

Draft Amendments to the Customs Law of the Islamic Republic of
Afghanistan

(amendments to the exiting text are in track changes)

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Contents

CHAPTER 1 GENERAL PROVISIONS	9
ARTICLE 1 (CONSTITUTIONAL AUTHORITY)	9
ARTICLE 2 (RESPONSIBLE AUTHORITY)	9
ARTICLE 3 (DEFINITIONS) 9	
ARTICLE 4 (UNIFORM APPLICATION OF CUSTOMS LAW)	12
ARTICLE 5 (THE CUSTOMS TERRITORY OF THE STATE)	13
ARTICLE 6 (CUSTOMS AREAS). 13	
ARTICLE 7 (SCOPE OF CUSTOMS WORK)	13
CHAPTER 2 CUSTOMS ADMINISTRATION	13
ARTICLE 8 (ORGANIZATION) 13	
ARTICLE 9 (SERVICE UNIFORMS AND CONDITIONS OF SERVICE)	14
ARTICLE 10 (MOVEMENT OF GOODS)	14
ARTICLE 11 (RESPONSIBILITIES OF CUSTOMS)	14
ARTICLE 12 (PROVIDING INFORMATION)	15
ARTICLE 12A [PUBLICATION OF DECISIONS]	15
ARTICLE 13 (CONFIDENTIALITY)	16
ARTICLE 13A (RECORD KEEPING)	16
ARTICLE 14 (CUSTOMS CONTROLS OUTSIDE OF CUSTOMS OFFICES)	16
ARTICLE 15 : CLEARER OF GOODS(THE DECLARANT)	17
ARTICLE 16 (BROKERAGE) 17	
ARTICLE 17 (TAKING OF DECISIONS)	17
ARTICLE 18 (REVIEW OF CUSTOMS DECISIONS)	18
CHAPTER 3 TAKING CARE OF AN OBJECTION	19
ARTICLE 19(ARBITRATION)<u>REVIEW OF ADMINISTRATIVE PENALTIES OF SMUGGLING</u> ...	19
ARTICLE 20 (CUSTOMS OPINION)	19
ARTICLE 21(FINALITY OF AN OPINION)	19
ARTICLE 22(METHOD OF EXECUTIONS)	19
CHAPTER 4 CUSTOMS TARIFF AND VALUATION OF GOODS	20
ARTICLE 23 (THE CUSTOMS TARIFF)	20
ARTICLE 23A (PRIMARY METHOD OF CUSTOMS VALUATION)	20
ARTICLE 23B (SECONDARY METHODS OF CUSTOMS VALUATION)	21

ARTICLE 23C (RELATED PARTY SALES)	22
ARTICLE 23D ADDITIONS TO THE PRICE PAID OR PAYABLE	22
ARTICLE 23E EXCLUSIONS FROM CUSTOMS VALUE	23
ARTICLE 24 (VALUATION OF GOODS).....	24
ARTICLE 25 (EXCHANGE RATE) 24	
ARTICLE 26 (PERISHABLE GOODS)	24
CHAPTER 5 FAVOURABLE TARIFF.....	25
ARTICLE 27 (CASES FOR GRANTING FAVOURABLE TARRIFS)	25
ARTICLE 28 (REQUEST FOR A FAVOURABLE TARIFF)	26
CHAPTER 6 ORIGIN OF GOODS.....	26
ARTICLE 29 (PRODUCTION OF GOODS IN A COUNTRY).....	26
ARTICLE 30 (PRODUCTION OF G OODS IN M ORE THAN ONE C OUNTRY)	27
ARTICLE 31(CERTIFICATE OF O RIGIN)	27
ARTICLE 32 (PREFERENTIAL ORIGIN)	27
ARTICLE 33(RETURN OF GOODS)	27
CHAPTER7 PRESENTATION OF GOODS AT CUSTOMS.....	28
ARTICLE 34 (ENTRY AND EXIT OF GOODS).....	28
ARTICLE 35 (PLACE FOR PRESENTATION OF GOODS).....	28
ARTICLE 36 (TRANSPORTATION OBSTACLES TO PRESENTATION OF GOODS).....	28
ARTICLE 37 (PRESENTATION OF AIR SHIPMENTS AT T HE A IRPORT OF F INAL D ESTINATION)	29
ARTICLE 38 (P RESENTING M ANIFESTS TO C USTOMS)	29
ARTICLE 39(CUSTOMS SUPERVISION ON AIRCRAFT)	29
ARTICLE 40 (EXEMPTION FROM OBLIGATIONS TO PRESENT A MANIFEST).....	29
ARTICLE 41 (AIRCRAFT’S FORCED LANDING).....	30
ARTICLE 42 (CUSTOMS D ECLARATION FOR P OSTAL G OODS).....	30
ARTICLE 43 (E XEMPTION FROM D ECLARATION)	30
ARTICLE 44 (EXPORT POSTAL SHIPMENTS).....	30
ARTICLE 45 (CUSTOMS C ONTROL OF T RANVELERS L UGGAGE)	30
ARTICLE 46 (P RESENTATION OF G OODS A T THE D ETERMINED L OCATION TO C USTOMS) 31	
ARTICLE 47 (GOODS V ERIFICATION AND T AKING OF S AMPLES)	31
ARTICLE 48 (SUBMISSION OF A SUMMARY D ECLARATION)	31
ARTICLE 49 (UNLOADING AND TANSSHIPPING AT DESIGNATED SITES)	32
CHAPTER 8 TEMPORARY STORAGE OF GOODS	32

ARTICLE 50 (PLACES OF TEMPORARY STORAGE	32
ARTICLE 51 (REMOVING G OODS FROM T EMPORARY S TORAGE)	32
ARTICLE 52 (NON-ALLOWED GOODS).....	33
CHAPTER 9 CUSTOMS DECLARATION	33
ARTICLE 53 (ASSIGNING A CUSTOMS DESIGNATION FOR NON-AFGHAN GOODS).....	33
ARTICLE 54 (TIME PERIOD FOR C OMPLETING A CUSTOMS D ECLARATION).....	33
ARTICLE 55 (DECLARATION OF THE G OODS FOR A C USTOMS P ROCESS).....	34
ARTICLE 56 (ACCEPTANCE OF THE DECLARATION).....	34
ARTICLE 57 (VOLUNTARY A MMENDMENT OR W ITHDRAWAL OF D ECLARATIONS)	34
ARTICLE 58 (VERIFICATION OF THE D ECLARATION).....	35
ARTICLE 59 (COMPOSITE DECLARATION)	35
ARTICLE 60 (PARTIAL C ONTROL).....	35
ARTICLE 61 (I DENTIFICATION OF THE G OODS)	35
ARTICLE 62 (RELEASE OF G OODS)	35
ARTICLE 63 (GOODS I NELIGIBLE FOR RELEASE)	36
ARTICLE 64 (CUSTOMS AMENDMENT OR I NVALIDATION OF D ECLARATIONS)	36
<u>ARTICLE 64A (SIMPLIFIED PROCEDURES FOR AUTHORIZED PERSONS).....</u>	<u>36</u>
CHAPTER 10 CUSTOMS PROCESSES	37
ARTICLE 65 (RELEASE OF G OODS FOR F REE C IRCULATION)	37
ARTICLE 66 (CONDITIONAL R ELEASE OF G OODS).....	37
ARTICLE 67 (CLASSIFICATION OF M IXXED G OODS)	37
ARTICLE 68 (LOSS OF C USTOMS S TATUS AS AFGHAN GOODS)	38
ARTICLE 69 (C USTOMS P ROCESSES WITH E CONOMIC I MIMPACT)	38
ARTICLE 70 (C ONDITIONS FOR G RANTING AN AUTHORIZATION).....	38
ARTICLE 71 (SECURITY) 38	
ARTICLE 72 (RELEASE F ROM THE P ROCESSES WITH E CONOMIC I MIMPACT)	38
ARTICLE 73 (TRANSFER OF R IGHTS AND O BLIGATIONS)	39
ARTICLE 74 (THE TIME FOR D ETERMINING THE C USTOMS D EBT).....	39
ARTICLE 75 (T RANSIT P ROCESS).....	39
ARTICLE 76 (RELEASE F ROM THE TRANSIT P ROCESS)	39
ARTICLE 77 (TRANSIT V IA T HIRD C OUNTRIES)	40
ARTICLE 78 (TRANSIT SECURITY)	40
ARTICLE 79 (EXEMPTIONS FROM GIVING SECURITY)	40
ARTICLE 80 (O BLIGATION OF PERSONS R ESPONSIBLE FOR T RANSIT G OODS)	41
ARTICLE 81 (CUSTOMS WAREHOUSING)	41
ARTICLE 82 (WAREHOUSE TYPES).....	41

ARTICLE 83 (WAREHOUSE KEEPERS AND THEIR RESPONSIBILITIES)	41
ARTICLE 84 (APPROVAL TO OPERATE A CUSTOMS WAREHOUSE)	41
ARTICLE 85 (TRANSFER OF RIGHTS AND RESPONSIBILITIES)	42
ARTICLE 86 (DISTINCTIVE CASES)	42
ARTICLE 87 (TIME LIMITS FOR STORAGE IN WAREHOUSES)	42
ARTICLE 88 (HANDLING OF GOODS UNDER A CUSTOMS WAREHOUSING PROCESS) ...	42
ARTICLE 89 (TEMPORARY WITHDRAWALS FROM WAREHOUSES).....	42
ARTICLE 90 (TRANSFER OF GOODS)	43
ARTICLE 91 (CUSTOMS VALUE OF WAREHOUSED GOODS.).....	43
ARTICLE 92 (INWARD PROCESSING).....	43
ARTICLE 93 (INWARD PROCESSING OPERATIONS).....	43
ARTICLE 94 (APPLICATION FOR APPROVAL OF INWARD PROCESSING.....	44
ARTICLE 95 (TIME PERIOD FOR EXPORTATION OF COMPENSATING PRODUCTS)	44
ARTICLE 96 (RATE OF YIELD OF INWARD PROCESSING)	44
ARTICLE 97 (RELEASE FOR FREE CIRCULATION FROM INWARD PROCESSING).....	44
ARTICLE 98 (COMPENSATING PRODUCTS OF INWARD PROCESSING).....	44
ARTICLE 99 (CUSTOMS DUTIES ON COMPENSATING PRODUCTS OF INWARD PROCESSING)	45
ARTICLE 100 (COMPENSATING PRODUCTS OF INWARD PROCESSING AFTER OUTWARD PROCESSING)	45
ARTICLE 101 (DRAWBACK CASES).....	45
ARTICLE 102 (DRAWBACK DECLARATION)	45
ARTICLE 103 (TEMPORARY EXPORTATIONS PURSUANT TO DRAWBACKS).....	45
ARTICLE 104(DRAWBACK REFUNDS)	45
ARTICLE 105 (PROCESSING UNDER CUSTOMS CONTROL).....	46
ARTICLE 106 (APPROVAL FOR PROCESSING UNDER CUSTOMS CONTROL)	46
ARTICLE 107 (APPROVAL CONTENTS FOR PROCESSING UNDER CUSTOMS CONTROL)...	46
ARTICLE 108 (DEBT AMOUNT IF PROCESSING UNDER CUSTOMS CONTROL IS NOT COMPLETED)	46
ARTICLE 109 (IMPORT OF COMPENSATING PRODUCTS PROCESSED UNDER CUSTOMS CONTROL)	46
ARTICLE 110 (TEMPORARY IMPORTATION PROCESS)	46
ARTICLE 111 (APPROVAL FOR TEMPORARY IMPORTATION).....	47
ARTICLE 112(CONDITIONS FOR APPROVAL FOR TEMPORARY IMPORTATION).....	47
ARTICLE 113 (SPECIAL CONDITIONS FOR THE TEMPORARY IMPORTATION PROCESS) .	47
ARTICLE 114 (THE DUTY AMOUNT PAYABLE FOR GOODS UNDER THE TEMPORARY IMPORTATION PROCESS WITH PARTIAL RELIEF)	48

ARTICLE 115 (CHANGE OF CUSTOMS DESIGNATION OF TEMPORARILY IMPORTED GOODS)	48
ARTICLE 116 (OUTWARD PROCESSING).....	48
ARTICLE 117 (APPLICATION FOR THE APPROVAL OF OUTWARD PROCESSING).....	48
ARTICLE 118 (CONTENTS OF OUTWARD PROCESSING APPROVAL)	49
ARTICLE 119 (IMPORT DUTY FOR COMPENSATING PRODUCTS OF OUTWARD PROCESSING)	49
ARTICLE 120 (GOODS REPAIRED WITHOUT CHARGE IN OUTWARD PROCESSING)	49
ARTICLE 121 (TRANSFER OF RIGHTS OF THE OUTWARD PROCESSING APPROVAL)	50
ARTICLE 122 (EXPORT PROCESS FOR AFGHAN GOODS)	50
ARTICLE 123 (EXPORTATION OF NON-AFGHAN GOODS).....	50
CHAPTER 11 FREE ZONES AND FREE WAREHOUSES.....	50
ARTICLE 124 (THE MEANING OF DUTY FREE ZONES)	50
ARTICLE 125 (FREE ZONES DESIGNATION)	50
ARTICLE 126 (CUSTOMS SUPERVISION IN FREE ZONES)	51
ARTICLE 127(CONDITIONS FOR ENTRANCE AND EXIT OF GOODS)	51
ARTICLE 128 (CUSTOMS STATUS OF GOODS IN DUTY FREE ZONES)	51
ARTICLE129 (TIME LIMITS)	51
ARTICLE 130 (AUTHORIZED ACTIVITIES)	52
ARTICLE 131 (APPROVED REGISTERS)	52
ARTICLE 132(TARIFF ON CONSUMED AND MISSING GOODS).....	52
ARTICLE 133 (ABANDONMENT OR DESTRUCTION OF GOODS IN FREE ZONES)	52
CHAPTER 12 CUSTOMS DESIGNATIONS.....	52
ARTICLE 134 (DESTRUCTION OR ABANDONMENT)	52
ARTICLE 135 (DESTRUCTION OF GOODS).....	53
ARTICLE 136(PROCEEDS FROM ABANDONED GOODS)	53
CHAPTER 13 CUSTOMS DEBT	53
ARTICLE 137 (FORM OF SECURITY).....	53
ARTICLE 138 (SINGLE SECURITY FOR SEVERAL ACTIONS).....	53
ARTICLE 139 (SECURITIES LEVELS)	54
ARTICLE 140 (CASH DEPOSITS)	54
ARTICLE 141 (GUARANTOR)	54
ARTICLE 142 (OTHER KINDS OF SECURITY)	54
ARTICLE 143 (ADDITIONAL SECURITIES)	54
ARTICLE144 (RELEASE OF SECURITY)	55

ARTICLE 145 (LAWFUL ACTIVITIES WHICH CAUSE CUSTOMS DEBTS).....	55
ARTICLE 146 (UNLAWFUL ACTIVITIES CAUSING A CUSTOMS DEBT).....	55
ARTICLE 147 (CUSTOMS DEBT ON REMOVAL OF GOODS FROM SUPERVISION WITHOUT PERMISSION)	56
ARTICLE 148 (NON OCCURRENCE OF DEBT)	56
ARTICLE 149 (RESPOSIBILITY OF PARTNERSHIPS)	56
ARTICLE 150 (DATE OF DETERMINING CUSTOMS DEBT)	56
ARTICLE 151A (NEW ARTICLE) POST RELEASE INSPECTION OF GOODS:	56
ARTICLE 151 (ENTRY OF DEBT INTO ACCOUNTS).....	57
ARTICLE 152 (DIFFERENCES IN ACCOUNT ENTRIES).....	57
ARTICLE 153 (NOTIFICATION ABOUT DEBT ENTRY)	57
ARTICLE 154 (SITUATIONS FOR SETTLING AND EXTINGUISHING CUSTOMS DEBTS)	58
ARTICLE 155 (PAYMENT TERM FOR CUSTOMS DEBT).....	58
ARTICLE 156 (DEFERRAL OF DEBT PAYMENT).....	58
ARTICLE 157 (MANNER OF PAYMENT).....	58
ARTICLE 158 (NON PAYMENT OF DEBT WITHIN THE PRESCRIBED TERM).....	58
ARTICLE 159 (REFUND OR REMISSION OF AN ERRONEOUS ENTRY).....	59
ARTICLE 160 (REMISSION OR REFUND FOR DEFECTIVE GOODS)	59
ARTICLE 161 (LIMIT OF THE AMOUNTS TO BE REFUNDED)	59
ARTICLE 162 (INTEREST ON REFUNDS).....	59
ARTICLE 163 (ERRONEOUS REFUNDS).....	60
CHAPTER 14 CUSTOMS VIOLATIONS AND PENALTIES.....	60
ARTICLE 164 (CUSTOMS POLICE ADMINISTRATION).....	60
ARTICLE 165 (CUSTOMS VIOLATIONS)	61
ARTICLE 166 (ADMINISTRATIVE VIOLATIONS AND SANCTIONS).....	61
ARTICLE 167 (PENALTIES)	62
ARTICLE 168 (MULTIPLE OFFENSES).....	63
ARTICLE 169 (METHOD FOR COLLECTION OF FINES).....	63
ARTICLE 170 (DISCRETIONARY ADMINISTRATIVE PENALTIES).....	63
ARTICLE 171(LICENSE REVOCATION)	64
ARTICLE 172 (SMUGGLING OF GOODS)	64
ARTICLE 173 (SANCTIONS APPLICABLE TO SMUGGLING)	64
ARTICLE 174 (SMUGGLING OBJECTS)	65
ARTICLE 175 (VEHICLES)	65
ARTICLE 176 (THE SEIZURE OF SMUGGLING OBJECTS).....	66
ARTICLE 177 (PERISHABLE GOODS; LIVESTOCK.)	66
ARTICLE 178 (COMPENSATION FOR DAMAGES)	66

ARTICLE 179 (RANGE OF PENALTIES)	66
ARTICLE 180 (AGGRAVATING CIRCUMSTANCES).....	67
ARTICLE181 (PATICIPATION OF GOVERNMENT EMPLOYEES IN SMUGGLING ACTIVITY) 67	
ARTICLE 182 (EVALUATION OF ADMINISTRATIVE VIOLATIONS)	67
ARTICLE 183 (AUTHORITY FOR ACCESS TO INFORMATION).....	67
ARTICLE 184 (REPORT AND COLLECTION OF EVIDENCE)	68
ARTICLE 185 (FILE ADMINISTRATION).....	68
ARTICLE 186 (APPEAL AGAINST THE DECISION FOR PAYMENT OF A FINE)	68
CHAPTER15 DISTRIBUTION OF REVENUES AND GRANTING OF INCENTIVES)	
69	
ARTICLE 187 (DISTRIBUTION OF REVENUE FROM FINES AND EXPROPRIATED SMUGGLED GOODS)	69
ARTICLE 188 (INCENTIVES FOR INFORMANTS)	69
ARTICLE 189 (INCENTIVES FOR PERSONS SEIZING GOODS).....	69
ARTICLE 190 (HALFED INCENTIVES).....	70
CHAPTER 16 MISCELLANEOUS	70
ARTICLE191 (ASSISTING CUSTOMS ADMINISTRATIONS)	70
ARTICLE 192 (PRESENTATION OF ANNUAL CUSTOMS REPORT).....	71
ARTICLE 193 (PREFERENTIAL PROVISIONS)	71
ARTICLE 194 (DATE OF ENFORCEMENT)	71
ADDENDUM – ELECTRONIC RECORDS.....	71
ARTICLE XXX (DEFINITIONS).....	71
<u>ARTICLE XXX. (AUTHORIZATION)</u>	<u>72</u>
<u>ARTICLE XXX. (TIME OF FILING).....</u>	<u>72</u>
<u>ARTICLE XXX. (SIGNATURE REQUIREMENTS)</u>	<u>72</u>
<u>ARTICLE XXX. (ELECTRONIC RECORD-KEEPING)</u>	<u>72</u>
<u>ARTICLE XXX. (LEGAL RECOGNITION OF ELECTRONIC RECORDS AND SIGNATURES; NOTARIZATION AND ACKNOWLEDGEMENT).....</u>	<u>73</u>
<u>ARTICLE XXX. (REGULATIONS)</u>	<u>73</u>

Note: Review based on unofficial English translation dated March 20, 2005 (Kabul).

