[*Consolidated text of the Decree on the Manner and Conditions of Sale of Customs Goods and Other Procedures concerning Customs Goods covers the following regulations:*

1. *Decree on the Manner and Conditions of Sale of Customs Goods and Other Procedures concerning Customs Goods (Official Gazette of the Republic of Montenegro, No 22/03 of 4 April 2003,*
2. *Decree Amending and Supplementing the Decree on the Manner and Conditions of Sale of Customs Goods and Other Procedures concerning Customs Goods (Official Gazette of the Republic of Montenegro, No 62/04 of 11 October 2004, which contain their day for entry into force.*]

DECREE ON THE MANNER AND CONDITIONS OF SALE OF CUSTOMS GOODS AND OTHER PROCEDURES CONCERNING CUSTOMS GOODS

**(Official Gazette of the Republic of Montenegro, No 22/03 of 4 April 2003, 62/2004 of 11 October 2004)**

# I GENERAL PROVISIONS

### Article 1

1. This Decree stipulates the manner and conditions for sale of:

* Customs goods seized pursuant to the Customs Law;
* Customs goods assigned for the benefit of the State;
* Other customs goods, being sold by customs service authorities, if authorised for sale of such goods pursuant to a special law.

1. This Decree also stipulates conditions for other procedures concerning the goods referred to in paragraph 1 of this Article, assigning, destroying the goods, and other.

### Article 2

1. If the customs service authority finds goods of which the owner is unknown, but it could be concluded with merit that it is the customs goods, the customs authority shall publish on its notice board a list with descriptions of such goods for a period of 30 days.
2. The goods referred to in paragraph 1 of this Article shall be kept for 30 days from the day of notification on the notice board. If the owner fails to come forward within such deadline, fails to regulate the customs status of goods, fails to takeover goods and fails to pay costs concerning safekeeping and transportation of goods, the goods shall be handled in accordance with this Decree.

### Article 3

1. A customs office shall sell the goods referred to in Article 1 of this Decree.
2. The director of the Customs Administration of Montenegro may select and authorise persons outside of the customs service to carry out specific services (transportation, storage, sale, etc) concerning the goods referred to in Article 1 of this Decree (hereinafter referred to as the Authorised Contractor).
3. If services concerning the goods are performed by the Authorised Contractor, then a contract between this contractor and the Customs Administration of Montenegro shall govern mutual rights and obligations arising from procedures with goods in accordance with this Decree, as well as the customs authority competent for oversight of delivery of services performed by the Authorised Contractor.
4. The contract referred to in paragraph 3 of this Article shall define the content of the document used by the Authorised Contractor to record goods taken-over, as well as goods a client confirms taking over of goods.

# II VERIFYING CONDITIONS AND PREPARING GOODS FOR SALE

### Article 4

A customs offices that took over goods referred to in Article 1 of this Decree shall inspect goods and take minutes thereof in two counterparts. The minutes shall contain, *inter alia*, data on type and quantity goods, as well as description on state of the goods being taken over.

### Article 5

1. A body of the customs service shall establish a Commission for Appraisal of Value of Goods (hereinafter referred to as the Commission), which consists of a chairperson and two members in order to determine conditions for sale of goods.
2. Tasks of the Commission shall be:

* Appraising value of goods;
* Verifying whether conditions for sale exists;
* Verifying whether importation of goods is prohibited in the Republic of Montenegro;
* Verifying whether goods meets phytosanitary and market requirements;
* Determining the method for sale of goods;
* Preparing lists of goods for sale;
* Preparing minutes on its work.

1. The Commission shall verify if goods in the list of goods for sale correspond to data from the minutes on taking over goods referred to in Article 4 paragraph 1 of this Decree.
2. After the Commission carries out the appraisal of value it shall update the list of goods for sale with data on appraised value.
3. If the Commission states that type, quantity and state of goods do not correspond to data from the minutes on taking over goods referred to in Article 4 paragraph 1 of this Decree; it shall state so in the minutes on its work.

### Article 6

A customs office shall present for sale only those goods for which it was previously determined that are not prohibited to be imported in the Republic of Montenegro and that the goods meet phyto-veterinary-sanitary and market requirements. Goods that fail to meet said requirements shall be removed for the customs territory, or destroyed.

### Article 7

1. Until public sale is announced, a customs office may approve a person holding a title of the transport document or owner of goods, except for goods seized in a misdemeanour procedure, to take over goods for the customs clearance procedure or in order to send it back abroad.
2. If the goods is not sold a the first public auction, the customs office may approve for the goods to be taken over within the meaning of paragraph 1 of this Article, until the announced public sale takes place.
3. In events referred to in paragraphs 1 and 2 of this Article, persons taking over good shall also be obliged to pay all costs associated with the sale of goods.
4. The customs office shall determine the costs referred to in paragraph 3 of this Article by way of a decision.

