

Procedure of outward processing

Division 1 General provisions

Article 396 (definitions)

In implementation of this heading, the following terms shall have the following meanings:

a) "obtained products" are the obtained products because of whose production the procedure of outward processing was allowed

b) "ancillary obtained products" are other obtained products, besides the main obtained products;

a) "loss" is such part of imported goods which is destroyed or lost in the course of outward processing, primarily through evaporation, desiccation, gas escape, or leakage into waste waters;

b) "quantitative method" the manner for determination of the share of goods subjected to the procedure of outward processing in different obtained products on the basis of the quantity of such goods;

c) "value method" is the manner for determination of the share of goods subjected to the procedure of outward processing in different obtained products on the basis of the value of these obtained products;

f) "previous importation" means procedure defined in Article 157 paragraph 4 of the Customs Law;

g) "the amount to be seized" means the value of customs debt which should be calculated for the goods subjected to the procedure of outward processing, if such goods were imported in the customs territory from a country where the goods were subjected to processing or a final production operation;

h) "costs of loading, transportation and insurance" means all costs incurred with regard to the loading, transportation and security premium for the goods, including:

- intermediary's commission and other commissions, save for procurement commissions,
- costs of packaging other than included in the goods subjected to outward proce
- packaging costs, including the labor and material,
- handling costs, incurred with regard to the transportation of goods.

Subdivision 1

Approval for implementation of the procedure – routine procedure

Article 397 (requirements)

(1) Pursuant to Article 151 paragraph 1 item 2 of the Customs Law, the customs authority, with the purpose of determining whether the obtained products will result from the processing of the temporarily exported goods in the procedure after the processing, may provide for the following measures:

1. the citation and description of specific designations or production numbers of the temporary exported goods in the procedure of outward processing;
2. putting of customs seals, stamps and other identification signs;
3. taking samples, submittal of prospectuses, photographs and images or technical description of goods;

4. laboratory collation of goods put into the procedure of outward processing and obtained products;

5. checking of the documents about envisaged production operations which beyond doubt suggest that the obtained products will be produced precisely from the goods from the procedure of outward processing (contracts, Performa invoices, correspondence);

6. application of the "informative documents for facilitation of outward processing, sent from one country to other country for further processing, processing, or repairs "from the recommendation of the World Customs Organization (WCO) from the day of the 3rd of December 1963 which is in the Addendum 34 hereto.

(2) Where the procedure is requested because of a repair, regardless whether it pertains to the implementation of the replacement system or not, the customs authority shall approve such procedure only if at the temporary exportation of goods it finds that the repairs of goods from the procedure of outward processing is actually possible.

(3) If the customs authority determines that the requirement referred to in paragraph 2 of this Article is not met, it shall deny the approval.

(4) Where the applicant has request the implementation of replacement system, the customs authority may, with the purpose of the implementation of surveillance, take the measures mentioned in paragraph 1 items 1, 3, 4 or 5 of this Article. From the documents appended in accordance with paragraph 1 item 5 of this Article it should clearly arise that the repairs will be performed in such a way that the replaced goods will be delivered that meet the requirements referred to in Article 158 paragraphs 1 and 2 of the Customs Law.

(5) For the purposes of implementation of customs surveillance, the applicant shall be under obligation to demonstrate, in the first place, that the replacement was not agreed with the intent to improve technical properties of goods. The customs authority may check:

1. contracts and other accompanying documents pertaining to the repairs and

2. contracts and invoices pertaining to the temporarily exported goods or the goods in which temporarily exported goods were incorporated, and, specifically, explicitly indicted contract terms.

(6) The Customs Administration may, on the basis of a request of an interested person and positive opinion of the ministry of economy, approve that the approval for the procedure of outward processing of goods be issued, where technological determination of identity is impaired or prevented due to technological specificities of the intended production procedure for the goods.

Article 398 (request)

(1) Request for implementation of the procedure of outward processing shall be filled out pursuant to Article 176 hereof, whose contents correspond to the model from Addendum 12 E hereto. The applicant shall be a person to whom the approval may be issued, in accordance with Article 94 paragraph 1 and Article 151 of the Customs Law.

Article 399 (Approval)

(1) Without prejudice to Articles 408 and 409 hereof, the customs authority shall issue the approval referred to in Article 175 hereof, which is to be filled out pursuant to Article 179 hereof and whose content corresponds to the model from Addendum 13 E hereto.