CHAPTER ONE

GENERAL PROVISIONS

Article 1 (Constitutional Authority)

This law has been enacted pursuant to Article 42 of the Constitution in order to ensure the collection of state revenues by the national customs authorities; to provide for the organization of customs; to define the scope of authority of customs officials; to provide for the supervision and the control of the movement of goods in and out of Afghanistan, and for the prevention of customs violations.

Article 2 (Responsible Authority)

The Ministry of Finance is responsible for the collection of customs revenues of the state, and for enforcing the provisions of this law and any other relevant customs legislation.

Article 3 (Definitions)

For the purposes of this law, the following definitions shall apply:

- (1) 'Person' means:
 - i. a natural person; or
 - ii. a legal person,
- (2) "Persons established in Afghanistan" means:
 - i. In the case of a natural person, any person who is resident in the Afghanistan for more than 183 days per year.
 - ii. A legal person who has a registered or a permanent business office in Afghanistan.
- (3) "Customs" means the state agency which is responsible for collection of customs dues, administration of customs law and other laws and regulations governing carries out and controls custom affairs of import, export, and transit goods, travelers and responsible person's baggage and parcel post, which includes the General Directorate of Customs and executive offices of in accordance with customs legislation.
- (4) Customs dues: includes customs duties, commercial interest, charges and costs of service delivery.
 - i. Customs duties: means dues the amount of which is determined pursuant to law and customs tariff.
 - ii. Commercial interest: means dues that are determined pursuant to law in order to protect domestic industries and implement economic policies, under this title.
 - iii. Charges: means other dues the collection of which is a duty of customs, in accordance with the law.
 - iv. Costs of service delivery: means dues collected for provision of services in shipping, warehousing, testing [examining], tariff classification, protection, escorting, weighing of goods and provision of special services, the terms and conditions of which shall be determined by customs so as to be proportionate to the services delivered.

- (5) Customs legislation” means this Law, and any other enforced legislation, international conventions and treaties containing customs provisions to which Afghanistan is a party and relevant rules and procedures.
- (6) Customs documents [records]: means papers and documents which shall be delivered by the declarer of goods to customs for the purpose of releasing the goods.
- (7) Customs locations: means warehouses, unloading facilities (in land and sea unloading facilities), airports, railway stations, premises and generally any place and location which is under customs supervision and used for keeping and storing unreleased good. Such locations include public and private customs warehouses and public cold storage facilities.
- (8) “Customs Areas” means the areas where the customs authorities exercise their activities as well as areas where the customs authorities exercise direct and indirect control or supervision of the relevant affairs.
- (9) Customs territory: means the political territory of the Islamic republic of Afghanistan, where customs laws and regulations are fully applied and implemented, except any areas excepted by the law.
- (10) Customs decision’ (tasmim) means any official order (hedayat e rasmi) by customs authorities pertaining to the application of Customs legislation to a particular case which affects one or more specific or identifiable persons.
- (11) Goods: means export goods, import goods, baggage of travellers and responsible persons, postal parcels, and transit goods, except domestic or foreign currency and securities.
- (12) ‘Customs opinion’ means the decision of the Customs Arbitration Administration (Edaara Hakamiyet e Gumruki) taken with regard to a disputed customs case.
- (13) ‘Customs status’ means the categorization of goods as Afghan or non-Afghan goods.
- (14) ‘Afghan goods’ means goods:
- i. Wholly obtained or produced in the customs territory ~~of the State~~ in accordance with the provisions of Article 29;
 - ii. imported from other countries, which have been released for free circulation in the customs territory ~~of the State~~;
 - iii. Obtained or produced in the customs territory ~~of the State~~, either from goods referred to in subparagraph (2) alone, or from goods referred to both in subparagraphs (1) and (2) above.
- (15) ‘Non-Afghan goods’ means goods other than those referred to in subparagraph 9 of this Article.
- (16) Permissible/allowed goods: means goods whose import/export shall be free, in compliance with the relevant regulations, and shall not require obtaining a permit.
- (17) Conditionally permissible goods: means goods whose import/export is subject to obtaining a permit from the competent authorities.
- (18) Impermissible [unauthorized] goods: means goods whose import/export is banned pursuant to decision of competent authorities.
- (19) Banned goods: means goods whose import/export is prohibited by the holy jurisprudence of Islam (as related to their sale, purchase of use) or pursuant to the law.
- (20) ‘Customs debt’ means a payment obligatory on a person, on account of customs duty, charges (haq ul zamat), dues (awarez), penalties (jerima), and any other monetary obligations (eltezamat e puli) that apply to specific goods or actions under customs legislation.
- (21) ‘Customs Debtor’ means any person liable for the payment of a customs debt.

- (22) Security: means a guarantee or security provided by the person in charge of the goods or his legal representative to customs so that customs is assured of the fulfillment of such person's obligations.
- (23) Obligation: means acceptance of the obligation to make payment or presentation of a document (other than in cases where another legal obligation exists) or to perform or stop an action within a determined time, whether in writing, as a check, or cash.
- (24) "Responsible Person" is the declarant, except when the [this] Law indicates otherwise.
- (25) 'Import duty' means customs duty on the importation of goods.
- (26) 'Export duty' means customs duty on the exportation of goods.
- (27) 'Customs supervision' means the ~~inspection~~ actions taken in general ~~done~~ by those authorities with a view to ensuring that customs legislation and, other provisions applicable to goods subject to customs supervision are observed, and may include measures for exercising customs control, when necessary.
- (28) 'Customs control' means executing specific actions, such as examining goods, verifying the existence and the authenticity of customs documents, examining the accounts and other records inspecting means of transport, luggage and other goods carried by or on persons, seizing goods, and reporting suspects to the judicial and justice authorities, with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to customs supervision are respected in the customs territory ~~of the State~~.
- (29) "Customs designation" means :
- i. the placing of goods under a customs process,
 - ii. their entry into a free zone, free warehouse, or duty free shop.
 - iii. their destruction, or
 - iv. Their abandonment and transfer to the State.
- (30) 'Customs process' means the following stages (marahel):
- i. release for free circulation within the customs territory of the State;
 - ii. conditional release of goods under customs supervision
 - iii. transit;
 - iv. customs warehousing;
 - v. inward processing;
 - vi. processing under customs control;
 - vii. temporary importation;
 - viii. outward processing;
 - ix. Exportation.
- (31) 'Suspensive process' means the following customs processes ~~which entails suspension of the payment of the customs debt~~:
- i. transit;
 - ii. customs warehousing;
 - iii. inward processing
 - iv. processing under customs control;
 - v. temporary importation;
- (32) "Suspensive goods" means goods placed under one or more of the suspensive processes mentioned in section 31 of this article. .
- (33) "Favorable tariff" means a reduction in, suspension of, or exemption from the otherwise applicable import duty stated in the Customs Tariff,
- (34) "Customs declaration" means the act or document whereby a ~~person expresses declarant~~ declares the information and specifications needed by customs for application of customs laws and regulations the wish to place goods under a given customs ~~designation or~~ process.

- (35) "Time of acceptance of the declaration" means the time when the customs declaration presented to customs authorities is accepted by the relevant [customs] office.
- (36) "Declarant" means ~~any person~~ the person in charge of goods or his legal representative who prepares and presents a customs declaration any person who makes a customs declaration in his own name or the person in whose name such a declaration is made.
- (37) "Presentation of goods at customs" means the notification to the customs authorities, in accordance with the relevant procedures, of the arrival of goods at customs or at any other place designated or approved by the Customs authorities.
- (38) "Release of goods" means the act whereby the customs authorities make goods available to the declarant for placement or disposition under a customs designation or process.
- (39) "Holder of authorization" means the person to whom an authorization has been granted.
- (40) "Customs duty" means an amount of money assessed on imports or exports in accordance with the classification and rates stated in the Customs tariff,
- (41) "Force majeure" means a natural disaster, war, unexpected political and economic upheavals, or similar act beyond the control of the person affected.
- (42) "Commercial policy measures" means the imposition of quotas, ceilings, countervailing duties on subsidized foreign goods, anti-dumping duties, or similar provisions for advancing national (keshwar) commercial interests, the responsibility for implementation of which principally rests with the Customs.
- (43) "Remission" (lit. "Cession" -Wogozari) means a decision to waive all or part of a customs debt prior to entry or after entry and before payment in accordance with article 151.
- (44) "Refund" means the repayment of part or all of a customs debt that has already been collected.
- (45) Customs formalities: means all actions by interested parties and customs for enforcement of customs laws and regulations.
- (46) Customs tariff: means a document established by this law, which determines the export and import duties of goods based on their classification.
- (47) Storage fee: means an amount collected by the relevant customs upon non-removal of goods within a specified period, in accordance with the relevant procedures.
- (48) Wrapping: means an article within which the goods are packaged, and includes internal and external wrappings.
- i. Internal wrapping: means a wrapping which is deemed to be included in the goods. Removal of such wrapping destroys the goods. The price of such wrapping such be included in the value of the goods.
 - ii. External wrapping: means a wrapping used for safety of goods. The price of such wrapping is not included in the value of goods.
- (49) Compensating products means all products obtained from goods as a result of processing operations. Waste material and scrap shall not be covered by this definition.
- (50) Rate of yield means the quantity or percentage of compensating products obtained from processing of a given quantity of import goods.
- (51) Binding Decision: means a written decision by Customs, issued at the request of an importer, exporter or any other person with a justifiable cause, which sets out the treatment that Customs shall provide to a prospective import, export or other customs transaction.

Article 4 (Uniform Application of Customs law)

- (1) Customs legislation shall apply uniformly throughout the customs territory ~~of the state.~~

- (2) Customs legislation may also apply in other countries, within the framework of either international conventions or other provisions governing specific customs activities provided that they do not conflict with the laws of another country.
- (3) Customs legislation may be applied in cooperation with customs administration of other countries at joint facilities, either inside or outside of Afghanistan's customs territory, in accordance with international agreements and conventions.

Article 5 (The Customs Territory of the State)

The Customs Territory of the State shall include the land, and water territory, and the airspace of Afghanistan.

Article 6 (Customs Areas)

- (1) Customs areas are established at border crossing points, international airports, duty free zones, customs warehouses and any other points within the Customs Territory as provided for in this Law.
- (2) Customs areas may be established, altered or abolished upon the recommendation of the Customs Administration and the approval of the Ministry of Finance.

Article 7 (Scope of Customs Work)

- (1) in order to secure (*taamin*) the interests of the State, Customs shall apply the necessary controls in accordance with customs legislation with respect to international shipments and import and export and movement of goods, supervision on commercial goods and passengers goods, enforcement of regulations governing foreign trade, provision of trade facilities in compliance with customs regulations, and combating customs offences, in the customs territory of the state.
- (2) Customs controls, other than random checks, shall primarily be based on risk analysis using electronic data-processing techniques where available, with the purpose of identifying and evaluating the risks and developing the necessary counter-measures, on the basis of criteria developed at national, local and, where available, international level.

CHAPTER TWO

CUSTOMS ADMINISTRATION

Article 8 (Organization)

- (1) Customs comprises the General Directorate, the Regional Directorates and their branches. All Customs shall work subordinate to and under the supervision of the General Directorate of Customs of the Ministry of Finance.
- (2) The General Director of Customs is appointed upon the recommendation of the Minister of Finance in accordance with law.

- (3) The Deputy Directors General of Customs are appointed, upon the proposal of the General Director of Customs, and confirmation of the Ministry of Finance, in accordance with the law.
- (4) The other Civil Service (momorin) and auxiliary (ajir) personnel of the Customs are employed in accordance with the procedures established by the law.

Article 9 (Service Uniforms and Conditions of Service)

- (1) Customs personnel shall wear the service uniform. In the event that service needs make it necessary to work without wearing a uniform, the customs personnel must show their Identity Cards.
- (2) Customs officers are not allowed to accept directly or indirectly, rewards in cash or kind for the customs services performed.
- (3) Customs officers are not allowed to carry on any kind of business, or advising activity, that is incompatible with the faithful performance of customs duties.

Article 10 (Movement of Goods)

~~Goods may cross the State border, and designated customs borders at customs warehouses, at duty free zones, in airports, and at any other facilities under customs control, only at customs areas staffed by customs officials.~~

Goods may enter or exit the customs territory only at a customs area staffed by customs officials.

Article 11 (Responsibilities of Customs)

- (1) Loading, unloading, movement, and transshipment of goods through specified customs borders [lines] as well as their release from a customs process, is carried out with the permission of Customs in accordance with Customs legislation.
- (2) Customs is responsible for:
 - i. determining the value of goods and collecting the related customs debt.
 - ii. Tariff classification of goods
 - iii. Supervising, detecting, reporting and preventing smuggling;
 - iv. detecting and evaluating violations of this law;
 - v. participating in preparing and signing international agreements and conventions in customs matters, in accordance with customs legislation;
 - vi. preparing, collecting and, upon agreement of the Minister of Finance, distributing foreign trade statistical data to the Ministry of Commerce and other public institutions;
 - vii. supervising customs goods, throughout the entire customs territory ~~of the state~~
 - viii. exercising customs control over customs areas,
 - ix. Enforcement of customs laws and regulations, including restrictions and prohibitions.
 - x. maintaining customs records
 - xi. carrying out all other activities determined in customs legislation.
- (3) In order to improve the enforcement of customs legislation, Customs, with the approval of the Minister of Finance may, subject to Article 13, sign agreements with state or non-state domestic or foreign, organizations, for exchanging information.

- (4) Customs shall establish customs verification teams to verify the conformity of the quantity and quality of the goods transported with the customs documents accompanying them at exit from border crossing points and in airports, as well as at the exit of the inland customs offices, and at the facility of importers. If the goods and transportation are in conformity with the customs documents, the customs verification team will confirm the customs documents and stamp them. If the goods and transportation are not in conformity with the customs documents, they will draw up the appropriate written report, and submit it to the relevant customs office for investigation.
- (5) Customs administrations shall assign mobile customs verification teams to verify customs compliance of transporters in the customs territory along roads. The members of the mobile teams shall examine the customs documents and the good upon presentation of their identity card and shall draw up the appropriate written report, to the relevant customs administration in accordance with the relevant procedures.
- (6) In cases of danger to health, or to the environment, Customs may, upon notice to the declarant have goods presented to Customs destroyed or removed from the area in accordance with relevant procedures.
- (7) When Customs receive information from other public authorities working in the customs territory ~~of the state~~ with regard to violations of customs legislation, Customs shall submit a written report, to the relevant customs administration for further investigation (rasidigi).
- (8) When police authorities ~~checksuspect~~ vehicles that have been sealed by Customs, ~~they may control the vehicle. In such a case, the~~ vehicle shall be transferred to the nearest customs office to obtain the agreement of Customs for removal of the seal and to perform controls (bazrasi). In this case, the police and customs will submit a written report to Customs for investigation.

Article 12 (Providing information)

- (1) Customs authorities may provide information free of charge to requesting parties concerning the application of customs legislation in the forms prepared by the Ministry of Finance, except when it pertains to an ongoing import or export operation or would be inconsistent with the secrecy provisions of Article 13.
- (2) In case the provision of information shall involve expense, customs authorities may collect the expenses from the applicant.
- (3) The Ministry of Finance may in prepared forms, when needed require the necessary information to be supplied by relevant persons.
- (4) Information provided by persons as required in section 3 is effective when signed.

Article 12A [Publication of Decisions]

- (1) Customs shall promptly make publicly available administrative decisions or rulings of general application by such means as shall enable traders and other interested persons to become acquainted with them.
- (2) Any administrative decision or ruling of general application that will result in the imposition of a higher rate of duty or other charge than the Minister of Finance shall find to have been applicable to imported goods under an established and uniform practice shall not be enforced before such decision or ruling has been published in the manner prescribed by the preceding paragraph.

