealed]

Paragraph 56

(1) If the tax authority discovers undeclared income, the amount of such income shall be regarded as income during the year in which it was acquired. If the amount of tax based on the thus calculated total income exceeds

the amount of taxes declared (tax shortage), the tax authority shall issue a determination to that effect.

(2) The provisions of Section (1) shall apply if the tax authority discovers undeclared income for the years 1988-89, except that in calculating the shortfall in taxes will be more favorable from the taxpayer's standpoint as a result of the provisions of Paragraph 25, Law No. 6 of 1987.

(3) [Repealed]

Financial Statement

Paragraphs 57, 58, 59, 60, 61

[Repealed]

Self-Audit Supplement, Late Payment Supplemental Tax, Penalties

Paragraph 62

[Repealed]

Lapse

Paragraph 63

[Repealed]

Judicial Review of Determinations Made by the Tax Authority

Paragraph 64

[Repealed]

Reduced Taxes

Paragraph 65

[Repealed]

CHAPTER V: TEMPORARY PROVISIONS AND DEFINITIONS

Paragraph 66

(1) Life insurance premiums and pension contributions paid by an employee for the benefit of a private person during the years 1988 and 1989 shall be tax exempt, provided that the private person did not exercise his rights regarding the insurance or the benefit prior to 31 December 1992.

(2) In the event that the conditions specified in Section (1) do not occur, the private person shall incur a tax obligation regarding the insurance premiums and pensions contributions paid by the employer, and regarding the benefits provided for in Paragraph 39 Section (1) Subsection (b) in the year the private person exercises his rights with respect to insurance policy and the pension.

(3) In the context of this Paragraph the exercise of this right shall mean the discontinuation, repurchase or sale of the insurance or pension policy.

(4) The tax authority may establish fines at rates lower than 20 and 50 percent, or may waive penalties with respect to short payment of taxes incurred during the years 1988 and 1989.

(5) Income derived from securities issued prior to 1 January 1988, accounted for after 1989 and paid in 1990 shall be tax exempt.

Paragraph 67

In the context of this Act:

1. "Documentation" shall mean a statement (writing) given by the person who funds the acquisition of a pecuniary value (income); a contract; verification (invoice, writing) which evidences a tax exemption, an entitlement to tax benefits, total expenses which decrease the total income or expenses; or, lacking the above, a notation made by the private person.

2. "Residence" shall mean any premise used as housing by a person, or circumstance which suggests that a person regards such premise as housing. Permanent residence shall mean a premise in which a person has settled for the long term and in which he actually resides.

3. A person who stayed in Hungary in a given calendar year for at least 90 days shall have a "usual place of stay." In counting the length of stay, the day of arrival in, and the day of departure from Hungary shall be counted as days of stay. If entry to, and exit from Hungary takes place on the same day, that day shall be disregarded.

4. "Social welfare support" referred to in Paragraph 7 Section (2) Subsection 4 shall mean social welfare assistance provided by a legal entity. This kind of assistance may be provided in the form of money or like-kind to the person in need. A person in need shall be one whose (whose dependents') existence is threatened to an extent that in due regard to his financial situation, he is able to secure his existence with outside help only. Social welfare assistance that may be provided by employers under the authority of the law on entrepreneurial profit taxes and the corporate tax law shall be payments made to retired persons, persons who raise children, persons with a reduced ability to work, to employees who have been sick for a long period of time (more than a month) (or to former employees if retired), and in the form of maternity or funeral assistance.

5. That part of recreational expenses paid by an employee interest group or employer for recreation in Hungary which does not exceed 50 percent of the total expense (cost) of such recreation shall qualify as "provisions" referenced in Paragraph 7 Section (2) Subsection 5. This definition shall also be used regarding exchange recreational arrangements in Hungary, as well as with respect to members of cooperatives whose relationship to the cooperative does not involve an obligation to perform work.

6. The term "conditional" in Paragraph 7 Section (2) Subsection 10 shall mean that the contract includes a

provision concerning the repayment of support funds provided to a person to settle in a certain place, in the event that the work relationship for which the person resettled is terminated within a certain period of time. "Persons starting a career" shall mean a private person during a 12 month period after receiving a diploma (certificate) from a higher educational institution, but in no event longer than the 28th birthday of such person.