(2) Without prejudice to Article 179 paragraph 3 hereof, the customs authority may, in exceptionally justifiable cases, issued the approval whose validity shall be retroactive but shall not exceed the submittal date of the request. This exception shall not be applied in the event of the use of the system of replacement by previous importation.

Article 400
(Approval for the replacement system)

(1) Approval for the use of replacement system without previous importation may be used for re-importation of obtained products instead of spare products, if the prescribed requirements for the importation of obtained product are met.

(2) The customs authority may, after it has already accepted the declaration for instigation of the processing procedure, approve that, spare products are imported instead of the obtained products. The declarant shall, in accordance with this paragraph, submit the request not later than at the time envisaged for the importation of spare products.

Article 401
(validity period of approval)

(1) Validity period of approval shall be determined by the customs authority which shall take into account the economic circumstances and specific needs of the applicant.

(2) Where validity period of approval referred to in paragraph 1 of this Article exceeds two years, the customs authority shall ex officio check again the requirements for issuance of approval at time intervals specified in the approval.

Article 402
(the timeline for re-importation and conclusion of procedure)

(1) The timeline in which the obtained products shall be re-imported to the customs territory shall be calculated considering the time required for implementation of the outward processing of goods and transportation of goods from the procedure of outward processing and obtained products. The timeline shall commence after the receipt date of the declaration for instigation of procedure.

(2) In application of the replacement system without previous importation, the timeline in which the spare products must be imported to the customs territory shall be determined considering the time required for replacement of the goods from the procedure of outward processing and for transportation of the same goods and spare products. The timeline shall commence on the receipt date of the declaration for instigation of procedure.

(3) Re-importation of obtained products referred to in paragraph 1 of this Article or importation of spare products referred to in paragraph 2 of this Article shall be deemed to be completed when the obtained products, namely spare products:

1. are put into free circulation, or
2. are introduced into duty free zone, or
3. when the customs warehousing procedure, of inward processing or transit customs procedure was instigated for them.

(4) In determination of the compliance with the timelines for approval procedure, the applicable day shall be the receipt date of the declaration for instigation of one of the procedures referred to in paragraph 3 of this Article, namely the day of introducing the goods in the duty free zone.

Article 403
(extension of timeline)

Exceptionally, if thus required under the circumstances, the timeline referred to in Article 402 paragraph 3 hereof may be extended after expiry of the timeline that was originally specified in the approval.

Article 404

(extension of timeline for exportation in the system of replacement with previous importation)

(1) In the events referred to in Article 157 paragraph 4 of the Customs Law, the customs outlet shall determine the timeline within which the exportation of the products to be subjected to the procedure of outward processing must be performed. This timeline may not exceed three months after the receipt date of the declaration for putting into free circulation the products for replacement.

(2) For justifiable reasons, the timeline referred to in paragraph 1 of this Article may be extended if the original timeline has already expired.

(3) For the purposes of paragraph 1 of this Article, it shall be deemed that the exportation was performed when the goods was, for the purposes of planned exportation:

- introduced to free zone or warehouse, and
- when the customs warehousing procedure was instigated for them.

Article 405

(the timeline for determination of the consumption norm)

Save in the events referred to in Article 406 hereof, the norm referred to in Article 152 paragraph 3 of the Customs Law shall be calculated not later than at the moment when the procedure of outward processing was instigated for such goods, taking into account the technical data about specific production operations to be performed and, if it is not possible to provide such data, then the data of identical or similar production operations.

Article 406

(subsequent determination of the consumption norm)

If it is so justified under the circumstances, the customs authority may determine the norm after the procedure of outward processing was instigated for the goods but not later than at the receipt date of the declaration for putting the obtained products into free circulation.

Article 407

(procedure for issuance of approval referred to in Article 150 paragraph 2 of the Customs Law)

(1) Pursuant to Article 150 paragraph 2 of the Customs Law, the approval referred to in Article 399 hereof shall be issued at the request of the person is subjecting the goods to the procedure of outward processing, even when such person is not at the same time the party ordering the processing. This exception shall be realized by the submittal of the request referred to in Article 398 hereof and it enables the persons who are not approval holders to submit the declaration for putting the obtained products into free circulation and the implementation of procedure.

(2) Request referred to in paragraph 1 of this Article shall contain all data about planned production procedures and the persons taking part in organization and performance of these production operations, and in particular the data about:

1. the advantages of the realization of this procedure considering the promotion of the sales of goods which is to be exported, compared with the sales of goods under routine conditions;
2. the facts on the basis of which it may be deduced that the exception shall not adversely affect the interests of domestic manufacturers of products identical or similar to the obtained products which are to be re-imported.