Article 13 (Confidentiality)

The following information provided to Customs is covered by the obligation of professional secrecy and Customs will not disclose such information without permission of the person or government concerned and with legal authority to do so, or in connection with legal proceedings:

- 1- The valuation of a specific goods,
- 2- Details [e.g. names and addresses] of suppliers of goods,
- 3- The results of testing, and
- 4- Other information which is by nature confidential or which is provided to Customs on a confidential basis.

Article 13A (Record Keeping)

- (1) Any person who-
 - i. imports goods into, or export goods from, the customs territory, files a drawback claim, or transports or stores foreign goods, or
 - ii. knowingly causes the importation or transportation or storage of foreign goods or the exportation of domestic goods, or
 - iii. is an agent of any party described in subparagraph (i); or
 - iv. is a person whose activities otherwise require the filing of a declaration;

shall make, keep, and render for examination and inspection by the customs authority such records as pertain to any such activity and are normally kept in the ordinary course of business.
- (2) The persons concerned shall keep the documents referred to in paragraph (1) for the purposes of control by the customs authorities for at least three calendar years.

That period shall run from the end of the year in which:

 - i. in the case of goods released for free circulation or goods declared for export, from the end of the year in which the declarations for release for free circulation or export are accepted;
 - ii. in the case of goods released for at a reduced or zero rate of import duty on account of their intended use, from the end of the year in which they cease to be subject to customs supervision;
 - iii. in the case of goods placed under another customs procedure, from the end of the year in which the customs procedure concerned is completed;
 - iv. in the case of goods placed in a free zone or free warehouse, from the end of the year on which they leave the undertaking concerned.
- (3) Where a customs control in respect of a customs debt shows that the relevant entry in the accounts has to be corrected and the person concerned has been notified of this, the documents and information shall be kept for three years beyond the time limit provided for in paragraph 2 of this Article.
- (4) Where an appeal has been lodged or where court proceedings have begun, the documents and information must be kept for the period provided for in paragraph 2 of this Article or until the appeals procedure or court proceedings are terminated, whichever is the later.

Article 14 (Customs Controls Outside of Customs Offices)

Customs, when the needs of the trade so require and upon request of the person concerned, may allow customs controls to be carried out at the premises pertinent to the importer. The

Director of Customs for the area, taking into account the conditions, shall establish the cost of this service and collect them from the responsible person.

Article 15 : ~~Clearer of goods~~(The Declarant)

~~— (RIGHTS AND OBLIGATIONS OF IMPORTERS AND EXPORTERS)~~

~~Customs clearance of import and export goods shall be executed by the merchant or his legal representative or a customs broker licensed by Ministry of Finance, in accordance with the relevant procedures.~~

(1) ~~Only the following persons may submit a goods declaration and supporting documents for release of goods:~~

- ~~i. a customs broker, licensed by the Ministry of Finance in accordance with this law; or~~
- ~~ii. the owner or other person, established in Afghanistan, with right to dispose of the goods;~~

~~provided, however, where acceptance of a goods declaration imposes particular obligations on a specific person, the declaration must be made by that person or by his representative.~~

(2) ~~For purposes of this article, an owner or other person with right to dispose of goods shall include:~~

- ~~i. the importer of the goods, where declared for free circulation,;~~
- ~~ii. the exporter of the goods, where declared for exportation; and~~
- ~~iii. the carrier of the goods, where declared for transit.~~

(3) ~~Notwithstanding the proviso set out in subsection (1), such persons may act as a declarant.~~

(4) ~~Postal goods referenced in Article 42 of this law and goods imported by travellers mentioned in Article 45 of this la shall be an exception to this rule. (the amendment to this Article is publisehd in Official Gazette # 923, dated, 10, 04, 1386.)~~

~~— (1) Importers and exporters of goods shall execute the customs clearance of the relevant import and export of goods by a customs broker licensed by the Ministry of Finance.~~

~~(2) The provisions of paragraph 1 do not apply to Postal goods and goods imported by travelers pursuant to Articles 42 and 45 of this law.~~

Article 16 (Brokerage)

(1) Brokerage is a non-governmental business which persons may carry out upon obtaining a license from the Ministry of Finance

(2) The conditions for obtaining the license and the rights and obligations of the customs broker shall be regulated by separate rules (loyaha) approved by the Ministry of Finance.

Article 17 (Taking of Decisions)

(1) Customs may make a decision with regard to a particular customs transaction in accordance with customs legislation upon the request of the person concerned. The applicant must furnish and complete information and documents required by customs to make the decision.

- (2) Customs are obliged to take the decision mentioned in Section 1 within a maximum of 30 days and announce it to the applicant.
- (3) In case the customs decision mentioned in section 2 is detrimental to the interests of the applicant or any other [interested] party, Customs shall notify their decision in writing together with the reasons to the applicant and shall explain that the applicant has the right to object.

Article 17A (Revocation and Annulment of Decisions)

1. Customs shall annul a decision if it was issued on the basis of incorrect or incomplete information from the applicant.
2. Customs may revoke a decision at any time where the decision does not conform with customs legislation, or one or more of the conditions under the decision was issued were not or are no longer fulfilled.
3. Customs shall notify the person to whom the decision was issued of its annulment or revocation.

Article 17B (Binding Decisions)

1. Customs shall issue binding decisions on the country-of-origin of imported goods. Customs may issue binding decisions concerning the application of other customs legislation.
2. A binding decision on country of origin of goods shall remain valid for three years from date of its issuance.
3. The provisions of Articles 17A and 17B shall apply *mutatis mutandis* to binding decisions. Customs may by regulation adopt measures for the implementation of this Article.

Article 18 (Review of Customs Decisions)

- (1) A customs decision may be reviewed upon submission of an application by the applicant. In case a decision was due to the submission of incorrect information by the applicant, review will not be permitted except in accordance with Article 186.
- (2) Customs decisions mentioned in paragraph 1 shall be enforceable and the customs debt assessed (other than penalties paid in accordance with Article 186) shall be collected and shall remain in trust (taht amanat) until final decision
- (3) An interested party may request a review of a disputed customs through any competent regional customs authority to the General Directorate of Customs, within 10 days from the day of notification of the decision by Customs. The General Directorate of Customs must issue a decision within 20 days of its receipt of **unless delay in the decision is due to an omission by the applicant.** If the decision is adverse to the interests of the appellant, the General Directorate shall notify the appellant in writing with reasons for the decision and inform the appellant of rights of further appeal. In the event the General Director of Customs does not issue a decision within this time period, the request shall be presumed to have been decided in favor of the person making it.
- (4) In case of an objection to a decision made by the General Directorate of Customs or the rejection of the request by the General Directorate of customs, it may be submitted to the Customs Arbitration Administration or to a court of competent jurisdiction, at the option of the applicant.
- (5) An objection to a customs decision shall be made by filing a notice of objection mentioned in paragraph 4 and it shall be presented to the Customs Arbitration Administration or the

[court of competent jurisdiction](#) within fifteen days of receiving a customs decision from the General Directorate of Customs, along with security for costs in the amount of 2 percent of the contested amount.

- (6) [Where an objection referenced in paragraph 4 is submitted to a court of competent jurisdiction, any objection against the same decision of the General Directorate of Customs submitted to the Customs Arbitration Panel shall be rejected.](#)
- (7) [No person shall be subject to a fine or penalty or threat thereof for the reason that the person has exercised a right of appeal under this Article. The security for costs described in paragraph \(5\) of this Article, and payment of a customs debt described in paragraph \(2\), shall not be considered a fine or penalty.](#)

Chapter three

TAKING CARE OF AN OBJECTION

Article 19 ~~*(Arbitration)*~~ ***Review of administrative penalties of smuggling***

[Administrative penalties for smuggling mentioned in Article 170 of this law shall be imposed upon consent of the parties, otherwise, the issue shall be referred to Customs Arbitration Administration. \(This article was moved as it was previously as it is related to Article 18.](#)

~~**The Customs Arbitration Administration will be established within the framework of the Ministry of Finance for the purpose of taking care of objections to the decisions of Customs. The Arbitration Administration shall be composed of three members to be appointed upon proposal of the Minister of Finance by the Head of State.**~~

Article 20 (Customs Opinion)

- (1) The opinion of the Customs Arbitration Administration shall be final and enforceable where the amount of customs debt in dispute is up to 50000 Afghani, [absent referral by the protestant to the relevant commercial Court.](#)
- (2) If the amount of the customs debt in dispute is greater than Afghani 50,000 [either of](#) the parties may in cases when dissatisfied refer the opinion to the relevant commercial Court. The order of court shall be final and enforceable.
- (3) [Article 17 shall apply *mutatis mutandis* to decisions of the Customs Arbitration Administration.](#)

Article 21 (Finality of an opinion)

Administrative fines for smuggling agreed by the parties (tarazi tarfin) pursuant to Article 170 shall, in accordance with the relevant procedure, be submitted to the Customs Arbitration Administration which shall determine solely whether the settlement is consistent with Article 170.

Article 22 (Method of Executions)

The manner of taking care of the objections sent to the Customs Arbitration Administration shall be regulated in a separate regulation.

CHAPTER FOUR

CUSTOMS TARIFF AND VALUATION OF GOODS

Article 23 (The Customs Tariff)

- (1) The customs tariff is a document enacted in accordance with this law which determines the import and export duty of goods based on their classification.
- (2) The Customs Tariff **rates** shall be approved by the Minister of Finance upon the recommendation of the General Director of Customs.
- (3) No treaty, international agreement, law (other than this law), regulation or other legislative document shall affect the Customs Tariff, unless the change is implemented through an amendment or annex to the Tariff.
- (4) The General Directorate of Customs is responsible for carrying out the tariff classification of goods concerning description and coding in accordance with the Harmonized System of the World Customs Organization and for assessing any corresponding duty under the Customs Tariff.

Article 23A (Primary Method of Customs Valuation)

1. The primary basis for the customs value of goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the customs territory of Afghanistan, adjusted, where necessary, in accordance with Article 23D and Article 23E.
2. The price actually paid or payable is the total payment made or to be made by the buyer to the seller or by the buyer to a third party for the benefit of the seller for the imported goods and includes all payments made or to be made as a condition of sale of the imported goods.
3. The transaction value shall apply provided that the following conditions are satisfied:
 - (a) there are no restrictions as to the disposal or use of the goods by the buyer, other than any of the following:
 - (i) restrictions imposed or required by a law or by the public authorities in Afghanistan;
 - (ii) limitations of the geographical area in which the goods may be resold;
 - (iii) restrictions which do not substantially affect the customs value of the goods;
 - (b) the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
 - (c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made pursuant to Article 23D;
 - (d) the buyer and seller are not related or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of Article 23C.

Article 23B (Secondary Methods of Customs Valuation)

1. Where the customs value of goods cannot be determined under Article 23A, it shall be determined by proceeding sequentially from point (a) to paragraph 2(d) of this Article, until the first point under which the customs value of goods can be determined.
[The order of application of points (c) and (d) shall be reversed if the declarant so requests.]
2. The customs value, pursuant to paragraph 1, shall be:
 - (a) the transaction value of identical goods sold for export to the customs territory of the Afghanistan and exported at or about the same time as the goods being valued;
 - (b) the transaction value of similar goods sold for export to the customs territory of the Afghanistan and exported at or about the same time as the goods being valued;
 - (c) the value based on the unit price at which the imported goods, or identical or similar imported goods, are sold within the customs territory of the Afghanistan in the greatest aggregate quantity to persons not related to the sellers;
 - (d) the computed value.
3. Where the customs value cannot be determined under paragraph 1, it shall be determined, on the basis of data available in the customs territory on the Afghanistan, using reasonable means consistent with the principles and general provisions of the following:
 - (a) the agreement on implementation of Article VII of the General Agreement on Tariffs and Trade;
 - (b) Article VII of General Agreement on Tariffs and Trade;
 - (c) this chapter.
4. No customs value shall be determined under the provisions of paragraph (3) of this Article on the basis of:
 - (a) the selling price in Afghanistan of goods produced in Afghanistan;
 - (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
 - (c) the price of goods on the domestic market of the country of exportation;
 - (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of paragraph (2)(d);
 - (e) the price of the goods for export to a country other than the country of importation;
 - (f) minimum customs values; or
 - (g) arbitrary or fictitious values.
5. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of paragraph 3 and the method used to determine such value.

Article 23C (Related Party Sales)

1. In determining whether the transaction value is acceptable for the purposes of Article 23A, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value as unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, Customs has grounds for considering that the relationship influenced the price, it shall communicate the grounds to the declarant and the declarant shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be in writing.
2. In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with Article 23A wherever the declarant demonstrates that such value closely approximates to one of the following occurring at or about the same time:
 - (a) the transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Afghanistan;
 - (b) the customs value of identical or similar goods, as determined under Article 23B(2)(c);
 - (c) the customs value of identical or similar goods, as determined under Article 23B (2)(d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 23D and costs incurred by the seller in sales in which he and the buyer are not related and where such costs are not incurred by the seller in sales in which he and the buyer are related.
3. The tests set forth in paragraph 2 are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said paragraph.

Article 23D Additions to the Price Paid or Payable

1. In determining the customs value under Article 23A, there shall be added to the price actually paid or payable for the imported goods:
 - (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
 - (i). commissions and brokerage, except buying commissions,
 - (ii). the cost of containers which are treated as being one, for customs purposes, with the goods in question,
 - (iii). the cost of packing, whether for labor or materials;
 - (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

- (i). materials, components, parts and similar items incorporated in the imported goods,
 - (ii). tools, dies, moulds and similar items used in the production of the imported goods,
 - (iii). materials consumed in the production of the imported goods,
 - (iv). engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in Afghanistan and necessary for the production of the imported goods;
 - (c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
 - (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
 - (e) (i) the costs of transport and insurance of the imported goods, and (ii) loading, unloading, and handling charges associated with the transport of the imported goods, to the place of introduction into Afghanistan.
2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.
 3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Article 23E Exclusions from Customs Value

Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:

- (a) charges for the transport of goods after their arrival at the place of introduction into Afghanistan;
- (b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;
- (c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:
 - (i). such goods are actually sold at the price declared as the price actually paid or payable, and
 - (ii). the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- (d) charges for the right to reproduce imported goods in Afghanistan;
- (e) buying commissions;

- (f) import duties or other charges payable in Afghanistan by reason of the importation or sale of the goods.

Article 24 (Valuation of Goods)

~~(1) The customs value of goods for the purpose of collecting customs debts shall be determined by relevant customs authorities in accordance with a separate regulation to this law.~~

(1) Customs shall by regulation specify the elements which, for the purposes of determining the customs value, must be added to the price actually paid or payable, or which may be excluded, and any other conditions, provisions or rules necessary for the application of Articles 23A and 23B.

(2) In order to combat false valuation of certain goods with suspicious values, General Directorate of Customs may, subject to Afghanistan's obligations under the international agreements referenced in paragraph 3 of Article 23B, determine their minimum value in accordance with the relevant procedures.

(3) A list of the goods mentioned in paragraph 2 above and specific values assigned to them shall be published.

Article 25 (Exchange Rate)

- (1) The value of goods according to customs legislation shall be computed in Afghan currency. When the value of goods is expressed in foreign currency and there is need to determine customs value, the value of goods shall be determined in accordance with the Da Afghanistan Bank exchange rate.
- (2) The exchange rate shall be the rate announced by The Afghanistan Bank on the last working day of the month and shall be valid for a period starting from the 6th day of every month and ending on the 6th day of the following month.
- (3) Whenever the exchange rate published by the Da Afghanistan Bank differs by 5% or more from the rate announced in accordance with paragraph (2) of this article, a new rate will be provided and it shall be effective from the second working day following its announcement and notification to Customs as the rate effective for the rest of that period.

Article 26 (Perishable Goods)

The customs value for perishable goods, at the request of the declarant, shall be determined by the Director of Customs of the area [mahal] in accordance with customs legislation, without applying the valuation criteria established for other goods

CHAPTER FIVE

FAVOURABLE TARIFF

Article 27 (Cases for Granting Favourable Tarrifs)

- (1) A favorable tariff shall be granted as provided in customs legislation in accordance with Article 23(3), and in the cases referred to in paragraph 2.
- (2) The following imported goods shall be exempted from paying customs duty:
 - i. Goods imported by officials of the State during official travels not in excess of Afghani 100,000 as provided by the Customs Tariff.
 - ii. Office materials and equipment of political representatives and international agencies, intended to be used in residences and offices of representatives of foreign countries in Afghanistan, after confirmation of permission to do so by competent authorities.
 - iii. Items intended for personal use by foreigners working in Afghanistan according to the terms and conditions of their contract.
 - iv. Permitted books, gazettes, magazines and newspapers for schools, universities, and other academic institutions, upon approval by the relevant entity.
 - v. Goods provided for government projects funded by loans or imported into the country by or for public and private foreign and International relief and development agencies, upon approval by the relevant entities~~approved by the government.~~
 - vi. Personal effects used by Afghan delegations or Afghan international workers and their family members while abroad.
 - vii. Travelers' personal goods in accordance with the ~~Customs Tariff~~ relevant procedures.
 - viii. Commercial samples and advertising gifts.
 - ix. Post parcels valued at Afghani 5000 or less. The receiver of such parcels may enjoy such exemption for a maximum of 4 parcels per annum.
 - x. honorary decorations or awards;
 - xi. samples sent to organizations protecting copyrights or industrial or commercial patent rights;
 - xii. Used movable property belonging to natural persons, who transfers their normal place of residence from another country to the State, as provided in the ~~Customs Tariff~~ Regulation on Refugees;
 - xiii. a consignment of less than ~~Afghani 1000~~ 5000 total value;
 - xiv. Pure-bred breeding animals and insects and laboratory animals; biological or chemical substances needed for scientific researches, after approval by the relevant entity;
 - xv. therapeutic substances of human origin and blood grouping and tissue typing reagents, after approval by the relevant entity;
 - xvi. substances for the quality control of medicinal products, after approval by the relevant entity;
 - xvii. Fuels, lubricants and equipments carried with and necessary for the normal functioning of transport vehicles in accordance with the relevant procedure.