### Article 8

A customs office shall bear all costs associated with the transport, storage of goods and other, which is sent back to the party if such costs are not created by action of the party.

### Article 9

In events when the authority conducting the procedure renders a decision for the goods to be returned to the party, minutes shall be taken at the event of taking over the goods stating the type of goods, quantity and description of the state of goods the party is taking over.

### Article 10

1. Initial price of goods being sold is the appraised value referred to in Article 5 paragraph 4 of this Decree. When the value of goods is being determined rules on valuation of goods for customs purpose shall apply, taking into consideration possible outdated technology, outdated fashion and fact that the goods are being sold without guarantee.
2. Public sale of goods shall take place at public auction by collecting bids of by direct negotiation.

# III PUBLIC AUCTION

### Article 11

1. Goods where the value appraised by the Commission referred to in Article 5 of this Decree exceeds 1,000.00 euro shall be sold on a public auction as a rule.
2. A commission for sale of goods, appointed by the customs office, shall carry out public auction of goods. The commission for sale of goods shall a chairperson and two members.
3. Public auction shall be announced in daily printed media outlets. Announcement of the public auction shall list conditions for auction, data on type, quantity and state of the goods, initial price, day, hour and place of the auction, amount and manner of payment of a deposit to take part in the auction, as well as of the day and place, when and where the goods being subject of sale can be inspected.

### Article 12

1. Legal persons and entrepreneur with registered office in the territory of the Republic of Montenegro, can take part in the public auction referred to in Article 1 of this Decree if the pay stipulated deposit and if they are registered to trade in goods being auctioned, which is evidenced by an extract from a registry of the competent authority, which cannot be of a date later than 60 days. Natural persons with habitual residence in the Republic of Montenegro may participate at the auction if goods of non-commercial nature are being sold.
2. Employees of the customs service, their spouses and members of their families with lineal consanguinity or collateral consanguinity up to the fourth degree cannot take part the public auction as bidders.
3. Before start of the public auction, bidders shall pay the deposit of 10% of the initial appraised value of goods for which they intend to bid to an account designated by the customs office.
4. Only bidders that bring a certificate on paid deposit shall take part at the public auction.

### Article 13

1. Goods are offered at the auction with initial price equal to the appraised value determined by the Commission referred to in Article 5 of this Decree.
2. First auction can take place only if at least two bidders take part.
3. It shall be deemed that the auction is successful if at least two bidders have offered price higher than the initial price.
4. Goods shall be sold at the auction to the buyer that offered the highest price.
5. If the first auction has failed, a second will be scheduled, which can take place if at least two bidders take part. Announcement of the second public auction must contain the same data as the first, but the announcement needs to contain information that the second auction is in question. As for the activities of participants, relevant provisions of this Article shall be taken into consideration. Initial price of goods from the first auction can be reduced during the announcement of the second auction by an appropriate percentage but not exceeding half of the appraised value.
6. If the first public auction has failed because there were no bidders, instead of designating a second public auction, a commission for sale of goods may adopt a conclusion to sell goods by collecting bids, or by direct negotiations if goods were not sold by way of collecting bids.
7. In the event that the second auction takes place and it has also failed, the goods shall be sold by way of collecting bids or by direct negotiations.
8. If the goods are not sold in accordance with provisions of this Article, it shall be destroyed or give away without consideration in accordance with this Decree.

### Article 14

1. A commission for sale of goods shall take minutes on the auction process. The minutes shall contain all data on goods, initial price, participants to the auctions, bids given, achieved sales price and buyer.
2. Chairperson and members of the commission for sale of goods, buyer and present bidders shall sign the minutes on the public auction.
3. The minutes on the public auction shall be placed on the notice board of the customs office within two days as of the day of completed sales and must be placed there for three days. Participants at the public auction may lodge a complaint to the customs office, with regards to work and proceedings of the commission for sale of goods, within three days as of the placement of the minutes on the notice board, but only if a complaint was announced in written form the commission for sale of goods, within one hour after the completed auction.
4. The customs office shall render a decision upon complaint within three days following its submission. Goods subject to the lodged complaint shall not be consigned to the buyer until the complaint procedure is finalised.