7. "Like-kind provision" in the context of Paragraph 7 Section (2) Subsection 11 shall mean a product (produce) or service provided without compensation, and further, the right to use household farming land or land provided as part of a person's compensation, irrespective of whether the extent of such right was established prior to, or after 1 July 1989.

8. "Expansion of a housing unit" as referred to in Paragraph 7 Section (2) Subsection 16 shall mean an increase of the floor space of a housing unit or of the number of rooms in a housing unit.

9. "Scholarships" referred to in Paragraph 7 Section (2) Subsections 25 and 39 shall mean funds provided for studies pursued in educational institutions, educational trips abroad and scientific research.

10. "Donor" in the context of Paragraph 7 Section (2) Subsection 27 shall mean persons who donate or yield for example, their own blood, mother's milk, skin or organ.

11. "Gifts" referred to in Paragraph 7 Section (2) Subsection 32 shall not include payments related to the performance of some service or for the purpose of acquiring or providing some advantage (e.g. tips, gratuities).

12. "Objects won" as referred to in Paragraph 7 Section (2) Subsection 33 shall not include securities, gift certificates (except for the purchase of books), objects made of precious metals and jewelry.

13. "Sale" in the context of Paragraph 7 Section (2) Subsection 37 shall be "businesslike" if the pursuit of such selling activities is subject to a permit granted by authorities, or if otherwise the private person is engaged in the regular sale of movable property of pecuniary value.

14. A "clergyman" in the context of Paragraph 7 Section (2) Subsection 45 shall be a person who receives regular, monthly compensation from his church for performing religious functions for the church.

15. "Employment relationship" shall mean a work relationship pursuant to the Law on Labor, as well as cooperative membership relations requiring the performance of work, and outside work relationships. Relative to work performed abroad the legal relationship shall be governed by the laws of the foreign state.

16. Members of the professional staff of armed forces, armed bodies and enforcement organs, and members of

these organizations on continued duty, as well as clergymen shall be regarded as having a work relationships.

17. A month in which work relationship exists shall mean a calendar month in which the private person has a work relationship on every workday of the month.

18. "Invention" referred to in Paragraph 7 Section (2) Subsection 35, and in Paragraph 11 shall mean an invention which enjoys patent protection in Hungary, and after which the owner of the patent receives income by virtue of the patent. Commission paid to the producer of an animal or plant species so qualified by the state shall also be regarded as income derived from an invention.

19. The tax exemption referred to in Paragraph 7 Section (2) Subsection 47 shall relate to the payment of awards pursuant to the law concerning the orders, decorations and awards provided by the Hungarian Republic.

20. "Functions of technical experts" referred to in Paragraph 12 Section (3) shall mean the following:

a) Involvement in the realization of technical creations (Subsection 18) subject to protection under industry law, provided that the activities which constitute such involvement are pursued on the basis of having received an authorization to act as a technical expert outside of a work relationship, in addition to duties related to a person's work assignments, and shall mean an independent creative activity without which the intellectual product subject to protection under industry law could not be realized at all, or could not be realized at the technical level planned by the creator, or expected by the user. The physical realization, production of an intellectual product, or part, component part or element of an intellectual product subject to protection under industry law shall not be regarded as the function of a technical expert.

b) Irrespective of the private person's professional, expert and scientific qualifications based on the work content of the activities:

—With respect to judging individual patent applications, research done with respect to novelty as commissioned by the National Patent Office.

—Technical expert work related to the development of research, commissioned by research facilities funded by the state (including institutions of higher education) when performed outside of a work relationship.

—Technical research work performed, and the preparation of a technical study or expert opinion, paid for from the central technical development fund.

—Work performed relative to the preparation of a study or expert opinion commissioned by the National Technical Development Committee or the Federation of Technical and Natural Science Associations or its member associations.

c) The commissioned expert functions of a private person authorized to act as an expert pursuant to Paragraph 1 Sections (1) and (2) of Government Decree No. 24 of 8 June 1971.

d) Functions of technical experts shall also mean:

—Creative technical work performed by a private person holding high level (technical-economic) degrees and who is the recipient of the Kossuth or State Awards.

—The activities of professionals commissioned to act as technical experts, and whose name is included in the list of experts maintained by the Federation of Technical and Natural Science Associations or its member organizations, and who are able to document such status.

21. Professional graphics activities of a technical character, and the preparation of the illustrations for a technical publication.

22. Performing art activities shall mean:

a) Art performed on the basis of a permit to function as a professional performing artist or on the basis of education which provides credentials to be a performing artist.

b) Art performed by students of art academies.

c) Art performed by employees of theaters and members of theatrical studios.