- xviii. Non-profit organizations shall be entitled to exemption from customs duty in accordance with the law on NGOs and the relevant laws. For-profit organizations shall be entitled to exemption from customs duty only so provided in the contract between such organization and the body which funds the project. The manner for awarding exemptions shall be regulated by the relevant procedures.
- xix. Other goods may be included as in the list of exempted goods provided in this Article upon recommendation of Minister/Ministry of Finance and approval of Council of Ministers as required.

Article 28 (Request for a Favourable Tariff)

- (1) To obtain the benefits of a favorable tariff a declarant may present a request before or after completion of the customs process.
- (2) If a favorable tariff is restricted to a certain volume of imports, it ceases to be valid in the following conditions:
 - i. quotas, when the stipulated limit on the volume of imports is reached;
 - ii. Tariff ceilings, according to specific provisions in the law.
- (3) The manner, and the conditions on which a favorable tariff is granted, any quantitative or value-based limits on imported goods or benefits based on their origin, nature, or end-use, shall be determined in a separate procedure.

CHAPTER SIX **ORIGIN OF GOODS**

Article 29 (Production of Goods in a Country)

- (1) When goods are wholly originated or produced in a country, that country shall be known as the origin of those goods. Such goods includes:
 - i. mineral products extracted within that country;
 - ii. vegetable products harvested therein;
 - iii. live animals born and raised therein;
 - iv. products derived from animals raised therein;
 - v. products of hunting or fishing carried on therein;
 - vi. products of sea fishing and other products taken from the sea outside a country's territorial waters by vessels flying the flag of that country and registered or recorded therein;
 - vii. goods obtained or produced from the products referred to in subparagraph (6) on board factory ships which fly the flag of that country and are registered or recorded therein;
 - viii. products taken from the seabed or subsoil beneath the seabed outside the territorial waters provided that the country has exclusive rights to exploit that seabed or subsoil;

- ix. waste and scrap products derived from manufacturing operations and from used articles, provided that they were collected therein and are fit only for the recovery of raw materials;
- (2) Goods, which are obtained or produced wholly from goods referred to in paragraph (1), or their derivatives at any stage of production.

Article 30 (Production of Goods in More than one Country)

Goods whose production involves more than one country shall be deemed to originate from the country where they underwent their last substantial processing [transformation].

Article 31(Certificate of Oorigin)

- (1) The manner of Certification of a document proving the origin of goods shall be arranged in accordance with separate procedures.
- (2) Certification of documents proving the origin of goods may be issued by the responsible authorities for the region in which the goods were produced.
- (3) In case the custom authorities have doubt with regard to a certificate of origin, such authorities may require additional proofs ensuring that the documents of origin comply with customs legislation.
- (4) The procedure referred to in paragraph (1) of this article shall provide the conditions under which a country is considered as the origin of goods which shall be applied in the following cases:
 - i. to implement the Customs Tariff, excluding the measures referred to in Article 23(2) of this law; and
 - ii. To implement State measures restricting trade in particular goods.

Article 32 (Preferential Origin)

The preferential conditions for determination of the origin of goods for purposes of taking advantage measures contained in international agreements, as well as the method of issuing certificates of preferential origin, shall be arranged in a separate procedure.

Article 33(Return of Goods)

- (1) Afghan or non-Afghan goods that have been released for free circulation in the State, which, after having been exported there from, are then brought back into the customs territory of the State are referred to as "returned goods." Returned goods which have been processed outside of Afghanistan shall be subject to the conditions of the process of outward processing.
- (2) Goods which within three years of export are returned to the customs territory of the State for purposes of release for free circulation, shall at the request of the person concerned be exempt from import duty. The General Directorate of Customs may extend this period in light of special circumstances;
- (3) When, prior to their exportation from the customs territory of the State, the returned goods had been released for free circulation at a favorable tariff because of their use for a

particular purpose, exemption from duty under paragraph 1 shall be granted only if they are to be re-imported for the same purpose.

- (4) Any import duty paid on goods when they were first released for free circulation shall be credited against the amount of import duty chargeable when the same goods are returned.

CHAPTER SEVEN

PRESENTATION OF GOODS AT CUSTOMS

Article 34 (Entry and Exit of Goods)

- (1) The time of entry or exit is considered to take place when goods, cross the State border to enter or leave the customs territory ~~of the State~~.
- (2) The driver of a commercial means of transport entering or leaving the customs territory ~~of the State~~, must submit to the customs a manifest of the goods carried on the means of transport before:
 - i. the captain of an aircraft or vessel, when the goods can be removed from the aircraft or vessel; or
 - ii. any other means of transport, when the vehicle enters into the customs territory ~~of the State~~.
- (3) A Manifest of Goods need not contain details about the goods of travelers who are themselves required to make a declaration under Article 45.
- (4) A “Manifest of Goods” shall contain information regarding the nationality, flag, and crew of the means of transport, as well as all the information necessary for the identification of the cargo, as provided for in a separate procedure.
- (5) Goods brought into the customs territory ~~of the State~~ shall, at the time of their entry, be subject to customs supervision and control by the customs. Such goods shall not be moved without the permission of the customs.
- (6) Goods shall remain under customs control and supervision until determination of their final customs designation.

Article 35 (Place for Presentation of Goods)

The General Directorate of Customs shall specify a place for *Presentation of goods and their transfer to customs*. The time for completing any transfer of imported goods from the border customs sites to the approved place, and the routes permitted therefore, shall be provided in a separate procedures.

Article 36 (Transportation Obstacles to Presentation of Goods)

- (1) When, by reason of unforeseeable circumstances or force majeure, the owner of goods can not transfer the goods to the location specified in Article 35, the owner of goods shall be obliged to inform the customs authority of the situation. Where the unforeseeable

circumstances or force majeure do not result in total loss of the goods, such person is also obliged to inform the Customs of the precise location of the goods.

- (2) Article 35 shall not apply to goods on board vessels or aircraft crossing the customs territory that do not call at a port or airport situated in the customs territory; provided, however, when by reason of unforeseeable circumstances or force majeure, an aircraft is forced to enter or land temporarily in the customs territory ~~of the State~~, the captain of his representative, shall be obliged to report the situation immediately to Customs.
- (3) Customs shall be obliged to take the measures necessary to enable the customs supervision of goods mentioned in this Article, ensuring that they are subsequently conveyed to a customs office or other designated places .

Article 37 (Presentation of Air Shipments at the Airport of Final Destination)

- (1) When goods are brought into the customs territory ~~of the State~~ from another country by air, and are consigned under cover of a single transport document by the same mode of transport to another airport in Afghanistan, they shall be presented at customs, without delay, at the airport where they are unloaded.
- (2) Specific provisions regarding customs control, supervision and other customs executions at the time of entry and exit for goods from the customs territory ~~of the State~~ are laid down in a separate procedure.

Article 38 (Presenting Manifests to Customs)

- (1) Aircrafts carrying imported or exported goods fly in air corridors (*dahlez hawai*) designated, in accordance with the Law of Civil Aviation, and must land and take off only from international airports approved for international flights.
- (2) The captain of an aircraft carrying goods and destined to leave Afghanistan, must present customs officer the customs declaration or manifest of goods on board to be exported from the customs territory ~~of the State~~. Customs must verify that the goods so indicated in the manifest of declaration correspond to those on board the aircraft.

Article 39(Customs Supervision on Aircraft)

- (1) Aircraft, flight crew and cabin crew, travelers, crew luggage, traveler baggage, and transported goods, except as provided in Article 37(1), are subject to customs supervision at the first airport of arrival in Afghanistan.
- (2) An airport authorized for international traffic in accordance with Civil Aviation Law, is subject to customs supervision.
- (3) The Captain of an aircraft must, as soon as the aircraft lands at an authorized airport, submit to the customs office a manifest of all goods carried on the aircraft, except for goods mentioned in Article 34(3).
- (4) The provisions of paragraphs (1), (2) and (3) of this article, shall also be applicable whenever an aircraft is departing to a destination outside the country.

Article 40 (Exemption from Obligations to Present a Manifest)

The following shall not present a manifest to the customs:

- i. aircraft flying from one airport to another in Afghanistan unless they have any stops at an airport outside Afghanistan or transport goods subject to the customs control and supervision;
- ii. private aircraft for personal use which is not carrying goods subject to customs control and supervision

Article 41 (Aircraft's Forced Landing)

If, in cases of emergency or *force majeure*, an aircraft has to land at an airport not authorized for receiving international air traffic, the captain of the aircraft must, immediately after landing and stopping, inform the nearest customs authority, which shall place the aircraft, cabin, flight crew, travelers and goods under customs supervision.

Article 42 (Customs Declaration for Postal Goods)

- (1) All postal goods containing consignments for commercial purposes as well as postal goods containing consignments of an aggregate value, for each consignment exceeding the threshold value of Afghani 5000, or other value as may be provided in the relevant procedures, are subject to a customs declaration.
- (2) Postal goods shall be accepted and delivered between a foreign post office and the State's Post office under customs supervision. In case of regular consignments by small package freight shippers, the General Directorate of Customs may authorize immediate release of goods under a security and subsequent submission of an appropriate declaration covering, all goods imported within a fixed period of time as provided by the Procedure.
- (3) Postal shipments shall remain under customs supervision while customs requirements are completed in the post office. The Postal and Parcel Directorate of Customs shall designate post offices where the customs requirements may be completed.

Article 43 (Exemption from Declaration)

The following postal consignments do not require a declaration:

- i. postcards and letters containing personal messages only;
- ii. printed matters not liable for import duty;
- iii. all other consignments sent by letter or parcel post, which have no commercial value.

Article 44 (Export Postal Shipments)

Pursuant to export provisions of this Law and international regulations, the Directorate of Customs may prescribe restrictions and special conditions on postal shipments sent abroad.

Article 45 (Customs Control of Travelers Luggage)

- (1) When entering or leaving Afghanistan, travelers are obliged to declare goods in their possession to Customs, and show them upon request.
- (2) Customs authority may inspect the goods for the purpose of verifying the declaration referred to in paragraph 1 with the goods.

- (3) Goods carried by diplomatic couriers, and certified in writing by their relevant agencies shall not be subject to the provisions of Articles 42 to 44.

Article 46 (Presentation of Goods at the Determined Location to Customs)

Goods which arrive at the place for *Presentation of goods at customs* shall be presented, without delay, except for delay due to no fault of the person presenting the goods. Any person who makes a presentation of goods at customs shall provide within the time limit prescribed any required declaration, documents, or information, and shall provide all necessary assistance as may be requested by the customs .

Article 47 (Goods Verification and Taking of Samples)

- (1) During presentation of goods at customs, an officer of the Customs may take a sample of the goods, to assign them a tariff classification, or customs designation. The taking of samples may also be made at the request of the owner of goods or his agent.
- (2) The importer, exporter or their agent shall be entitled to be present when samples are taken, and are obliged to be present when instructed by customs authority;
- (3) The sample shall be examined in a place designated and during the hours prescribed by the General Directorate of Customs; where the samples are not destroyed during the examination, they will be returned to the owner or his agent, otherwise the Customs shall not be liable for the payment of compensation.
- (4) The owner or agent responsible for the goods shall be responsible to pay the cost of transferring to the examination sites, unpacking, weighing, repacking and any other operation involved in the sampling and examination process.

Article 48 (Submission of a Summary Declaration)

~~The person who brought the goods into the customs territory or owner of goods~~ or his agent shall submit a summary declaration within one hour after the *presentation of goods at customs* in accordance with the relevant procedure. The customs may allow an additional period for submitting the declaration, until the first working day following the day of presentation of goods at customs.

- (1) Customs shall be obliged to retain the summary declaration. Goods entered in the summary declaration will be placed in temporary storage pending the presentation of a ~~completed~~ customs declaration.

If a ~~completed~~ customs declaration has been submitted prior to the expiry of the period referred to in paragraph I of this Article, ~~the owner of the goods or his representative shall not be obliged to submit~~ a summary declaration shall not be required, provided that customs supervision and customs control possibilities are not thereby jeopardized.

The owner of the goods or his representative and travelers shall not be required to file a summary declaration for goods described in Article 42.2 of this law, unless this would jeopardize customs supervision of the goods.

Article 49 (Unloading and Transshipping at Designated Sites)

- (1) Goods shall be unloaded or transshipped from the means of transport carrying them at designated places with the permission of Customs, except where there is imminent danger necessitating the immediate unloading of all or part of the goods. In the latter case, the owner of goods or his agent shall immediately inform Customs.
- (2) Customs may at any time require goods to be unloaded and unpacked in order to inspect the goods and their means of transport. The person who introduced the goods or his agent shall be entitled to be present while the goods are examined.
- (3) Customs are obliged to notify their intention to proceed with the examination to the person responsible or his agent. If within two hours there is no reply, Customs may proceed with the examination of goods in their absence.

CHAPTER EIGHT **TEMPORARY STORAGE OF GOODS**

Article 50 (Places of Temporary Storage)

- (1) From the moment of acceptance of the summary declaration and until the time of acceptance of the customs declaration referred to in Article 55 of this Law, such goods shall be considered as “goods in temporary storage”. Goods in temporary storage shall be stored in customs areas or any other place determined ~~by Customs~~ Customs.
- (1) Good referred to in paragraph (1) shall not be subject to any form of handling. The provisions of article 47 of this law and such forms of handling as are designed to ensure their preservation in the original state ~~(without~~ (without modifying their appearance or technical characteristics) shall be an exception to this rule.
- (2) The customs authorities may require the ~~owner of the goods or his agent~~ person holding the goods to provide security with a view to ensuring payment of any customs debt and fulfillment of his obligations provided for by this law

Article 51 (Removing Goods from Temporary Storage)

- (1) If the summary declaration is not submitted within the periods determined in accordance with Article 48, the Director General of Customs shall, taking into account Article 54(3), without delay take all measures necessary, including, after providing notice to person responsible for goods, for the purpose ~~of sale of sale~~ of, or assigning a customs designation for, the goods left at customs, in accordance with the relevant procedure.
- (2) Customs may, at the expense of the owner of the goods, transfer the goods mentioned in paragraph 1 to a place which is under customs supervision, and keep them there until a determination is made concerning the sale or customs designation of the goods.

Article 52 (Non-allowed Goods)

- (1) Customs authorities who believe that the goods are smuggled according to the provisions of this law shall upon final decision by a responsible authority, take measures for sale or other authorized action with respect to the goods.
- (2) Goods that are prohibited in accordance with 53(2) shall be seized by customs authorities, and treated in accordance with Paragraph. 1
- (3) Customs, upon request of the holder of a trademark or patent or other proprietary rights in accordance with the relevant procedures, may prohibit the release into free circulation, and the exportation of goods, provided that they are recognized in accordance with applicable Law to be counterfeited or pirated goods.

CHAPTER NINE **CUSTOMS DECLARATION**

Article 53(Assigning a Customs Designation for Non-afghan Goods)

- (1) Customs are obliged to assign a customs designation for Non-Afghan goods presented at customs in accordance with customs legislation.
- (2) Customs may, for reasons of public morality, public security, protection of environment, health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property and other state policies, ~~may~~ adopt prohibitions or restrictions in accordance with relevant legislative instruments.

Article 54 (Time Period for Completing a Customs Declaration)

- (1) The declarant is obliged to complete required customs declarations ~~within~~within a maximum of 5 days from the date on which the summary declarations were submitted, in accordance with the relevant procedures.
- (2) Where circumstances so warrant, Customs may set a shorter period or authorize an extension to the periods referred to in paragraph 1.
- (3) A declaration covering goods to be imported may be made before the arrival of the goods provided that the goods have already been loaded on board the vessel, aircraft, or vehicle transporting those goods to Afghanistan.
- (4) The temporary storage period shall be 30 days. Goods may be subject to storage fees if kept up to 6 months. Upon the termination of such period, the goods will be put on auction accordance with the customs procedures on auctions. The duty (if not paid), storage fees, and costs of the auction shall be deducted from the sales proceeds and remaining shall be submitted to the owner or deposited in a trust account in order to be paid to the owner upon request.
- (5) ~~and it will terminate at any time that duties, storage and other obligations accrued under this law equal the value of the goods. In no event shall the period be extended in the absence of a complete report by the responsible customs authority to the General Directorate of Customs justifying the delay.~~

Article 55 (Declaration of the Goods for a Customs Process)

- (1) A request to place goods under an initial customs process or for release of goods shall be made in the customs declaration.
- (2) Customs declarations must be made in accordance with the customs requirements in one of the following acceptable formats:
 - i. In writing ; or
 - ii. By an oral declaration
 - iii. Using data-processing techniques; or
 - iv. any other act by which the person responsible for the goods expresses his wish to place goods under a Customs designation or process
- (3) The customs declaration shall be accompanied by the customs documents required in accordance with the relevant procedure governing the requested customs designation or process.

Article 56 (Acceptance of the Declaration)

- (1) Declarations ~~, which are prepared or submitted by the person responsible for goods~~ in compliance with the conditions laid down in Article 55 shall be accepted by Customs without delay, provided that the goods to which they refer can be made available for customs inspection.
- ~~(2) Where acceptance of a customs declaration requires the fulfillment of additional obligations by persons, such person shall sign it upon being required by Customs to do so.~~

Article 56A (Incomplete and Provisional Declarations)

1. If the declarant so requests, Customs may accept a declaration that does not contain all of the information required, or which is not accompanied by all documents necessary, for the customs procedure in question, or which contains provisional information.
2. Acceptance of an incomplete or provisional declaration shall be conditioned on the declarant's provision of the minimum information deemed necessary by Customs for control and release of the goods.
3. The declarant shall be required to provide the complete information within a period specified by Customs.
4. Release of the goods under a incomplete or provisional declaration shall not be delayed provided the declarant has furnished a security to ensure collection of any applicable duties and taxes that may be due, if required by Customs.
5. Customs shall by regulation adopt the measures necessary to implement this Article.