Subdivision 2

Approval for the use of procedure - simplified procedures

Article 408
(request and approval)

(1) Where, for instigation of the procedure of outward processing, the simplifications referred to in Article 84 of the Customs Law are not applied and the processing is being conducted with the intent to repair the goods, the authorized customs authority may approve that the submittal of the declaration for instigation of procedure be deemed to be the submittal of request.

(2) In the event referred to in paragraph 1 of this Article, the receipt of the declaration for instigation of procedure shall be deemed to the issuance of the approval for implementation of the procedure of outward processing, provided the requirements for its issuance are met.

(3) Appended to the declaration referred to in paragraph 1 of this Article shall be the document which shall contain the following data, provides such data are not covered in box 44 of the unique customs document:

- a) name and company, and address of the applicant, if a person submitting the request is not at the same time the declarant;
- b) trade or technical description of obtained products;
- c) types of production operations;
- d) time required for re-importation of obtained products;
- e) the norm of the obtained products or, where more appropriate, method for determination of the norm;
- f) measures for determination of identity.

(4) To the provisions of this Article, Articles 177, 183 and 184 hereof shall accordingly apply.

Article 409
(repairs without commercial purpose)

(1) In the event of repairs without commercial purpose, regardless whether it pertains to the activity being repaid or not, the authorized customs authority may, at the request of the declarant, receive the declaration for putting into free circulation as the request for approval of procedure. The receipt of the declaration shall be deemed to be the approval for implementation of the procedure, provided the requirements for issuance of the latter are met.

(2) In implementation of paragraph 1 of this Article, the term "repairs without commercial purpose" shall be the repairs on the goods, including the restitution of goods to original conditions, which is:

- performed from time to time, and
- pertains exclusively to the goods for personal needs of the importer or his family, which, considering their nature and quantity, do not have commercial significance

(3) Applicant referred to in paragraph 1 of this Article shall be under obligation to prove the non-commercial nature of goods. Authorized customs authority shall not approve the simplification referred to in paragraph 1 of this Article if all requirements are not met.

Division 2
Instigation of procedure

Article 410
(general provisions)

The provisions governing the instigation of the procedure of outward processing shall apply to the procedure of outward processing, including temporary exportation of goods according to the replacement system, with or without previous importation.

**Subdivision 1
Routine procedure**

Article 411

- (1) Save when Articles 408 and 409 hereof apply, the declaration for instigation of the procedure of outward processing shall be submitted to the customs authority of the instigation of procedure which is specified in the approval.
- (2) In the event of Articles 408 and 409 hereof apply, the declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

Article 412

- (1) Declaration referred to in Article 411 hereof shall be filled out in accordance with the provisions on exportation.
- (2) Without prejudice to Article 409 hereof, description of goods in the declaration shall correspond to the text in the approval.
- (3) To the provisions of this division, Article 318 paragraph 3 hereof shall apply.

**Subdivision 2
Simplified procedures**

Article 413

Simplified procedures referred to in Article 84 of the Customs Law shall be applied pursuant to Article 159 hereof.

**Division 3
Realization of partial or full exemption from
customs debt**

Article 414

For realization of full or partial exemption from payment of customs debt within the procedure of outward processing, the requirements referred to in Article 402 hereof must be met (the timeline referred to in Article 152 paragraph 1 of the Customs Law) and the declaration for putting into free circulation must be submitted.

Article 415

- (1) Declaration for putting the goods into free circulation shall be submitted to the customs authority with which the procedure specified in the approval was instigated, save when Articles 408 and 409 hereof apply.
- (2) Where Article 408 hereof applies, declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

(3) In the event of application of Article 409 hereof, declaration referred to in paragraph 1 of this Article shall be submitted with the competent customs authority.

(4) The surveillance customs authority may approve that the declaration referred to in paragraph 1 of this Article be submitted with other customs authority and not with the authority specified in paragraphs 1 and 2 of this Article.

Article 416

(1) Declaration referred to in Article 415 hereof shall be filled out and submitted in the manner provided by the regulations passed on the basis of Article 69 paragraph 2 of the Customs Law.

(2) Without prejudice to Article 409 hereof, description of the obtained and ancillary products in the declaration referred to in paragraph 1 of this Article shall correspond to the description in the approval.