23. In the context of Paragraph 19 Sections (2)-(3) "realizing one's own invention" shall mean the original inventor's production for sale of the invention or of a product which functions only with the invention.

24. "Right to pecuniary value" shall mean long term land use, land use, utilization for profit, easement appurtenant, the right to use a recreational facility and the right of foreigners to use real property.

25. The following in particular shall be regarded as gain on exchange rates: the excess amount (value) realized in the sale of securities, or in a limited liability corporation, in the sale of a business share over the amount (value) paid for such securities or business share. Regarding the sale of securities received free of charge or at a preferential price, the nominal value of such securities shall be regarded as the acquisition value at the time of sale.

26. In the context of Paragraph 28, income resulting from work performed abroad shall be the same as domestic income taxable under Paragraphs 9, 11, 12 and 30.

27. In the context of Paragraph 33 Section (1), a private person acquires a note of exchange on the day he takes possession of such note of exchange.

28. In the context of Paragraph 33 Section (3), the "dispositional right" shall be deemed to be acquired when the private person is permitted to discontinue, repurchase or sell the insurance policy.

29. In the context of Paragraph 34 Section (1) Subsection (c), a person shall be regarded as severely handicapped if he:

a) Qualifies as blind under the provisions of Paragraph 3 of Ministry of Health Decree No. 6 of 30 September 1971.

b) Suffers from a disease enumerated in Appendix 1. to Ministry of Health Decree No. 6 of 10 August 1986.

c) Receives handicapped benefits.

d) Qualifies as severely handicapped under other law.

30. The term "payor" shall mean a legal entity, firm, the individual entrepreneur, companies established under civil law operating under a joint name, specialized groups, blocks of owner occupied apartments, or owner occupied resort facilities. A payor shall be regarded as such even if some amount was paid through an intermediary (e.g. postal service, financial institution), except if the intermediary accounts for the income based on an agreement reached with the private person. Regarding taxable social security benefits, the person who actually pays the benefits to the beneficiary shall be regarded as the payor.

30/A. From the standpoint of taxable winnings the person who holds a license to administer (organize, arrange) the game related to the winning shall be regarded as the payor.

31. In the context of Paragraphs 45-52, an employer shall be the person who holds the private persons work book.

32. An employer domiciled in Hungary shall be a legal entity, registered firm, cooperative arrangement based on a personal agreement, and other organizations whose headquarters, plants and representative offices are in Hungary, or an individual venture or partnership, including private persons who maintain residence in Hungary.

33. An exclusively foreign owned company shall also be regarded as a firm which operates with foreign participation.

34. From the standpoint of taxation interest on late payments shall be treated the same way as the amount relative to which it was paid.

35. In the context of Paragraph 34, Sections (3)-(5):

a) A person admitted in advance as a daytime student in an institution of higher education and who performs military duty shall be regarded as a person pursuing his studies as a daytime student in an institution of higher education.

b) A "single person" shall be one who is regarded as a single person from the standpoint of entitlement to family supplements based on legal provisions pertaining to social security.

c) The term "child" shall mean a direct descendant, and an adopted, orphaned or foster child.

d) In the event that a change occurs in the person of the foster parent in the course of a months, the child's foster parent shall be the one who sustained the child on the first day of the month.

e) A child who temporarily stays outside of a household (e.g. student dormitory, hospital, nursery or foster home) shall be regarded as being raised in a person's household, but a child taken under state care shall not be regarded as one within a person's household.

f) A severely handicapped child is one whose provider is entitled to receive a higher level family supplement or handicapped benefit.

36. In the context of Paragraph 19 Section (5) Subsection (a), a private person engaged in a venture providing health care or social welfare services pursuant to Council of Ministers Decree No. 113 of 15 November 1989 shall be included along with private persons holding entrepreneurs' identification pursuant to Law No. 5 of 1990.

37. As referred to in Paragraph 39/A Section (1), "retraining subsidies" shall mean the same amount as specified in State Wage and Labor Office Order No. 1 of 22 January 1990, and "unemployment compensation" shall mean the same amount as specified in Council Of Ministers Decree No. 114 of 31 December 1988. "Temporary unemployment benefits" shall mean the amount paid under the authority of Council of Ministers Decree No. 7 of 29 January 1990.