Article 57 (Voluntary Amen~~de~~ment or Withdrawal of Declarations)

- (1) The declarant may amend one or more of the particulars of the accepted declaration, in case of unintentional error, or to make a change in the customs designation or process of the goods, or to withdraw the customs declaration, provided that the amendment or withdrawal does not apply to goods other than those originally covered.
- (2) No amendment or withdrawal shall be permitted in the following circumstances:
 - i. during the period after Customs have informed the declarant that they intend to examine the goods; or,

- ii. if Customs have established that the declaration has been prepared in violation of chapter 14 of this law.
- iii. [Customs has released the goods.](#)

Article 58 (Verification of the Declaration)

Customs may verify any customs declarations and attached documents and may require the declarants to present other documents, or examine the goods and take samples for analysis or for detailed examination.

Article 59 (Composite Declaration)

The declarant may file a single declaration form covering two or more types of goods. In such case the particulars relating to each type [of goods](#) shall be deemed to constitute a separate declaration.

Article 60 (Partial Control)

Where only parts of the goods covered by a declaration are examined or sampled, the results of the partial examination shall be taken to apply to all the goods covered by that declaration, [subject to the provisions of Article 59](#). The declarant may request a further examination of the goods if he is not satisfied with the results obtained.

Article 61 (Identification of the Goods)

- (1) Customs shall for the purpose of complying with the procedure for assigning a customs designation or process for the goods included in the declaration, identify the goods when required and assure themselves.
- (2) Labeling which is affixed to goods under customs supervision for the identification of the goods, shall be removed or destroyed only by Customs, or with their permission. The person responsible for goods may remove or destroy such labeling in unforeseeable circumstances or force majeure, provided that he proves the occurrence of force majeure.

Article 62 (Release of Goods)

- (1) Where the goods are placed under a customs designation or process in [accordance](#) with this law, Customs shall release the goods as soon as they [have verified the](#) particulars in the declaration ~~have been verified~~ to their satisfaction [or decided not to verify the declaration](#).
- (2) ~~Release Assigning an initial customs designation, or release from any transit process~~ of all goods covered by the same declaration shall take place at the same time [subject to the provisions of Article 59](#).
- (3) Goods shall not be released unless a customs debt due, penalties due, and any other obligations (*eltazamat*) under this law, have been paid or security ~~or assurances are~~ provided.
- (4) Paragraph 3 shall not apply to ~~amounts of the customs debt not yet due for~~ goods [released under](#) ~~in~~ the temporary importation [with partial duty relief](#) process, [subject to paragraph 4](#).

- (5) Where, pursuant to the provisions governing the customs procedure for which the goods are declared, Customs require the provision of a guarantee, those goods shall not be released for the customs procedure in question until such guarantee is provided.

Article 63 (Goods *In*eligible for release)

- (1) Customs may take possession, and dispose of in accordance with law, of the following goods
- i. Goods ineligible for release ~~shall be goods for which because:~~
 - it has not been possible to undertake or continue examination within the period prescribed for reasons attributable to the declarant; or,
 - customs have not been presented the customs documents required for a requested customs process; or,
 - payments due for customs duty, or security, or other arrangements, have not been made or provided within 3 days after being placed in a designation; or,
 - ii. goods are not removed from customs facilities within 10 days after their release; or
 - iii. goods have been the subject of termination of temporary storage in accordance with Article 54(3); or
 - iv. goods have been determined as being subject to prohibitions included in paragraph (2) article 53 of this law, provisions of smuggling or confiscation orders_s by the competent authorities referred to in this law.
- (2) Customs in accordance with the relevant procedures, shall be authorized to impose additional storage charges, seize or sell the goods referred to in paragraph (1), provided that they make prior notification to the person responsible for the goods.

Article 64 (Customs Amendment or *In*validation of *D*clarations)

- (1) Customs may amend or invalidate the declaration after release of the goods where the designation was made on the basis of incorrect or incomplete information.
- (2) In cases where the declarant provided the information referred to in paragraph 1, incorrectly in violation of Articles 166(2) and 172, the customs shall apply the designated sanctions provided for in Articles 166 and 173 and assign a new customs designation on the basis of the correct and complete information.

Article 64A (Simplified Procedures for Authorized Persons)

- (1) Customs may allow authorized persons to use simplified customs formalities and controls, which may include:
- i. release of the goods on the provision of the minimum information necessary to identify the goods and permit the subsequent completion of the final goods declaration;
 - ii. clearance of the goods at the declarant's premises or another place authorized by the Minister;
 - iii. allowing a single goods declaration for all imports or exports in a given period where goods are imported or exported frequently by the same person;
 - iv. use of the authorized persons' commercial records to self-assess their duty and tax liability and, where appropriate, to ensure compliance with other customs laws; or

- v. allowing the lodgement of the goods declaration by means of an entry in the records of the authorized person to be supported subsequently by a supplementary declaration.
- (2) The Ministry of Finance shall by regulation adopt measures necessary for implementation of this Article, including rules in respect of the following:
- i. the granting of any authorizations referred to in paragraph (1);
 - ii. the cases in which review of the authorizations is to be carried out and the conditions under which their use is to be monitored by the Customs;
 - iii. the conditions under which the authorizations are granted;
 - iv. the conditions under which a person may be authorised to carry out certain customs formalities which should in principle be carried out by the Customs, including the self-assessment of import and export duties, and to perform certain controls under customs supervision;
 - v. the conditions under which the authorizations may be suspended or revoked; and,
 - vi. the form of, and any time limit for, the completion of formalities.

CHAPTER TEN

CUSTOMS PROCESSES

Article 65 (Release of Goods for Free Circulation)

- (1) Non-Afghan goods shall be deemed Afghan goods after release for free circulation.
- (2) Release for free circulation shall be subject to application of commercial policy measures, completion of all requirements for importation of goods, and the collection of the customs debt incurred on the imported goods.

Article 66 (Conditional Release of Goods)

When goods are released at a favorable tariff rate by virtue of their intended use, they shall remain under customs supervision. This Customs supervision shall end only when the goods have been used for the purposes laid down for the application of favorable tariff, are released for free circulation, or when the goods are exported, abandoned to the state or destroyed. Use of the goods for the purposes other than those laid down for the application of the favorable tariff is permitted only subject to payment of the remaining duty due.

Article 67 (Classification of Mixed Goods)

When a consignment is made up of goods falling within different tariff classifications, and drawing up the declaration for each tariff classification would entail a waste of time or additional expenses disproportionate to the import duty chargeable, Customs may, with the agreement of the declarant, charge the highest level of import duty on the whole consignment based on the tariff classification of goods. In such case the declarant will be responsible only for estimating the proportionate amount of each type of goods in the consignment.

Article 68 (Loss of Customs Status as Afghan goods)

Goods released for free circulation shall lose their customs status as Afghan goods when the declaration is invalidated in accordance with Article 64.

Article 69 (Customs Processes with Economic Impact)

- (1) The term 'customs processes with economic impact' means the following processes:
 - i. Customs warehousing;
 - ii. Inward processing;
 - iii. Processing under customs control;
 - iv. Temporary importation;
 - v. Outward processing.
- (2) 'Goods in unaltered state' means goods which have undergone no form of inward processing.

Article 70 (Conditions for Granting an Authorization)

- (1) The use of any customs processes with economic impacts shall be conditional upon issuance of an authorization permission being issued by the Ministry of Finance.
- (2) The authorization permission to use customs process with economic impacts ~~and the authorization provided for in this law~~ shall be granted to persons who ~~offer the necessary security~~ can provide the necessary assurances that the procedure will be properly conducted, and when Customs are able to supervise the process.
- (3) The conditions under which the process with economic impact in question is used shall be set out in the authorization.
- (4) The holder of the authorization shall be obliged to notify the ~~ustoms of~~ Customs of all factors arising after the authorization was granted which influence its continuation or contents.

Article 71 (Security)

The ~~customs may~~ customs may make the placing of goods under a suspensive process conditional upon the provision of security. The conditions concerning the provision of security shall be provided in the relevant procedure.

Article 72 (Release From the Processes with Economic Impact)

- (1) Customs processes with economic impact shall end when a new customs designation or procedure is assigned either to the goods placed under that process or to the compensating /processed products related to those goods.
- (2) Customs shall take the measures necessary concerning those ~~assign a new customs designation for~~ goods of which a suspensive process has not been implemented as required by the provisions of this law.

Article 73 (Transfer of Rights and Obligations)

The rights and obligations of the *holder of an authorization* for customs processes with economic impact may, be transferred to other persons provided that the other persons undertake to comply with all associated conditions and requirements in accordance with the relevant procedures.

Article 74 (The Time for Determining the Customs Debt)

- (1) The amount of customs debt, for suspensive goods shall be determined at the time of acceptance of the relevant declaration.
- (2) Suspensive goods may be subject to re-evaluation at the time of release for free circulation, in accordance with the relevant procedure.
- (3) At the time of acceptance for the process of release for free circulation or conditional release, suspensive goods shall benefit from any favorable tariff that would have applied to the goods at the time of placing the goods in the suspensive process.

Article 75 (Transit Process)

the transit process is applied to goods that are moved under customs supervision from one customhouse to another. The customhouse where the transit process starts is called the customhouse of origin and the customhouse where the transit process terminates is called the customhouse of destination. Conditions related to internal and external transit shall be regulated in the relevant procedures.

- (1) The transit process is the procedure applied to goods that. with the intent of moving through Afghanistan to another country.
- (2) The transit process shall also be applied to goods ~~placed under a customs process, or other customs control or supervision, and are~~ moved from one point to another within the customs territory ~~of the State~~.
- (3) The ~~external~~ transit process shall not involve the assessment of duties or application of commercial policy measures.
- ~~(4) The transit process may be used in combination with another customs designation or process~~
- (5) The transit process may include such alternative arrangements as may be established by relevant procedure pursuant to international conventions and agreements.
- (6) Where customs determine that non-Afghan goods are in transit to a destination in Afghanistan, and have not complied with the requirements of the transit process, the related customs of the relevant customs house, in addition to collecting the appropriate amount due from the security, may seize the goods, and deal with them in accordance with law

Article 76 (Release From the Transit Process)

The transit process shall end in the condition mentioned in Article 72(2) or when the goods and the corresponding documents are produced at the approved destination customs office in accordance with the relevant procedure.

Article 77 (Transit Via Third Countries)

The transit process shall apply to goods passing through a third country and reentering Afghanistan without assigning a new customs designation, in cases provided for by international agreement.

Article 78 (Transit Security)

- (1) Transit Security shall be provided in accordance with Article 137 for insuring the payment of any customs debt that ~~is suspended~~ that may be incurred in respect of transit goods. The following shall be an exception:
 - i. carriage by air;
 - ii. carriage by pipeline;
 - iii. operations carried out by a railway company of the State;
 - iv. other cases as determined by the Ministry of Finance
- (2) The person responsible for goods in transit to a destination in Afghanistan pursuant to Article 35, if not entitled to exemption from security pursuant to Article 79, shall be obliged to provide security in the amount equivalent to 110% of the duty, including taxes, in the border customhouse as pre-payment [security] related to such goods ~~customs debt~~.

Article 79 (Exemptions from Giving Security)

- (1) Any person satisfying the following conditions may, subject to the limits of paragraph 2, obtain from the customs a security waiver certificate waiving the security requirements of Article 78 for internal transit goods:
 - i. Who are established in Afghanistan, or have a registered office in Afghanistan;
 - ii. Who are continual users of the internal transit process;
 - iii. Whose financial situation is such that they can meet their commitments;
 - iv. Who have not committed any violation of customs or fiscal laws; and
 - v. Who, in accordance with the determined procedure, undertake (promise) to pay, upon the first application in writing by the customs, any sums due on account of their transit operations.
- (2) The security waiver granted in accordance with paragraphs 1 shall not apply to transit operations involving the following goods:
 - i. Goods with a customs ~~debt-duty~~ totally exceeding Afs. 200,000 or such other amount as proposed by the ~~Ministry of Finance~~ General Directorate of Customs and approved by the ~~Council of Ministers~~ Ministry of Finance; or
 - ii. Goods which present increased risks because of the level of import duty applicable [to them] in Afghanistan.
- (3) The General Directorate of Customs shall be authorized to grant security waiver certificate. The certificate shall be valid for a period of six months and certified copies of the security waiver certificate shall be issued to the relevant persons. The period may become extended.

Article 80 (Obligation of Persons Responsible for Transit Goods)

The owner of transit goods or his agent shall be obliged to present the goods and the related customs documents intact, in accordance with procedures, at the relevant designated customs office by the prescribed time limit to ensure identification of the goods.

Article 81(Customs Warehousing)

- (1) Goods shall be placed in warehouses approved by customs for the purpose of storing them under prescribed conditions, under the supervision of customs. The warehouses operated directly by Customs responsible authorities, or by warehouse keepers in a customs area are also included in this provision.
- (2) The customs warehousing process shall allow the storage in customs warehouses of :
 - i. non-Afghan goods, without such goods being subject to import duty, charges, or commercial policy measures;
 - ii. Export Afghan goods, when customs legislation requires that the goods be placed in a customs operated warehouse.
- (3) Upon the request of the declarant, the Ministry of Finance may determine the cases in which the goods referred to in paragraph 2 can be placed under the customs warehousing process without being stored in a customs warehouse.

Article 82 (Warehouse types)

A customs warehouse may be established in the following forms:

- i. official customs warehouses established exclusively by the Ministry of Finance.
- ii. public customs warehouses which are established by individuals and are open to all exporters and importers.
- iii. private customs warehouses established by its owner for his own use.

Article 83 (Warehouse Keepers and Their Responsibilities)

The customs warehouse keeper shall be responsible for:

- i. Except as provided in Article 89, preventing the removal of goods from the customs warehouse which are subject to customs supervision.
- ii. Implementing the conditions established by the customs warehousing process, in accordance with the relevant procedure.
- iii. Keeping records and other obligations specified in the relevant procedure.

Article 84 (Approval to Operate a Customs Warehouse)

- (1) Approval for establishing Customs warehouses shall be issued by the Ministry of Finance, except for official customs warehouses operated by customs.
- (2) Conditions for granting authorization and conditions for the operation of warehouses shall be regulated in a separate procedure.
- (3) For public and private warehouses operated within customs areas, on land leased for this purpose, no demurrage charges shall be collected, and the area leased will remain under the control of the warehouse keeper. ~~Duties on goods stored in such a warehouse will be~~

~~postponed until goods are placed under customs process and shall be paid by the declarant who declares the goods for a process involving release of the goods from the customs area.~~

Article 85 (Transfer of Rights and Responsibilities)

The rights and obligations of a customs warehouse keeper may, with the agreement of the authorized customs, be transferred to another person who is eligible pursuant to the relevant procedure.

Article 86 (Distinctive Cases)

- (1) Where an economic need exists and customs supervision is not adversely affected thereby, the customs may allow the storage of the following goods in customs warehouses:
 - i. Afghan goods other than those referred to in Article 81 (2) (2). In this case the conditions of the customs warehousing process shall not apply.
 - ii. Non-Afghan goods to be processed on the premises of a customs warehouse under the inward processing process or processing under customs control, and the conditions provided for by those processes be complied with. The relevant exceptions in this context shall be determined in accordance with the related procedures.
- (2) The warehouse keeper shall be obliged, on request of the customs, to enter the goods referred to in Paragraph 1, in the stock records in accordance with Article 83 (3).

Article 87 (Time Limits for Storage in Warehouses)

- (1) The goods may remain under the customs warehousing process for a period up to twelve months. Customs, on the declarant's request, may accept an extension up to 12 months.
- (2) Where special circumstances so warrant, Customs may set a shorter limit for the time provided in paragraph (1). In this case until the end of such a time, the declarant must assign the goods another customs designation.

Article 88 (Handling of Goods Under a Customs Warehousing Process)

- (1) Goods under the customs warehouse process may undergo different forms of handling intended to preserve them, improve their appearance or marketable quality, or prepare them for distribution or resale. The list of the permitted handling operations shall be provided by the Ministry of Finance in the relevant procedures.
- (2) The declarant shall be obliged to receive prior authorization from customs for the forms of handling operations provided for in paragraph 1. Customs will stipulate the conditions under which the handling operations may take place.

Article 89 (Temporary Withdrawals from Warehouses)

- (1) When circumstances so warrant, goods placed under the customs warehousing process may be temporarily removed from the customs warehouse, provided that such removal is authorized in advance by the customs.
- (2) The conditions for such withdrawal shall be stipulated in the authorization.

- (3) The goods referred to in paragraph (1) of this article, may undergo the forms of handling referred to in Article 88 of this law.

Article 90 (Transfer of Goods)

Customs may allow goods placed under the customs warehousing process to be transferred from one customs warehouse to another.

Article 91 (Customs Value of Warehoused goods)

- (1) The cost of warehousing and of preserving goods while they remain in the warehouse need not be included in the customs value stated by the declarant if they are shown separately from the price actually paid or payable for the goods.
- (2) Where the goods mentioned in paragraph 1 have undergone the usual forms of handling within the meaning of Article 88, the type of the goods, the customs value and the quantity for the purpose of determining the amount of import duty shall, at the request of the declarant, be those that would have been taken into account for the goods, at the date referred to in Article 74 as if they had not undergone changes due to such handling.
- (3) Any exceptions to the changes in valuation under paragraph 2 shall be provided for in the relevant procedures.

Article 92 (Inward Processing)

The inward processing process shall apply to the following imported goods:

- (i). ~~“suspensive goods” for export from the customs territory of the State in the form of compensating products; non-Afghan goods intended for re-export from the customs territory in the form of compensating products, without such goods being subject to import duties or commercial policy measures (the suspension system);~~
- (ii). ~~goods that are placed under a drawback system and are exported in the form of compensating products from the customs territory of the state goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory in the form of compensating products (the drawback system).~~

Article 93 (Inward Processing Operations)

- (1) “processing operations”: In connection with the inward processing of goods shall mean:
- i. The working of goods, including erecting or assembling them or fitting them to other goods;
 - ii. The processing of goods;
 - iii. The repair or restoration of goods; and
 - iv. The use of certain goods defined in the relevant procedures, which are not to be found in the compensating products but which allow or facilitate the production of those products;
- (2) “Compensating products”: means all products resulting from processing operations excluding waste and scrap.