# IV PAYMENT OF PURCHASE PRICE AND SETTING OFF THE CUSTOMS STATUS OF GOODS

### Article 15

1. Body of the customs service may sell customs goods assigned for the benefit of the State or sized provided that a buyer completes formalities for approving the customs approved treatment of use of goods.
2. Body of the customs service may sell customs goods assigned for the benefit of the State or sized provided that the purchase price of goods includes a customs debt. When a customs debt is included in the purchase price of goods it shall be deemed as if the goods were released into free circulation by way of sale. The customs office shall calculate itself the customs debt.
3. Buyer must pay in the purchase price and calculated customs duty and other duties paid at importation at the account designated by the customs office, if the goods were released into free circulation by way of sale before taking over of goods immediately upon finalisation of the complaint procedure.
4. Paid deposit shall be included in the purchase price.
5. A buyer cannot take over goods until full purchase price is paid and calculated customs duty and other duties paid at importation in the event of releasing goods into free circulation.
6. A buyer must takeover goods within three days as of the payment of the purchase price and calculated customs duty and other duties paid at importation in the event of releasing goods into free circulation.
7. If the buyer requests any other customs approved utilisation or use expect for releasing goods into free circulation upon completion of the sale, the goods shall be consigned under conditions referred to in paragraph 5 of this Article based on the appropriate customs declaration.

### Article 16

1. If the buyer fails to pay the purchase price, or calculated customs duty and other duties paid at importation in the event of releasing goods into free circulation, within the deadline referred to in Article 15 paragraph 1 of this Decree it shall lose right to refund of deposit and the goods shell be re-entered for public auction.
2. If the buyer fails to take over goods within the deadline referred to in Article 15 paragraph 6 of this Decree, the goods shell be re-entered for public auction. Buyer will be refunded, upon its request, amount of paid purchase price less costs of a new public auction and costs of safekeeping and transportation of goods incurred after lapse of the deadline for taking over goods until sale or destruction.
3. Paid deposit shall be refunded to participants at the auction that were not successful within five days following finalisation of the auction.
4. A deposit shall not be refunded to a participant at the auction that leaves the auction before its finalisation. A commission shall state the fact of leaving the auction in the minutes.

### Article 17

Transportation costs, safekeeping and other costs incurred concerning the sale of goods shall be settled from the collected purchase price for such goods.

# V SALE OF GOODS BASED COLLECTING BIDS AND DIRECT NEGOTIATION

### Article 18

1. As a rule goods shall be sold by way of collecting bids, if the appraised value of goods of the same type the customs office handles in an individual proceeding is less than 1,000.00 euro.
2. The commission for sale of goods referred to in Article 11 paragraph 2 of this Decree shall publish an invitation for collecting bids as a rule in public information outlets. The announcement must be issued at least 15 days before a contract with the most-favourable bidder is concluded. The announcement shall state details where and when the goods being subject of sale can be inspected, as well as the final day for submitting bids.
3. The commission for sale of goods shall review bids and select the most-favourable bidder.

### Article 19

The customs office may, by way of direct negotiations, sell animals, fast perishable goods, goods with high associated safekeeping costs, goods referred to in Article 6 of this Decree and goods where public auction sale was unsuccessful or was not sold by way of collecting bids.

# VI CONSIGNING CUSTOMS GOODS WITHOUT CONSIDERATION AND OTHER PROCEDURES CONCERNING CUSTOMS GOODS

### Article 20

1. The Government of the Republic of Montenegro (hereinafter referred to as the Government) may consign goods referred to in Article 1 of this Decree without consideration to the State authorities or humanitarian organisation and other beneficiaries, if they require such goods for carrying out activities.
2. In case of objects having historical, archaeological, ethnographic, cultural, artistic or scientific value, the Government shall render a decision on consigning these objects to a competent authority or institution without payment of counter value.
3. The Government may render a decision for goods that cannot be realised into free circulation according to special regulations (weapons, ammunition, radio stations and similar) to be consigned to the State authorities and organisations that required these goods for carrying out activities without payment of counter value.
4. The Government shall render a decision to consign goods without payment of counter value upon a proposal of the applicant referred to in paragraphs 1, 2, and 3 of this Article and based on a prior opinion of the competent ministry.
5. Notwithstanding paragraph 1 of this Article, a director of the Customs Administration may consign easily perishable goods and goods with high associated safekeeping costs without consideration to humanitarian organisation and other beneficiaries if they require these goods for carrying out activities.

### Article 21

1. If goods are not sold or not consigned without consideration in accordance with Article 20 of this Decree, it shall be destroyed in accordance with special regulations governing the manner and procedure for destroying goods.
2. The customs office may destroy goods in cases when costs of safekeeping, sale and other costs concerning goods would not be commensurate to the proceeds that would be obtained from its sale.

# VII TRANSITIONAL AND FINAL PROVISIONS

### Article 22

If the procedure for sale of customs goods started before this Decree enters into force, then the sale of goods shall be completed in accordance with regulations in force on the day the sale procedure commenced.

### Article 23

Contracts on storage and safekeeping concluded with an authorised organisation in accordance with regulations in force before this Decree entered into force shall be valid until lapse of deadlines stipulated therein.

### Article 24

This Decree shall enter into force on the eighth day following the day of its publication in the Official Gazette of the Republic of Montenegro.