38. Relative to individual entrepreneurs, the obligation to declare and pay taxes established in Paragraph 35 Section (3) shall become due at the latest on the last day of the year when a given fixed asset becomes amortized to zero based on the year of acquisition, in the manner specified in Section III/1 of Attachment No. 1.

39. Failure to make presentations required in Paragraph 8 Section (3) and in Paragraph 40 Section (1) shall qualify as failure to comply with obligations to report pursuant to the law on administrative procedure for taxation, and shall be sanctioned by requiring the payment of fines.

40. Financial support provided on the occasion of discharge from the military pursuant to Paragraph 45 of Decree with the Force of Law No. 10 of 1971 shall qualify as a state severance payment provided upon termination of a work relationship, as defined by law, and shall be governed by the provisions of Paragraph 32 Section (3) Subsection (d) and Section (5) concerning the determination of total income.

41. In the context of Paragraph 35 amounts paid in the course of subscribing to stock in the previous year (years) shall be included as part of amounts paid for the purchase of stock in a given year.

42. In the context of Paragraph 7 Section (2) Subsection 21, rental housing shall also qualify as sublet (lodging).

43. In the context of Paragraph 27 Section (1) Subsection (d), "taxable winnings" shall mean winnings derived from lotto, toto, lottery tickets sold in envelopes, and further, from lottery games and the award of gifts defined in Finance Ministry Decree No. 62 of 7 December 1987.

44. In the context of Paragraph 7 Section (2) Subsection 23, the term "uniform" shall mean the uniform, official

clothing used by the armed forces and by armed bodies. Clothing provided on the basis of legal requirements shall also constitute uniforms.

45. The item to be deducted from the total income referred to in Paragraph 34 Section (1) Subsection (f) shall mean the employee contribution deducted on the basis of the law concerning employment development and provisions for the unemployed. [passage omitted]

Text of Amended Law on Turnover Tax

91EP0317A Warsaw PRAWO I INTERESY in Polish
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["Text" of Amended Law, dated 16 December 1972, on turnover tax incorporating amendments published in DZIENNIK USTAW [Dz.U.] No. 43, Item No. 191 (1983), Dz.U. No. 12, Item No. 50 (1985), Dz.U. No. 3, Item No. 12 and No. 74., Item No. 443 (1989), and Dz.U. No. 9, Item No. 30 (1991)]

[Text] Article 1.1. The following are subject to the turnover tax: manufacturing, service-providing, and commercial activities performed on the territory of the Republic of Poland by individuals and legal entities not belonging to the socialized sector, as well as by organizations lacking the status of legal entity.

1.2. Also subject to the turnover tax are activities performed on the territory of the Republic of Poland by the persons and entities referred to in Paragraph 1 when such persons or entities are domiciled or sojourning or headquartered abroad, if said persons perform these activities personally or through the mediation of their representatives or employees, or by means of an establishment or other permanent facility maintained in the Republic of Poland.

1.3. The activities referred to in Paragraphs 1 and 2 are subject to being taxed if they are performed under circumstances pointing to the intent of providing services in a frequent manner so as to derive therefrom principal or secondary sources of income, even if a service is provided just once. Also subject to taxation are activities consisting in the resale, even just once, of items acquired for the purpose of resale.

1.4. An activity is subject to taxation irrespective of whether it is performed in consonance with the requirements of law. However, services ensuing from activities which may not be the subject of a lawful agreement or contract are not taxable.

1.5. Also subject to taxation is:

1) Foreign merchandise brought or sent in by the persons and entities referred to in Paragraphs 1 and 2.

2) An excessive diminution in the supply of products covered by special tax supervision in accordance with the guidelines applying to entities of the socialized sector.

1.6. Foreign merchandise is considered to be brought in by a person or an entity which, under separate regulations, is obligated to pay customs duties, or would be so obligated if the merchandise is not duty-exempt, or if the duty on that merchandise is suspended, or if other than zero customs duty applies to the given merchandise.

1.7. The provisions of Paragraph 6 apply correspondingly to the persons or entities to whom foreign merchandise is sent.

Article 2.1. The tax obligation arises once the activities referred to in Article 1 are commenced.

2.2. The tax obligation ends upon the expiration of the month in which the activities referred to in Article 1 are discontinued or the accounting of these activities is completed.

Article 3.1. The following activities are exempt from the turnover tax:

1) Educational activities, including those involving assistance by an organized institution.