- (3) "Rate of yield": the quantity or percentage of compensating products obtained from a given quantity of goods as a result of the processing operations.

Article 94 (Application for Approval of Inward Processing)

Approval (*juaz*) of the inward processing process shall be granted, upon submission of a written application, by the Ministry of Finance in accordance with the relevant procedure and under the following conditions:

- i. The applicant shall be established in Afghanistan,
- ii. When the ~~suspensive-imported~~ goods can be identified in the compensating products, except as provided in Article 93 (1)4.
- iii. When the process for inward processing best serves the economic interests of the country.

Article 95 (Time Period for Exportation of Compensating Products)

Customs shall specify the period within which the compensating products must be exported, or assigned another customs designation, provided such period shall be sufficient to carry out the processing operations and to otherwise prepare the compensating products for a new customs designation.

Customs may grant an extension at the request of the holder of the Approval.

Article 96 (Rate of Yield of Inward Processing)

- (1) Customs shall set either the rate of yield of the operation or the method of determining such rate based on the actual circumstances in which the processing operation shall be carried out.
- (2) The standard rate of yield shall be determined in the Approval, on the basis of information submitted in the Application.

Article 97 (Release for Free Circulation from Inward Processing)

In case goods in the inward processing process, whether in an unaltered state or as compensating products, are missing at the period provided in Article 95, they shall be deemed to have been released for free circulation and the holder of an inward processing Approval shall be obliged to submit a customs declaration for such missing goods and shall be liable for the customs debt.

Article 98 (Compensating Products of Inward Processing)

- (1) Compensating products that are re-imported after being exported are subject to customs duty.
- (2) The customs debt on goods mentioned in paragraph one shall, at the request of the importer, be calculated in accordance with Article 97.

Article 99 (Customs Duties on Compensating Products of Inward Processing)

- (1) The compensating products shall be dutiable at the same rate as identical imported goods;
- (2) In case a favorable tariff is applied by virtue of the intended use of the identical imported goods, the same favorable tariff shall also be applicable on compensating products.
- (3) In case the identical goods imported in accordance with article 27 of this law become duty free, the compensating products shall also be exempted from paying duty.
- (4) The Ministry of Finance may designate the duty rate for compensating products in those situations where the duty rate on a compensating product would be less than the duty rate on the related suspensive goods.

Article 100 (Compensating Products of Inward Processing After Outward Processing)

Some or all of the compensating products or goods in unaltered state may be temporarily exported for further processing in a foreign country if the customs authority so authorizes in accordance with the provisions governing outward processing in Articles 116-121 and the relevant procedures.

Article 101 (Drawback Cases)

- (1) An Approval under Article 94 may authorize use of the drawback system, except for goods the importation of which is subject to quantitative import restrictions.
- (2) No drawback amount will be refunded in excess of duties actually paid in accordance with the drawback system.

Article 102 (Drawback Declaration)

The customs declaration [for free circulation](#) shall indicate the use of drawback system and a copy of the Approval granted under Article 94 [must be attached](#).

Article 103 (Temporary Exportations Pursuant to Drawbacks)

Temporary exportation of compensating products carried out as provided for in Article 100 shall be considered [as](#) exported within the meaning of Article 104 where such products are not re-imported into Afghanistan within the period prescribed.

Article 104(Drawback Refunds)

- (1) The import duty shall be refunded to the holder of the Approval described in Article 102 when compensating products are exported, provided that all conditions for use of the process have been fulfilled.
- (2) The drawback refund must be claimed within one year, unless a shorter period is provided in the Approval. If the goods have not been exported by the time of the expiration of the drawback refund period, they shall be deemed to be goods released for free circulation.

Article 105 (Processing Under Customs Control)

Processing under customs control allows suspensive non-Afghan goods to be processed as described in Article 93 (1), without payment of duty or application of commercial policy measures, provided duty is paid on the compensating products when they are released for free circulation at the rate for identical imported goods.

Article 106 (Approval for Processing Under Customs Control)

Approval for processing under customs control shall be granted by the Ministry of Finance upon submission of a written application by the applicant, in accordance with the relevant procedures under the following conditions:

- i. The applicant must be established in Afghanistan;
- ii. Where the suspensive goods can be identified in the compensating products;
- iii. where the goods cannot be economically restored after processing to their description or state as it was when they were placed under the process;
- iv. when usage of the process best serves the economic interests of the country

Article 107 (Approval Contents For Processing Under Customs Control)

The Approval for processing under customs control shall contain:

- i. Satisfaction of the conditions stated in Article 106;
- ii. the standard rate of yield as described in Article 96;
- iii. The date by which the compensating products shall be assigned a new customs designation.

Article 108 (Debt Amount if Processing Under Customs Control is Not Completed)

For goods in unaltered state or are at an intermediate stage of processing, the amount of the debt shall be determined as if these goods had been presented for free circulation at the time of acceptance of declaration for placing the goods under the process for processing under customs control.

Article 109 (Import of Compensating Products Processed Under Customs Control)

- (1) Compensating products are dutiable at the same rate or favorable tariff as would be applicable to identical imported goods
- (2) Commercial policy measures that would otherwise apply to comparable imported goods will not be applied to Compensating products.

Article 110 (Temporary Importation Process)

The temporary importation process is a process which shall allow under specific conditions partial or total relief from import duties or from commercial policy measures of certain goods, provided that such goods do not undergo any change except normal depreciation. Conditions for and manner of applying the temporary process for goods shall be provided in separate rules. Suspensive goods intended for export which are assigned a temporary importation process, shall

~~be either totally or partially relieved from import duty and commercial policy measures, provided they undergo no change, except for normal depreciation, while in the customs territory of the State.~~

Article 111 (Approval for Temporary Importation)

- (1) Approval for temporary importation shall be granted in accordance with the relevant procedures by the Ministry of Finance.
- (2) The customs declaration shall indicate if the temporary importation process is being used, and shall attach a copy of any Approval granted under Section 1.

Article 112(Conditions for Approval for Temporary Importation)

- (1) The temporary importation process may be used only for non-Afghan suspensive goods that:
 - i. May be easily identified,
 - ii. The situations in which the absence of identification measures in view of the nature of the goods or of the operations, is not liable to give rise to any abuse of the process.
 - iii. the goods are not intended to undergo any change, except normal depreciation due to the use made of them;
 - i. Will not remain under the temporary importation process in excess of 12 months, unless extended up to an additional 12 months for good cause.
- (2) Customs may limit the period within which the temporarily imported goods must be exported. The period assigned must be sufficient to accomplish the intended purpose of the temporary importation process. The declarant is responsible for submitting a declaration for a new customs process or designation, before the expiration of the designated period, and in case of any violation of the other terms of the approval.
- (3) In a special case where an economic need exists, upon the proposal of the Ministry of Finance, the Council of Ministers may prescribe a period up to 6 years for goods to remain in temporary importation.
- (4) Temporarily imported goods shall remain non-Afghan goods until placed under another customs process.

Article 113 (Special Conditions for the Temporary Importation Process)

- (1) The temporary importation process with total relief from import duty shall be used for goods :
 - i. for which, at the end of the temporary importation period, there would be no fair anticipated market for the goods in Afghanistan
 - ii. equipment that temporarily replaces goods exported for repair;
 - iii. Which are “tools of trade” (in accordance with the relevant procedure) of a skilled worker including musical, artistic and, sporting equipment?
- (2) Use of the temporary importation process with partial relief from import duty may be granted to goods which do not fulfill the conditions mentioned in paragraph 1.
- (3) The relevant procedures may exclude categories of goods from the temporary importation process.

Article 114 (The Duty Amount Payable for Goods Under the Temporary Importation Process with Partial Relief)

- (1) Goods placed under the temporary importation process with partial relief from import duty shall be charged an import duty, for each month or fraction of a month, of 3% of the duty which would have been payable on the said goods had they been released for free circulation on the date on which they were placed under the temporary importation process.
- (2) The total amount of import duty to be charged under paragraph 1 shall in no event exceed the amount which would have been charged if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation process.
- (3) Goods mentioned in Paragraph 1 will be treated as non-Afghan goods until the duties and any other customs debt is paid in full

Article 115 (Change of Customs Designation of Temporarily Imported Goods)

- (1) ~~Suspensive~~ Goods under the temporary importation process may be assigned another customs designation if a new customs declaration is filed prior to the expiration of the temporary period.
- (2) In case goods under a temporary importation process are given a new customs designation, the amount of payments made pursuant to Article 114 shall be deducted from the customs debt.
- (3) In case of sale or other transfer of goods, the holder of the approval shall be liable to pay the amount of import duty due under Article 114 or the duty due under any new customs designation.

Article 116 (Outward Processing)

Afghan goods under the outward processing process which are called temporarily exported goods may be temporarily exported for processing. The returned goods resulting from those operations may be released for free circulation in the customs territory ~~of the State~~ with a reduction of import duty.

Article 117 (Application for the Approval of Outward Processing)

The approval for outward processing is granted by the Ministry of Finance upon application by the applicant, in accordance with the relevant procedures, under the following conditions:

- i. to persons established in Afghanistan;
- ii. If it is possible to certify that the compensating products have resulted from processing of the temporarily exported goods. Exceptions to this rule shall be provided in the Implementing Procedure;
- iii. When the process best serves the economic interests of the country, and the promotion of exports;
- iv. When the outward processing operation will result in compensating products that include non-Afghan goods, the Approval should certify that the use of the process will promote the sale of Afghan goods without disproportionately damaging the

- economic interests of Afghan producers of products identical or similar to the imported compensating products;
- v. Temporary exportation of Afghan goods shall be subject to any requirements for the export of Afghan goods from the customs territory ~~of the State~~;
 - vi. Drawback goods, while under the process for outward processing, shall not be eligible for the refund provided under Article 104;
 - vii. Non-Afghan goods released in accordance with Article 66, and are placed in the process of outward processing, may retain their favorable tariff treatment, as long as the conditions for granting such treatment continue to apply;
 - viii. The period for the temporary exportation process shall be up to 12 months, and may be extended up to an additional 12 months for justifiable cause;

Article 118 (Contents of Outward Processing Approval)

The approval for outward processing shall include:

- i. The date by which the compensating products must be re-imported, taking into account the time required to carry out the processing operations.
- ii. The standard rate of yield.
- iii. The value of the temporarily exported goods, calculated as of the date the Application is made.

Article 119 (Import Duty for Compensating Products of Outward Processing)

- (1) The import duty on compensating products under the process for outward processing shall be imposed on the value added to the temporarily exported goods, which shall be calculated in accordance with Article 24. If the added value is less than 5% of the value of the goods, no duty will be charged.
- (2) The import duty on the compensating products shall be assessed at the tariff rate applicable to its tariff classification.

Article 120 (Goods Repaired Without Charge in Outward Processing)

- (1) When the purpose of processing operations is the repair of temporarily exported goods, the compensating products shall be released for free circulation with an exemption from import duty, when it is established to the satisfaction of Customs that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.
- (2) Paragraph 1 shall not apply where the customs debt took account of the defect at the time when the goods in question were first released for free circulation.
- (3) For goods mentioned in Paragraph 2, and for goods repaired at expense, adequate documentation shall be submitted concerning the cost of the repair for purposes of determining the added value.

Article 121 (Transfer of Rights of the Outward Processing Approval)

Rights of the holder of the Approval under this process may be transferred to any other person established in Afghanistan who fulfills the conditions.

Article 122 (Export Process for Afghan Goods)

The export process (of goods) is a customs process based on which goods leave the customs territory under specific conditions and for specified purposes, upon application of relevant customs formalities. Where goods exit the customs territory of the country for sale or end-use, such goods are called definitive exports, while goods exiting the country for repair or finalization or display in exhibitions, are called temporary exports.

Terms and conditions governing definitive and temporary exports are regulated by separate rules.

- (1) Afghan goods leaving the customs territory ~~of the State~~ shall, by means of an export customs declaration, be placed in the export process at the competent customs office. The border customs office shall supervise the exit of exported goods from the customs territory,
- (2) Goods provided for in Paragraph 1 may obtain the permission for release for export provided the goods are in the same condition as when the declaration was accepted.

Article 123 (Exportation of Non-Afghan Goods)

The export of non-Afghan goods shall be carried out under customs supervision but without submission of a new customs declaration or otherwise being subject to the export process.

CHAPTER ELEVEN **ZONES AND FREE WAREHOUSES**

Article 124 (The Meaning of Duty Free Zones)

Duty free zones, free warehouses and duty free shops shall be a separate part of the customs territory ~~of the State~~, in which non-Afghan goods are considered, for purposes of import duty and commercial policy measures, as not being on Afghan customs territory.

Afghan goods may enter such areas in accordance with the relevant procedure.

Article 125 (Free Zones Designation)

- (1) The Ministry of Finance shall be authorized to designate parts of the customs territory ~~of the State~~ as free zones and approve construction of any building in a free zone.
- (2) The geographical boundaries and the entry and exit points of each free zone and free warehouse shall be determined exactly by the Ministry of Finance. The holder of approval is obliged to wall off the related zone or warehouse.
- (3) The Ministry of Finance may authorize opening of duty free shops in the customs territory ~~of the State~~ for the sale of goods with exemption from import duty. The method of using free duty shops shall be regulated in the relevant procedures.

Article 126 (Customs Supervision in Free Zones)

- (1) Free zones, duty free shops, and free warehouses, and their borders and entry and exit points shall be subject to customs supervision and control.
- (2) Persons and means of transport entering or leaving a free zone or free warehouse shall be subjected to a customs inspection.
- (3) Persons who do not provide the security required by Customs legislation and procedures cannot use free zones or free warehouses.
- (4) When goods enter or leave a free zone or free warehouse, a copy of the transport document shall accompany the goods and be provided to the customs.

Article 127(Conditions for Entrance and Exit of Goods)

- (1) Prohibited goods and goods that pose a threat to public safety or health shall not be admitted to duty free zones, free warehouses, and free shops.
- (2) Goods entering and exiting a duty free zone, free warehouse, or free shop shall first be presented to the customs, but the person responsible for goods need not accompany them by a customs declaration unless the goods are placed into a customs process. The value of goods placed into a customs process shall be calculated in accordance with Article 24.
- (3) When goods enter a duty free zone, free warehouse, or free shop from another part of the customs territory of the State, Customs shall release the goods from a previous customs process, and place Afghan goods into the export process, unless otherwise provided in customs legislation:
- (4) The Customs debt on Afghan goods exiting the free zone, free warehouse, or duty free shop into another part of the customs territory of the State shall be calculated in accordance with Article 119.
- (5) Goods may exit a duty free zone, free warehouse, or free shop for export from the customs territory of the State in accordance with the relevant procedures.

Article 128 (Customs Status of Goods in Duty Free Zones)

- (1) The customs may provide, on request of the person responsible for goods, a certificate stating the customs status of goods placed in a duty free zone, free warehouse, or free shop.
- (2) If the certificate, or other documents that prove the customs status of the goods, cannot be presented, the goods shall be considered to be Afghan goods, for the purposes of export from the customs territory of the State and Non-Afghan goods in case of entry into another part of the customs territory of the State.

Article 129 (Time Limits)

There shall be no limit to the length of time goods may remain in free zones free warehouses, or duty free shops, unless otherwise provided in the relevant procedures.

Article 130 (Authorized Activities)

- (1) Carrying out any industrial, commercial, or service activity shall, under the conditions laid down in Customs Legislation, be authorized in a free zone, warehouse or duty free shop without complying with the provision of Article 88.
- (2) All **nationally** enforced laws, including those for the protection of patents, trademarks, and copyright are applicable to free zones.
- (3) The customs may impose necessary prohibitions or restrictions on the activities referred to in paragraph 1, having regard to the nature of the goods concerned or to the needs of customs supervision.

Article 131 (Approved Registers)

All persons engaged in storing goods, or carrying on any activity under Article 130(1), in a duty free zone, free warehouse, or free shop, shall enter the goods in the stock records when received, and maintain the stock records in accordance with the orders of customs.

Article 132(Tariff on Consumed and Missing Goods)

- (1) Goods consumed for daily needs or for maintaining or otherwise supporting the purposes of free zones, as provided in the relevant procedures, shall be regarded to be released for free circulation and shall be subject to payment of customs duty.
- (2) Where goods disappear and when their disappearance cannot be explained to the satisfaction of the customs, the goods shall be regarded as having been consumed in the free zone, free warehouse, or free shop and Paragraph 1 shall be applied.

Article 133 (Abandonment or Destruction of Goods in Free Zones)

Customs may designate for abandonment, or destruction, under Article 134 of Non-Afghan goods placed in a free zone or free warehouse while they remain in a duty free zone, free warehouse or free shop.

CHAPTER TWELVE **CUSTOMS DESIGNATIONS**

Article 134 (Destruction or Abandonment)

- (1) A destruction or abandonment designation shall be made as described in the relevant procedures. The declarant, or other person responsible for the goods, must provide a customs declaration requesting the relevant designation.
- (2) The destruction or abandonment designation shall be denied if it entails an expense for the State.

Article 135 (Destruction of Goods)

- (1) The destruction designation shall be carried out by prior notification to Customs. The notification shall state with specificity the goods to be destroyed, the time, the place, the means of destruction, and the reason for destruction.
- (2) Customs may supervise the destruction process and require presentation by the person responsible for the goods of related customs documents and a copy of the notification provided in Paragraph 1.
- (3) Any waste or scrap resulting from such destruction shall retain the status of non-Afghan goods and shall remain under customs control until such time as it is released to another customs designation or process.

Article 136(Proceeds From Abandoned Goods)

Proceeds from the sale of transfer [disposal] of goods designated as abandoned to the state shall be deposited to the relevant account in accordance with the procedure for payment of customs debts. The Director General of Customs may provide for transfer of abandoned goods to a state institution or administrations when the cost of disposal does not merit the relevant expenses.