(3) Pursuant to Article 7o of the Customs Law, appended to the declaration referred to in paragraph 1 of this Article shall be the prescribed document required for putting the goods into free circulation, specifically:

- copy of the declaration for instigation of procedure,
- where declaration for putting the goods into free circulation was submitted before expiry of the approved timeline pursuant to Article 152 of the Customs Law and with application of Article 392 paragraph 3 hereof, any document that demonstrates that approval, customs allowed use or utilization of goods was granted for the obtained or ancillary products in the period in question.

Article 417

Simplified procedures referred to in Article 84 of the Customs Law may be applied for putting the goods into free circulation in accordance with Articles 134 to 147 and Article 160 hereof.

Division 4 Calculation of customs debt

Article 418

In determination of the amount which should be included pursuant to Article 154 paragraph 2 of the Customs Law, without taking into account specific import duties which should be calculated on the temporarily exported goods if the goods of the same type would be imported to the customs territory from the country in which the production activities, namely the last of such activities, took place.

Article 419 (calculation of customs debt)

(1) Pertaining to the application of Article 154 paragraph 3 of the Customs Law, costs of loading, transportation and insurance of the goods for the procedure of outward processing, to the place where the envisaged processing shall take place or where the last processing shall take place, shall not be included in the:

- value of temporarily exported goods which shall be taken into account in determination of the customs value of obtained products in accordance with Article 38 paragraph 1 item 2 of the Customs Law;
- production costs, if it is not possible to determine the value of temporarily exported goods pursuant to Article 38 paragraph 1 item 2 of the Customs Law.

(2) Production costs referred to in paragraph 1 of this Article shall include the costs of loading, transportation and insurance of the obtained products, which shall be calculated from the place where the processing took place or where the last processing took place, to the place where the obtained products were introduced to the customs territory.

(3) The costs of repairs which are taken into account in determination of the customs debt pursuant to Article 152 of the Customs Law shall be deemed to be all payments (in money, articles, or services) pertaining to the repairs which were made or should have been made by the approval holder in favor of the person making the repairs, or indirect and direct payment which are the requirement for execution of repairs on the temporarily exported goods, provided the level of payment was not affected by the relationship between the approval holder and the person making the repairs. In determination whether the approval holder and the person who makes repairs are related, Article 77 hereof shall apply.

Article 420

(methods for determination of the share of the goods from the procedure of outward processing in the obtained products)

(1) Share of goods from the procedure of outward processing in the obtained products shall be calculated in accordance with Articles 421 do 424 hereof, if all obtained products, except the ancillary obtained products referred to in Article 423 paragraph 3 hereof resulted from a particular production procedure, are not put into free circulation at the same time.

(2) Determination of the share of temporarily exported goods in the obtained products referred to in Articles 421 to 423 hereof shall be also made by using any of the methods that yield the same result.

Article 421

(quantitative method - obtained products)

(1) If, in the production operation, only one type of obtained products is obtained from the temporarily exported goods, the amount shall be determined which, pursuant to Article 154 paragraph 1 of the Customs Law, should be deducted when the obtained products are put into free circulation, taking into account the quantity of goods subjected to the procedure of outward processing.

(2) In the event referred to in paragraph 1 of this Article, the quantity of each type of goods from the procedure of outward processing which corresponds to the quantity of the obtained products put into free circulation and which shall be taken into account in calculation of the amount to be deducted in accordance with paragraph 1 of this Article, shall be calculated in such a manner that total quantity of each type of goods from the procedure of outward processing is multiplied by the coefficient which corresponds to the share of the obtained products, put into free circulation, in the total quantity of obtained products.

Article 422

(quantitative method - procedure of outward processing)

(1) Where more than one type of obtained products is obtained from one or more types of the goods from the procedure of outward processing, and where all elements of the temporarily exported goods appear in each type of the obtained products, the amount to be, pursuant to Article 145 paragraph 1 of the Customs Law, deducted when the obtained products are put into free circulation taking into account the quantity of temporarily exported goods.

(2) In determination whether to apply the method referred to in paragraph 1 of this Article, losses shall not be taken into account.

(3) In determination of the share of temporarily exported goods in the obtained products, in accordance with paragraph 1 of this Article, ancillary obtained products, such as wastes and residues, sediment, cutouts or scraps, shall be deemed to be the losses.

(4) Where paragraph 1 of this Article is applied, quantity of each type of goods from the procedure of outward processing, used in production of each type of obtained products, shall be determined in such a manner that the overall quantity of each type of goods from the procedure of outward processing is successively multiplied with the coefficient corresponding to the ratio between the quantity of goods from the procedure of outward processing in each type of obtained products and overall quantity of goods from the procedure of outward processing in overall quantity of obtained products.