2) Creative scientific, artistic, literary, and journalistic activities unrelated to the operation of an enterprise or the printing of one's own publication.

3) Activities consisting in the operation of libraries, reading rooms, museums, art galleries, and exhibitions by the legal entities whose statutory purpose is to engage in scientific, educational, cultural, sports, religious, or charitable activities, or in social services, provided that during the fiscal year or during the immediately following year they spend all their fiscal year revenues directly on their statutory purposes.

4) The operation or maintenance of boarding homes, shelters, and other social-service centers by the legal entities referred to in Point 3).

5) The sale of an entire enterprise or of items belonging to it but not linked to its operation, and also the sale of items belonging to it that are linked to its operation—if the purchaser keeps the enterprise operational.

6) Sales of crop and livestock products grown or raised by the seller himself and not processed industrially, when such sales are performed without maintaining separate permanent sales sites outside the farm.

7) Activities yielding income that are subject to the provisions governing the wage tax.

8) Deleted.

9) Deleted.

10) Sales of fish and crustaceans caught personally and not processed industrially, when such sales are performed without maintaining permanent selling sites outside the fishery site or outside the fisherman's home.

11) Sales, at nominal prices, of Treasury, court, notarial, and passport stamps, postage stamps, and official letter-of-exchange blanks.

12) Sales of products and services for export, with the exception of internal hard currency sales and of products specified by the minister of finance.

3.2. Industrial processing of crop and livestock products as interpreted by Article 1, Point 6, is considered to be processing consisting in changing their substance.

3.3. A permanent selling site as interpreted by Paragraph 1, Points 6 and 10 is considered to be a store, a booth, or a regularly occupied market stall.

3.4. Sales of standing crops of root vegetables and fruits are not considered to be tax-exempt under Paragraph 1, Point 6.

[Article 4].1. The basis for reckoning the turnover tax is the amount of sale.

4.2. The amount subject to the turnover tax is, with the proviso of the exceptions referred to in Articles 5-9a, the amount due for the services rendered as part of the activity subject to taxation, including the interest due for services rendered on credit. In the event that the amount due is in-kind, the financial equivalent is reckoned according to the corresponding sales price applying on the day the service is provided. The applicable price surcharges also are included in the sales price.

4.3. The amount subject to the turnover tax is not reduced by the loss due to the purchaser's failure to make a payment, and neither is it reduced by the overhead incurred by the taxpayer owing to, in particular, the payment of sales commissions, commissions to middlemen, cost of transportation, customs duties, and the cost of conveyance incurred by the carrier.

4.4. The following are not included in the amount of sale subject to the turnover tax:

1) Deleted.

2) Documented cost of conveyance and insurance of merchandise as well as other expenditures incurred in behalf of and at the expense of the contracting party, e.g., traveling expenses and per diems of employees, the value of returned merchandise, the discounts and rebates granted, and the interest charged on the extension of an invoice, if these concern services rendered in the same fiscal year as that in which the sale was performed, or in the year preceding the fiscal year.

Article 5. The amount subject to the turnover tax is the payment actually received during the fiscal year for:

1) The provision of services by independent service providers.

2) Partial provision of a contractual service, if data serving to determine the payment due for the part of a service performed in that year are unavailable.

Article 6.1. The amount subject to the turnover tax for the performance of construction operations is the amount specified on the invoice minus the amount not accepted by the customer.

6.2. If the invoice presented following the completion of all construction operations is not accepted by the customer, the amount subject to the turnover tax is the amount of the advance payment received during the fiscal year, and in the event that interim invoices are

presented, the amount ensuing from these invoices. In the following fiscal year the amount not accepted by the customer pursuant to Paragraph 1 is deducted from the invoice total.

6.3. The amount subject to the turnover tax for a given fiscal year does not include contractual advance payments for services if in that year the performance of these services was not yet commenced. However, in the following fiscal year the amount subject to the turnover tax includes all such previously received advance payments.

6.4. The amount subject to the turnover tax does not include the value of the materials received from entities of the socialized sector if the invoice for the performance of construction services for these entities allows for said value, and if the executor of the services provides an accounting of these materials.

6.5. For taxpayers who, as executors of construction operations employing their own materials for customers who are entities of the socialized sector, provide an accounting of the utilization of these materials at cost-estimate prices that are lower than the actual retail prices, and who submit invoices for the differentials between these prices, the amount subject to the turnover tax does not include the price differentials accepted by the customer.