CHAPTER THIRTEEN **CUSTOMS DEBT**

Article 137 (Form of Security)

- (1) Unless otherwise provided by the relevant procedures, security required under this law for payment of a customs debt shall be provided at the choice of the customs debtor by the means of cash deposit or a guarantee by a guarantor approved by Customs in accordance with Article 141. reliable person or institution.
- (2) Where security is not required under this law, Customs may in any case, if the customs are not sure that the customs debt mentioned in paragraph 1 is to will be paid within the prescribed period, they may submit an appropriate proposal to the relevant authority justifying the provision of a security.
- (3) The mentioned authority of paragraph 2 may order a customs debtor to provide security necessary for satisfying the customs debt.

Article 138 (Single Security for Several Actions)

- (1) The customs may allow a single security to be provided to guaranty customs debt for two or more operations, provided that the single security is regarded to be sufficient under any situation for the mentioned operations.
- (2) Customs shall allow person established in Afghanistan to provide a single security referred to in the first paragraph of this Article where Customs determines the person
 - i. has a record of compliance with customs and tax requirements, and
 - ii. regularly declares goods.

Article 139 (Securities Levels)

- (1) Customs can fix the amount of security as following:
- i. Unless otherwise provided in customs legislation, according to the precise amount of the customs debt in question where that amount may be established with certainty at the time when the security is required
 - ii. Where no precise or other fixed amount can be determined, according to the maximum amount of the customs debt estimated by Customs.
- (2) If the security provided for in article 138 is required for customs debts which may vary in amount over time, it shall be set at a level sufficient to enable the customs debts in question to be covered at all times.

Article 140 (Cash Deposits)

A cash deposit shall be made in Afghan currency. The following shall also be deemed a cash deposit:

- i. Submission of a check, the payment of which is guaranteed by the institution on which it is drawn which is approved by relevant rule.
- ii. Submission of any other financial instrument accepted by the customs as a means of payment.

Article 141 (Guarantor)

Any person who meets the following criteria may be accepted as a guarantor:

- i. Must be a [third-party](#) person established in Afghanistan, unless provided otherwise in the international agreements to which Afghanistan is a party.
- ii. Shall provide a guarantee, to pay the unpaid secured amount of a customs debt in a form satisfactory to customs.
- iii. Shall provide a guarantee that will be maintained until a specific time, as may be determined by customs.

Article 142 (Other kinds of Security)

Customs may accept other kinds of security, provided that they can provide equivalent assurance that the customs debt will be paid.

Article 143 (Additional Securities)

When Customs establishes that the security provided is not certain or sufficient to ensure payment of the customs debt within the prescribed period, they shall require the customs debtor to either provide additional security, or at the customs debtor's option, to replace the original security.

Article 144 (Release of Security)

- (1) When the customs debt has been extinguished in part, unless the amount is insufficient to justify such action, a part of the cash deposit shall be repaid to the customs debtor upon a request by the debtor.
- (2) When a secured customs debt is extinguished or can no longer arise, the non cash security shall be released and the cash deposit returned without delay.

Article 145 (Lawful Activities Which Cause Customs Debts)

- (1) A customs duty on lawful importation or exportation of goods ~~may shall~~ be incurred ~~when goods have been released for free circulation in accordance with this law or by the filing of an accepted acceptance of a~~ customs declaration for:
 - i. the release for free circulation of goods liable to import duty in accordance with Article 65(2);
 - ii. the placing of goods under the temporary importation process with partial relief from import duty.
 - iii. the placing of goods in conditional release of goods under customs supervision;
 - iv. the placing of goods in the export process;
 - ~~v. placing of goods in any other customs process or designation involving payment of duty (tarifa), charges (haq ul zamat), dues (awarez), penalties (jerima), or other monetary obligations (eltezamat e puli).~~
- (2) Customs dues, other than custom duty, on the lawful importation or exportation of goods shall be incurred on acceptance of a declaration placing goods subject to such dues under a customs process or designation.
- ~~(3) A customs debt shall be incurred after customs notifies the customs debtor, whether upon acceptance of the declaration, or assessment of penalties in accordance with this law.~~
- (3) The declarant shall be the debtor.
- (4) Where a customs declaration in respect of one of the procedures referred to in paragraph (1) is drawn up on the basis of information which leads to all or part of the duties not being collected, the person who provided the information required to draw up the declaration and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Article 146 (Unlawful Activities Causing a Customs Debt)

For goods liable to customs dues, a customs debt with respect to unlawful activities shall be incurred by violation of:

- (i). one of the legal obligations referenced in Articles 166 (2) and 170 of this law concerning the introduction of goods into, or exit of goods from the customs territory, or the movement, storage, processing, temporary admission or disposal of goods;
- (ii). a condition governing the placing of non-Afghan goods under a customs procedure or the granting, by virtue of the end use of the goods, a duty exemption or reduced rate of customs duty, or
- (iii). the conditions under which goods were allowed to leave the customs territory with total or partial relief from customs duties. .

Article 147 (Customs Debt on Removal of Goods from Supervision Without Permission)

A customs debt shall also be incurred on goods removed from customs supervision without permission. And, the customs debtor shall be:

- i. the person who removed the goods from customs supervision without permission,
- ii. any persons who participated in such removal and who had prior awareness that the goods were being removed from customs supervision.
- iii. any persons who acquired or held the goods subject to customs supervision or control and who were aware at the time of acquiring or receiving the goods that they had been removed from customs supervision.

Article 148 (Non Occurrence of Debt)

No customs debt shall be deemed to be incurred in respect of goods under customs supervision that were:

- i. lost **or destroyed** due to *force majeure*;
- ii. placed in a destruction or abandonment designation under Article 134;
- iii. lost to evaporation or other natural process; or
- iv. were out of the control of the person when they were the subject of Article 146 and 147, and that person proves it.

Article 149 (responsibility of Partnerships)

Where a partnership has guaranteed a customs debt, the general partners shall be jointly and severally liable for such debt. The penalty portion of the debt shall be an exception from this rule.

Article 150 (Date of Determining Customs Debt)

Where it is not possible to determine precisely when the customs debt is incurred due to the fault of the declarant, the highest rate of customs duty applicable during the period in question shall be applied.

Article 151A (New Article) Post release inspection of Goods:

- (1) Customs authorities may ~~shall~~ inspect all declarations and customs commercial records related to ~~release of~~ the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods ~~at least once, after signing the authorization for release of goods to check for the correct application of laws and regulations, detect possible violations committed by employees and ensure collection of customs dues in accordance with the laws and regulations, prior to termination of the specified period (three years).~~
- (2) Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document and data for business purposes. The Customs authorities may also examine the goods where it is still possible for them to be produced.

- (3) Terms and conditions related to inspection of goods and actions taken after release of goods (PCA) concerning persons in charge of goods and employees that have engaged in violations shall be determined by the relevant customs office or General Directorate of Customs in separate rules. Actions taken by Customs offices concerning employees that have committed a violation shall include as a minimum docking of salary, dismissal and referral to justice and judicial authorities.

Article 151 (Entry of Debt Into Accounts)

- (1) The Customs duty shall be calculated by Customs simultaneously with the acceptance of a customs declaration which entails payment of duty. If additional information is required by Customs to determine the valuation of goods, Customs shall calculate the customs duty no later than 48 hours after the customs declarations is accepted, or for such other period of time as may be fixed in the Procedure Regulation (tarzulama-mugarara) for Customs Valuation. The amount of the customs duty shall be entered into the accounts without delay after it has been calculated,
- (2) Unless otherwise provided for in this law and its procedures, the customs duty must be calculated and entered prior to the release of the goods for free circulation, or for another process that entails payment of customs duty, in accordance with Article 62.
- (3) A customs debt incurred after the goods have been placed under a customs process shall be entered in the accounts within 48 hours after customs has information sufficient to calculate the customs debt, and determine the debtor.
- (4) The customs officials shall adequately explain any delays in making the entry of a customs debt.

Article 152 (Differences in Account Entries)

- (1) When a customs debt entered in the accounts is less than the amount legally owed, the customs are obliged to enter the correct amount in accordance with article 151, within 48 hours of the time Customs become aware of the situation.
- (2) When the quantity or percentage of duty in customs tariff, such change shall apply to goods the duty of which has not been deposited to bank. However, goods that have exited customs upon provision of a security equivalent to its customs duty shall not be subject to such changes in the percentage of duty in customs tariff.

Article 153 (Notification about Debt Entry)

- (1) Customs officials are obliged to notify the amount of customs duty to the customs debtor at the time it has been entered in the accounts in accordance with the relevant procedures. The notification shall be deemed given on release of goods take place only where the amount stated in the customs declaration is different from equal to the amount determined by customs.
- (2) Re- determining the amount of customs debt shall not be valid after a period of 3 years from the date the debt is incurred.

Article 154 (Situations for Settling and Extinguishing Customs Debts)

A customs debt shall be settled or extinguished by the following means:

- i. by payment in full in accordance with this articles 154 to 158;
- ii. by remission or refund in accordance with article 159 to 163;
- iii. by withdrawal or invalidation of a customs declaration entailing the obligation to pay duty, in accordance with Article 57 or 64;
- iv. if the goods are confiscated, or destroyed on the instructions of the customs; and
- v. In circumstances described by Article 148 (1, 2 or 3).

Article 155 (Payment Term for Customs Debt)

- (1) A customs debt notified in accordance with Article 153 shall be paid by the customs debtor in accordance with the following term:
 - i. Within the term prescribed in the notification. Article 156 shall be an exception to this provision.
 - ii. An extension shall be granted automatically where the customs debtor does not receive the notification in the prescribed period.
- (2) The customs at the request of the customs debtor may also grant an extension taking into account Article 152. The extended time limit in any case shall not exceed 10 days;

Article 156 (Deferral of Debt Payment)

- (1) The Ministry of Finance may provide in a separate procedure to allow deferral of payment of all or part of a customs debt, on condition that the customs debtor provides security and the period of deferral without charge shall not exceed 30 days. Where several customs debts are aggregated over a specified time period the delay in payment shall not exceed an average of 30 days.
- ~~(2) Customs may collect a charge (*haq-ul-zamat*) for providing the service of postponement of payment of .01% of the deferred amount per day, or such other amount as is fixed by the relevant procedures.~~
- ~~(3) The amount of charge (*haq-ul-zamat*) referred to in paragraph 2 shall be determined by the Ministry of Finance so as to be comparable to similar charges in the domestic money or financial market.~~

Article 157 (Manner of Payment)

- (1) A person other than the customs debtor may pay the customs debt.
- (2) Payment shall be made by bank transfer, or by other instrument provided (*darj*) in customs legislation **and procedures**, or in cash if the payer is a person described in Article 45 or identified by customs.

Article 158 (Non Payment of Debt within the Prescribed Term)

- (1) Customs shall be obliged to take all actions permitted by law to secure the payment of a customs debt that is overdue.

- (2) The registered movable and immovable property of a customs debtor who fails to make timely payment of the customs debt shall be under security (*that e tazmin*) of customs. Information on the security may be provided to any registry of property, or banks by Customs. The security shall remain in effect until the customs debt is paid.
- (3) Customs may, in accordance with law, collect a customs debt as a preferred creditor from a third party that has obligations to the customs debtor.
- (4) Interest shall be charged on overdue customs debts in accordance with Article 156 the amount of .01% per day, or such other amount as determined by the Ministry of Finance so as to be comparable to similar charges in the domestic money or financial market.

Article 159 (Refund or Remission of an Erroneous Entry)

- (1) A customs debt shall be refunded or remitted if the amount paid or entered into the accounts is proved to be in excess of the amount legally owed by the customs debtor.
- (2) If during a clearance after release of goods it is found that customs duty is not fully paid, the debtor shall be obliged to pay such unpaid amount.
- (3) Refunding or remittance mentioned in paragraph 1 may take place upon withdrawal or submission of an amended custom declaration pursuant to Article 57 within a period of three years from the date on which the amount of the duty was notified.
- (4) Customs shall be obliged to refund or remit the customs debt in the situations mentioned in paragraph 1 and 2.

Article 160 (Remission or Refund for Defective Goods)

- (1) Import duty paid on defective goods, which have been damaged prior to release, are not compatible with the importation contract, and have been rejected by the importer, or are conditionally permissible goods the importation of which has been rejected by the authorized organ of the State, shall be refunded or remitted if:
 - i. the goods have not been used, except for such initial use as may have been necessary to establish that they are defective; and
 - ii. The goods are exported, or placed in a process or designation that does not entail payment of customs duty.
- (2) Goods mentioned in paragraph 1 may be exported as non-Afghan goods from the customs territory of the country.
- (3) Import duty shall be refunded or remitted for the reasons set out in paragraph 1 upon submission of an application by the debtor within 12 months from the date of notification.
- (4) Customs duty may be refunded in accordance with Article 104.

Article 161 (Limit of the Amounts to be Refunded)

Customs duties, except those collected under Article 45, shall be refunded only if the amount to be refunded exceeds Afghani 1000 or other amount fixed in the relevant procedures.

Article 162 (Interest on Refunds)

No refund under articles 159, 163, shall include payment of interest for the period prior to the refund decision. Interest, in accordance with Article 156, shall be paid to the customs debtor if the decision to grant a refund is not implemented within one month from the date of the refund decision.

Article 163 (Erroneous Refunds)

Customs debt refunded in error shall be re-paid by the customs debtor after notification of the error. Any interest related to the amount of refund under Article 162 shall also be included in this provision.

CHAPTER FOURTEEN
CUSTOMS VIOLATIONS AND PENALTIES

Article 164 (Customs Police Administration)

- (1) A Customs Police Administration shall be created jointly by the Ministry of Finance and the Ministry of the Interior for the purpose of detecting and preventing violations of the provisions of this law and for arresting the relevant suspects throughout the Customs Territory ~~of the State~~, in accordance with section 3 of this Article.
- (2) Customs Police officials shall be part of the organization of the Ministry of the Interior. The Ministry of the Interior shall be responsible for:
 - i. Approval, Employment, and dismissal of customs police, on recommendation of the Ministry of Finance,
 - ii. Providing the Customs Police with salaries and any other incentives as provided by law
 - iii. Recruiting, of Customs Police candidates, and maintaining their records (personnel files)
 - iv. Providing appropriate uniforms and other equipment in accordance with the duties they perform, as agreed with the Ministry of Finance
 - v. Providing training for police candidates required to carry out their police duties
- (3) The Ministry of Finance, as the agency responsible for directing and managing the work of the Customs Police shall have the following duties and authorities:
 - i. Determining the duties and scope of authority of Customs Police and determining their locations of work.
 - ii. Providing for the necessary training for Customs Police concerning the administration and enforcement of the customs legislation
 - iii. Recommending [to the Ministry of the Interior] remunerations and punishments for Customs Police and other personal matters of Customs Police affecting their work.
- (4) The Ministry of Interior and the Ministry of Finance may jointly provide additional inter-ministerial guidelines implementing section 2.
- (5) The Ministry of Finance may, as required, provide procedures implementing paragraph 3.
- (6) Section 2 of this Article shall be effective for three year period upon enforcement of this law. The Ministry of Finance and the Ministry of the Interior may recommend its retention, amendment or deletion to the Council of Ministers. The approval of the Council of Ministers shall be regarded effective in this regard.
- (7) Customs Police shall be obliged to perform their assigned duties in accordance with the provisions of this law, (the anti-smuggling law) and other guidelines and procedures only under the direction of the Ministry of Finance

Article 165 (Customs Violations)

Violations of customs law and other customs legislation shall be of the following two types:

- i. Administrative violations; which are violations from all the provisions of this law ,except article 170
- ii. Smuggling of goods, in accordance with chapter 14 of this law.

Article 166 (Administrative Violations and Sanctions)

Administrative violations shall be classified in the following three categories:

(1) category one violations are as follows:

i. Delay

For delays in violation of Articles 36(2), 39(3), 51(1), 54(1), 80, 87, 95, 112, 118, the penalty imposed shall be ~~0.01%~~ of the duty referenced in the relevant procedures payable for each day, or the proportionate amount for each part of a day, or such other rate as may be, as needed, established by the Ministry of Finance taking into account the circumstances.

ii. ~~Misrepresentation~~ Errors and Omissions

Providing information about quality, quantity, value, or origin that is incomplete or inaccurate in violation of Article 24, Article 31, Article 45(1), 48(1), 64(1), 80, 83(1) Differences in quantity or value that are smaller than 5% of the quantity or value indicated in the declaration or other customs documents shall receive a written warning.

If the customs duty is calculated according to the customs declaration and is 5% or more deficient than the actual amount, a fine shall be imposed as indicated below:

- ~~51~~-15% deficiency - a fine equal to the deficiency,
- ~~1516~~-25% deficiency - a fine of two times the deficiency,
- ~~2526~~-40% deficiency - a fine of three times the deficiency, and
- ~~4041~~ - 60%deficiency - a fine of four times the deficiency
- ~~61~~-80% deficiency - a fine of five times the deficiency
- ~~81~~-100% deficiency - a fine of six times the deficiency

1- In cases of understatement of quantity of more than 5%, in addition to the fine, the undeclared goods shall be confiscated. In case of committing the violations in transit process, the above penalties shall be applied only if the violation is repeated after a written warning. In repetition of violation in other cases a fine of from one to two times the amount of the deficiency in the payment of the customs duty shall be paid provided that the person committing the offence has been given prior warning.

2- The penalties and warning provided in this Article may be waived by customs if it is proven that the misrepresentation was caused by a mistake of calculation or errors made in good faith during the preparation of the customs declaration.

3- If upon release of goods from customs it is determined that a customs official has accepted incomplete or inaccurate information concerning the quality, value, quantity, or origin of goods, without making necessary endeavors to determine its trustworthiness, then the following actions shall be taken regarding such official(s) when it has been proven by the relevant customs:

- If the official has committed such violation for the first time, s/he shall be punished by 25% reduction of salary for one month.