(5) Quantity of each type of goods from the procedure of outward processing, corresponding to the quantity of each type of the obtained products put into free circulation, which shall be taken into account in determination of the amount to be deducted in accordance with paragraph 1 of this Article, shall be calculated in such a manner that the coefficient calculated on the basis of Article 421 paragraph 2 hereof is multiplied by the quantity of each type of goods from the procedure of outward processing, used in the production of each type of obtained products, calculated on the basis of paragraph 4 of this Article.

Article 423 (value method)

(1) Where the method referred to in Articles 421 or 422 hereof cannot be used, the value method shall be applied. The customs authority may, upon the consent of the approval holder and with the simplification purposes, use the quantitative method referred to in Article 422 hereof instead of the value method, provide both methods yield similar results.

(2) In order to determine the quantity of each type of goods from the procedure of outward processing, used in the production of each type of obtained products, overall quantity of the goods from the procedure of outward processing shall be successively multiplied by the coefficients corresponding to the ratio between the customs value of each type of obtained products and total value of such products.

(3) Where one type of obtained products is not re-imported, taken as the value of such products in implementation of paragraph 2 of this Article, shall be the selling price of identical or similar products on the domestic market, but only if this price is not affected by the relationship between the buyer and the seller. In determination whether the buyer and the seller are related, Article 77 hereof shall apply.

(4) If it is not possible to determine the value in accordance with paragraph 3 of this Article, the customs authority shall determine it in accordance with other suitable method.

(5) Quantity of each type of temporarily exported goods, corresponding to the quantity of each type of the obtained products put into free circulation, which shall be taken into account in determination of the amount to be deducted pursuant to Article 154 paragraph 1 of the Customs Law, shall be calculated in such a manner that the coefficient, calculated pursuant to Article 121 paragraph 2 hereof, is multiplied by the quantity of each type of temporarily exported goods, used in production of such obtained products, calculated in accordance with paragraph 2 of this Article.

Article 424 (determination of the approximate value of customs debt)

(1) Where the issued approval for the procedure of outward processing does not pertain to repairs and the customs authority determines, in agreement with the approval holder, an approximate amount of the customs debt payable in accordance with the rules on partial exemption from customs debt referred to in Article 154 of the Customs Law, the customs authority may determine the average duty rate for all production operations which, in accordance with the approval, may be performed (aggregate calculation). This procedure is possible only for the approval holders who frequently and regularly conduct the customs procedure of outward processing.

(2) Average rate of duty referred to in paragraph 1 of this Article shall be determine for the period which shall not exceed six months, on the basis of:

- in advance prepared approximate estimation of the amount of duties which should be paid within this period, or
- experience based on the payment of customs debt in particular equal periods in the past.

In order to ensure that the paid customs debt is not lower than the one prescribed by law, the rate of duty shall be increased, when necessary.

(3) Average rate of duty referred to in paragraph 1 of this Article shall be applied for the temporary calculation of customs debt in putting the obtained products into free circulation in the period which is equal to the period applied for the calculation in accordance with paragraph 2 of this Article. In such events, it shall not be required to calculate precisely the actual amount of customs debt every time the goods are put into free circulation.

(4) Temporarily calculated customs debt shall be calculated and paid in accordance with Articles 219 and 226 of the Customs Law.

(5) The customs authority shall, in agreement with the approval holder, at the end of each period, make final calculation of customs debt pursuant to Article 154 paragraph 4 of the Customs Law.

(6) Where, in making final calculation of customs debt, it is found that temporarily calculated customs debt is above or, despite the application of the provisions referred to in paragraph 2 of this Article, below the one owed by law, the refund, namely additional collection, shall be made.

Division 5 Measures of economic policy

Article 425 (application of the economic policy measures)

(1) Measures of economic policy, which are applied for exportation of domestic goods, shall, pursuant to Article 148 paragraph 3 of the Customs Law, apply in the receipt of the declaration for instigation of the procedure of outward processing.

(2) Where the obtained products referred to in Article 148 paragraph 1 of the Customs Law are put into free circulation and, where for products at the time of the acceptance of the declaration for putting into free circulation, the measures of economic policy are in force, such measures shall be applied for the obtained products only in the event that those products are not products of the domestic origin according to the criteria determined in accordance with Articles 23 do 27 of the Customs Law.

(3) Measures of economic policy, applicable for putting into free circulation, shall not be applied if the goods put into free circulation are the goods which were exported in the procedure of outward processing within the replacement system or which were abroad in the procedure of outward processing or performance of additional production operations pursuant to Article 127 of the Customs Law.