Article 7.1. In the event of the shutdown of an enterprise the amount subject to the turnover tax is the value, reckoned in market prices, of the merchandise, products, semifinished products, wastes, and by-products generated as a result of production or of the provision of services. Subsequent sales of these items or services are not subject to separate taxation, upon adherence to conditions to be defined in an order by the minister of finance.

7.2. The shutdown of [a commercial] enterprise as construed by Paragraph 1 is considered to be, in the case of commercial enterprises, the ultimate cessation of the purchase of merchandise, and in the case of manufacturing and service enterprises, the ultimate cessation of manufacturing or of the provision of services.

7.3. A total or partial change in a branch or affiliate is not considered a shutdown as construed by Paragraph 1, and neither is a change in the legal status of an enterprise or its merger with another enterprise.

Article 8.1. In the case of activities ensuing from an agency agreement or an agency contract or a commission agreement the amount subject to the turnover tax is the commission and other remuneration paid for services provided, with the proviso of Paragraph 2.

8.2. If the agent or the recipient of the commission owns or disposes of merchandise, the amount subject to the turnover tax is the payment due that agent or recipient, should he act in his own behalf and on his own account,

even when the fact of the ownership of merchandise ensues from an agreement between the parties.

8.3. The provision of Paragraph 2 does not apply to agents acting in behalf of and in the name of entities of the socialized sector.

8.4. If the commission agent accepts orders without having a permit for the performance of the related activities, the amount subject to the turnover tax is the entire amount due him if he acts on his own behalf.

Article 9. As regards the taxation of brought-in or sent-in foreign merchandise, the amount subject to the turnover tax is the dutiable value of that merchandise plus the duties due.

Article 9a. Deleted.

Article 10.1. Turnover tax rates are as follows:

- 1) For manufacturing, 20 percent.
- 2) For services, five percent.
- 3) For commerce, five percent.

10.2. The minister of finance may issue orders or, in the case of alcoholic beverages and alcohol, ordinances, defining, in proportion to the turnover tax rates applying to entities of the socialized sector, the turnover tax rates applicable to certain kinds of activity or to the sale of particular products or groups of products, that are lower or higher than those specified in Paragraph 1, and he may define the terms for the application of these rates.

10.2a. The minister of finance shall issue, in cooperation with the minister of foreign economic cooperation, an order defining the tax rates for brought-in or sent-in foreign merchandise.

10.3. If the taxpayer engages in differing forms of activity subject to differing turnover tax rates, the proper rate is applied to every individual form of activity.

10.4. Deleted.

Article 11.1. Customs offices are obligated to calculate the turnover tax due for brought-in or sent-in foreign merchandise and to transmit the thus collected tax at

monthly intervals to the account of the local office of the State Treasury within 23 days after the expiration of every month.

11.2. Persons and entities referred to in Article 1, Paragraphs 1 and 2, are obligated to deposit the turnover tax due in the bank account of the customs office handling the customs clearance, within the time limit specified for the payment of customs duties.

11.3. If collateral for the payment of customs duties is accepted, by the same token, collateral for the payment of the turnover tax due also should be accepted.

11.4. Customs offices are authorized to institute executive proceedings for the payment of the turnover tax applying to brought-in or sent-in foreign merchandise.

11.5. The provisions governing the settlement of accounts relating to customs duties apply correspondingly to the settlement of accounts relating to turnover tax payments insofar as this is not regulated by Paragraphs 1-4.

Article 11a. The turnover tax due according to the tax declaration is the tax due for the given year, unless the State Treasury office issues a ruling specifying a different amount of the turnover tax.

Article 12.1. The minister of finance may issue orders:

- 1) Granting total or partial tax exemptions to certain groups of taxpayers and particular forms of activity, and defining the requirements for these exemptions.

- 2) Excluding from taxable sales, with respect to specified forms of activity, certain forms of sales, and defining the requirements for such exclusion.

- 3) Defining cases in which the value of merchandise represents the amount subject to the turnover tax.

12.2. The minister of finance shall specify in an order a list of the independent occupations and professions referred to in Article 5, Paragraph 1.

NOTE: The amendments introduced in the law dated 12 January become effective 30 days after its publication, i.e., as of 30 January 1991 [as published]. Sales of the foreign merchandise that was brought or sent into this country prior to the effective date of the amended law remain governed by the existing guidelines for the turnover taxes on that merchandise.

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