- If the official has committed such violation for the second time, s/he shall be punished by 50% reduction of salary for up to two months. In such case, a written warning shall also be issued to him by the customs in charge.
- If the official has committed such violation for the third time, s/he shall be punished, upon consideration of mitigating or aggravating circumstances, by suspension from duty for 15 days to one month.
- When the violation is serious due to which a loss of at least a million AFN has been inflicted on customs revenues, or has been committed for the fourth time by the violator, then the violator shall be dismissed from duty and referred to justice and judicial authorities.

(2) Class 2 Offences are as following:

- i. a person who violates Articles 17, 46, and 48, and is provided a written warning of violation and an order to correct, and fails to comply with such written warning within the time required by Customs
- ii. A person who fails to comply with Articles 39 and 49(1) or fails to comply with the instructions of Customs concerning goods under customs supervision or control in violation of 34(5) and 49(2)
- iii. A person who moves customs goods mentioned in Articles 34(5), 35, 38(1), 36, 80, 83, 123, and 132, from an authorized location to a non-authorized location.
- iv. A Customs official who refuses to implement sections 1, 2 or 3 of this paragraph, has not acted with due diligence in implementing such sections, or has acted in a manner which has profited the imported and has caused a deficiency in revenues.

(3) Class 3 Offences are:

- i. Intentional misrepresentation of facts required to be submitted to customs for the purpose of benefiting from a more favorable customs tariff
- ii. Executions in violation of Articles 50(2), 61(2), 66, 134, and 135, with the intent to frustrate the enforcement of customs legislation
- iii. Acceptance by the customs officer(s) of documents and information provided in sections 1 & 2 of this paragraph.

Article 167 (Penalties)

- (1) Persons committing class 2 Offenses shall be punished by a fine of ~~401~~ to ~~505~~% of the value of goods, taking into account the condition provided for in Article 20, in accordance with guidelines of the General Directorate of Customs.
- (2) A Customs official who commits a class 2 offense referred to in this Law shall be punished, in accordance with the circumstances mentioned in Article 20 of this law, by a fine equal to 10 – 50 % of the duty of the goods where the violation is not severe, and by suspension from duty for 20 – 35 days where the violation is severe.
- (3) Persons committing class 3 offenses shall be punished by a fine of ~~505~~ to ~~400~~10% of the value of goods taking into account the conditions provide for in article 20, in accordance with the guidelines of the General Directorate of Customs.
- (4) A Customs official who commits a class 3 offense referred to in this Law shall be punished, in accordance with the circumstances mentioned in Article 20 of this law, by a suspension from duty from 25 to 45 days where the violation is not severe, and by removal from duty and referral to judicial and justice authorities if the violation is severe.
- (5) The payment of cash penalties under this Article does not negate the payment of the principle customs debt.

Article 168 (Multiple Offenses)

If a violator commits more than one administrative violations at the same time a separate fine will be applied for each violation.

Article 169 (method for Collection of Fines)

Cash fines and other proceeds authorized by this chapter shall be collected in accordance with relevant procedures.

Article 170 (Discretionary administrative penalties)

- (1) Smuggling of goods of a value less than Afghani 10,000 shall be dealt with as a Class 3 offense, unless aggravating circumstances are present.
- (2) If the value of goods is in excess of Afghani 10,000, the Director General of Customs may settle the case administratively without referral to the *justice authorities* upon a request by the offender taking into account the simple circumstances and non aggravating circumstances, provided:
 - i. the judicial prosecution has not started;
 - ii. the amount of the customs duty due on the goods involved in smuggling is less than Afghani 20,000;
 - iii. the offender pays the amount of the customs duties and fines
 - iv. the offender agrees to give up their right of appeal referred to in Article 18.
 - v. the amount of 10,000 Afghani referred to in this paragraph may be changed by the Minister of Finance upon the approval of the Council of Ministers.
- (3) The fine applicable to the customs offense described in Paragraph 2 can be from 1 to 3 times the penalty of a Class 3 offense in accordance with the guidelines of the General Directorate of Customs. If the offender accepts payment of the mentioned fines, there shall be non criminal charges brought against the offender. Otherwise, Customs officials are obliged to refer the case to the competent authorities for prosecution.
- (4) The seized goods and the violator shall be released from customs control immediately after the customs verify that all the conditions and obligations referred to in paragraphs 1 and 2 of this Article are fulfilled by the violator.
- (5) This provisions of paragraphs (1, 2,3) and 4 shall not apply when:
 - i. the act is committed by a customs employee, a customs broker, or any other person whose activity is connected to that of customs in any way
 - ii. the violator possesses any smuggled or smuggling object as a consequence of another criminal act; or
 - iii. the goods are prohibited or restricted goods, as referred to in Article 53 (2)
 - iv. the person is repeatedly a violator.
- (6) Any Class 3 offense shall be referred directly to the competent authorities for prosecution if committed together with any of the conditions mentioned in paragraph 5 of this article.
- (7) In cases where section (5) or (6) applies, the report mentioned in paragraph 1Article 184 shall be attached to the decision of the customs regarding the fulfillment of the conditions mentioned in that article.

Article 171 (License Revocation)

The Ministry of Finance may revoke licenses granted pursuant to Articles 16, and 70 for repeated or serious violations of the conditions under which they are granted.

Article 172 (Smuggling of Goods)

- (1) Carrying out the following activities is deemed to be smuggling and the offender shall be punished in accordance with this law and any other customs legislation :
 - i. Introduction of goods into the customs territory ~~of the State~~, or the exit of goods, in violation of the provisions of this Law and other customs legislation, with the intent of avoiding (*ejtinab*) customs control or supervision.
 - ii. To carry prohibited goods for the purpose of import, export, or storing without permission of the relevant authorities.
 - iii. Selling or purchasing of goods in a transit process without paying customs duties
- (2) carrying out the following activities repeatedly, or showing intent to carry out the following activities shall be considered smuggling:
 - i. Violate the conditions for use of goods that occasioned a partial or total relief from customs debt by reason of their end-use pursuant to Article 66.
 - ii. possess goods against the provisions of article 61, paragraph 2 ;
 - iii. remove or falsify the identification number of the means of transport;
 - iv. purchase, sell, store, and possess imported goods with knowledge that they are smuggled goods; such knowledge will be presumed in the case of a warehouse keepers who stores imported goods without copies of the related customs declarations.
 - v. Break the seal or substitute or change other security verifications placed on the means of transport or goods.
 - vi. Load, unload, or move goods, travelers or their luggage, from one means of transport to the other without permission from the customs, in an unauthorized place.
- (3) Smuggling is considered to have been committed by the Captain of an aircraft who:
 - i. transports goods without the relevant manifest, or with a manifest that misrepresents the goods on board;
 - ii. has not presented goods to customs which were brought into the customs territory ~~of the State~~ according to the manifest but are not on board at the time of departure ,
 - iii. Lands out of a customs airport, and does not notify its landing to the customs or other relevant authorities within the shortest time.

Article 173 (Sanctions Applicable to Smuggling)

- (1) The violators referred to article 172 shall be punished with:
 - i. Confiscation of the smuggled goods;
 - ii. A fine from two to five times the amount equal to the applicable customs debt of the smuggled goods; and
 - iii. Punishment in accordance with Article 179.

- (2) In case of committing a violation by more than one person, each one shall be fined proportionate to that person's participation in the violation. If one of the parties pays the full amount, the others are free of any obligation to Customs for the fine in question.
- (3) When the same violator commits at the same time several violations referred to in chapter 14, the violator shall be punished for each of the violations separately.
- (4) Seized smuggled goods shall be put to auction, in accordance with the "Customs Procedures on Auction", when so ordered by the authorized court and approved by the General Director of Customs in writing. If the court does not issue such an order within six months or until such period which would cause the goods to be destroyed, then the seized smuggled goods shall be put to auction by a committee selected by the General Director of Customs and the proceeds of the sale shall be deposited to a trust account until the court's order is issued. Upon issuance of such order, action shall be taken in accordance with the order.
- (5) Goods seized by customs officials due to failure to comply with the requirements of this Law or otherwise a violation of this law, may be put to auction upon a written authorization of the General Director of Customs, in accordance with the Procedures of Auction.

Article 174 (Smuggling Objects)

- (1) "Smuggling objects [means] any objects (*wassaie*) involved directly in the act of smuggling, including arms, and the means of transport and other objects used to transfer or to hide smuggling goods. Smuggling objects will be seized by the customs and, upon decision of the competent courts may be confiscated and treated as abandoned goods. The means [objects] mentioned in paragraphs 3 and 4 are an exception to this rule.
- (2) The seizure of smuggled goods will take place regardless of the amount and the degree in which the owner of the goods took part in the smuggling action.
- (3) Where the person convicted of smuggling took possession of the seized objects as a consequence of a criminal act, the objects will be returned to the owner.
- (4) Means of transport are exempted from the seizure, whenever:
 - i. on the basis of evidence, the owner is not proven to be involved in the act of smuggling;
 - ii. The owner provided the means of transport in good faith in the ordinary course of business. (Without knowledge of its use for smuggling or other illegal activities).
- (5) The court, is obliged to take a decision ordering the confiscation of the means of transport and other objects of smuggling within 5 days of referral of the case. The transporting vehicle and other objects of smuggling shall be put up for auction ~~in accordance with~~ based on the order of court, in accordance with the Customs Procedures for Auction.

Article 175 (Vehicles)

The owner, or driver, of the vehicle transporting smuggled goods shall be punished as follows:

- i. If the owner of the vehicle carrying smuggled goods seized together with the vehicle and there is proof that the owner of the vehicle is aware of the existence of smuggled goods, the owner of the vehicle shall be sentenced to the punishment of a cash fine equal to the cost of the smuggled goods.
- ii. If the owner of the transporting vehicle commits the above crime repeatedly, in addition to application of the fine mentioned in section (1) of this Article, the transporting vehicle shall be expropriated.

- iii. If it is proved that the driver of the transporting vehicle is aware that the goods he is transporting are smuggled, the driver shall be punished as an accomplice to the crime.

Article 176 (The Seizure of Smuggling Objects)

(1) Smuggled objects are seized in the following cases:

- i. the act of smuggling is being witnessed,
- ii. the goods are in movement,
- iii. the goods are in an insecure public place,

Except in the case where smuggling is witnessed, seizure of goods from private property shall take place only upon the prior order of the authorized court.

- (2) The smuggled goods and the means thereof, when seized, shall be delivered promptly against receipt to the customs administration or to the district administration office in places where there are no customs organizations.
- (3) In case of a dispute concerning prohibited or smuggled goods, the goods will be retained by Customs at the expense of the importer until the dispute is resolved, or turned over to the relevant authorities for legal action.

Article 177 (Perishable Goods; Livestock)

- (1) The authorized courts, must issue an order regarding the auction of perishable goods (goods which very soon change in quality or spoil) livestock and other goods, the keeping of which requires expenses, promptly after seizure, but in no event later than 24 hours after seizure.
- (2) If the order of the court is not issued or reached in due time, custom authorities shall be responsible to sell the goods under the supervision of the of Customs with the agreement of the owner of the suspected goods, if present, and shall deposit the money in trust until receiving the order of the court.

Article 178 (Compensation for Damages)

No compensation for damages may be obtained that occurred during an act of seizure or confiscation of smuggled goods in the course of anti smuggling activities.

Article 179 (Range of Penalties)

The committer, in addition to ~~confiscation~~seizure of the smuggled goods and the objects, shall be sentenced to imprisonment in the following conditions:

- i. For one to three years imprisonment upon conviction by court as well as seizure of goods by customs officials if the smuggled goods are allowed goods and cost more than Afghani ~~75,000~~one million AFN (100,000). (..?)
- ii. For six months to one year years imprisonment by the authorized court if the smuggled goods are banned goods and cost less than Afghani,20,000
- iii. For one to six years imprisonment by the authorized court if the smuggled goods are banned goods and cost more than Afghani, 20,000.

- iv. For six months to one year imprisonment if the smuggled goods are impermissible goods and cost 50000 to 100000 AFN. If the cost of the goods exceeds 100000 AFN, then imprisonment, as the case may require, for 1 – 3 years.
- v. For 3 months to 6 months imprisonment if the smuggled goods are conditionally permissible goods and cost 50000 to 100000 AFN. If the cost of the goods exceeds 100000 AFN, then imprisonment, as the case may require, for 1 – 3 years.

Article 180 (Aggravating Circumstances)

- (1) The maximum penalty included in article 179 of this law shall be imposed if the act of smuggling is committed with the help of two or more persons, or in case of repetition of the crime,
- (2) If smuggling is committed through a network of smugglers the organizer of the network of perpetrators shall be penalized by an imprisonment of two times the punishments allowed by Article 179.
- (3) In cases where the smuggler shows armed resistance to the customs, whether injury results or not, the perpetrator shall be imprisoned for a period of 15 to 20 years.
- (4) If the smuggler kills a customs official and / or other persons who assist them in their duties, the smuggler shall, in addition to the confiscation penalty, be sentenced to capital punishment. Accomplices in the killing shall be sentenced to a punishment of 10 to 15 years imprisonment.

Article 181 (Participation of Government Employees in Smuggling Activity)

Officials, military employees and other persons that are related *in some way* to the state, who participate in the organization and management of smuggling network shall be punished two and one – half times the punishment included in article 179 of this law.

Article 182 (Evaluation of Administrative Violations)

The evaluation (*barrasi*) of administrative violations shall be undertaken by two officials of customs assigned by the authority of the related customs administration . The evaluation (*barrasi*) of administrative violations committed by customs officials shall be undertaken by three officials undertaking post release inspection of goods or by officials assigned by the General Director of Customs.

Article 183 (Authority for Access to Information)

In order to search for evidence of violations, Customs may be authorized in writing by the Director General of Customs to access commercial records and information records which are either maintained by Customs, or required by Customs to be maintained by others. Customs with a view to detecting and preventing administrative violations may carry out all necessary measures at offices, factories, warehouses and other locations and premises where accounts may be found or actions take place relating to customs affairs.

Article 184 (Report and Collection of Evidence)

- (1) The written report of evaluation prepared and signed in triplicate, shall contain:
 - i. the place, the date and the time where the violation occurred
 - ii. the names of the persons who sign the report and their position;
 - iii. the name and address and other identifying information of those accused of a violation;
 - iv. the classification of the violations mentioned in this law
 - v. the location of the goods;
 - vi. a description and identification of the means used to commit the violation;
 - vii. the indication of the kind, quantity, quality, value, origin and tariff classification of the goods;
 - viii. the amount of duty and other customs debt due;
 - ix. the Articles of this law on the basis of which the proposed fines are assessed;
 - x. The signatures of the customs employees and that of the violator in accordance with article 170.
- (2) Customs must notify immediately the person or persons suspected of the violation about the registered report mentioned in paragraph 1.
- (3) Customs must conduct a hearing for violations of the Customs Law, collect documents and proofs, and record the declaration of witnesses. Customs will set a date and time and place for that purpose. The time limit for holding the hearing may not exceed 72 hours from the date of notification.
- (4) The persons charged or witnessing the violation may be allowed by Customs to present and record their statement to the charges instead of being present at the hearing.
- (5) The statements [and declarations] mentioned in paragraph 4 shall be signed by the persons charged with the violation and witnesses when they are present, and both the customs officers who preside over hearing.
- (6) When any persons charged with the violation, or a witness, does not speak Dari or Pashtu, the hearing will be carried out in the presence of an interpreter who shall be responsible for the translation of the proceedings
- (7) Reporting on evaluation of administrative violations committed by customs officials shall be prepared and regulated in accordance with the relevant procedures.

Article 185 (File Administration)

Customs, after compiling the documents and reviewing the report concerning the administrative violation, shall sign and issue the decision disposing of the case. The officials for post release inspection shall, upon collection of documents and evidence, be obliged to decide in accordance with this law and to sign, issue and submit their decision to the relevant bodies for implementation.

Article 186 (Appeal Against the Decision for Payment of a Fine)

- (1) A customs decision to impose a fine under this law has to be delivered and notified to the person accused within 24 hours from the time of the decision by customs officials.

- (2) The person responsible for paying the fine may object to the decision of the customs imposing a fine in accordance with Article 18.
- (3) In case of appeal in accordance with Article 18(4) the appellant must deposit, in addition to the customs debt deposited in accordance with Article 18(2) an amount equal to 40% of the total amount of the fine, provided that the total amount of the deposit shall not exceed the value of the goods subject of the violation.
- (4) If the decision of the Customs Arbitration Administration is unacceptable to the appellant, the appellant shall deposit the remaining 60% of the fine prior to appealing from the opinion of the Customs Arbitration Administration which has been issued in accordance with article 18.
- (5) In accordance with articles 20 and 21 of this law, the deposit shall be returned within 5 days after any decision, customs opinion or order of court rendered in favor of the appellant becomes final.
- (6) Provisions of paragraphs 1, 2, 3, 4 & 5 of this Article shall also apply to customs officials who have committed such administrative violations.

CHAPTER FIFTEEN

DISTRIBUTION OF REVENUES AND GRANTING OF INCENTIVES

Article 187 (Distribution of Revenue from Fines and Expropriated Smuggled Goods)

- (1) Revenue from collection of fines and sale of smuggled goods shall be divided as follows: All revenues from fines to the State Budget. 50 % of the value of confiscated goods to the State Budget, and 50% of the value of confiscated goods shall be distributed for incentives to customs police and personnel, informers and others who cooperated in accordance with this, Chapter, and to the improvement of the working conditions for the customs personnel.
- (2) The proceeds from the auction of the confiscated seized smuggled goods are calculated and paid to the eligible persons in accordance with the Customs Procedures on Auction, after the final decision is given by the court, in accordance with the provisions of this Chapter,

ARTICLE 188 (Incentives for Informants)

Individuals supplying reliable information in detecting smuggled goods shall receive the following incentives;

- i. To assigned informing persons– 5% of the value of the smuggled goods.
- ii. To non assigned informing persons–7.5% of the value of the smuggled goods.

ARTICLE 189 (Incentives for Persons Seizing Goods)

Anyone personally seizing smuggled goods and dispatching them to the proper authorities shall receive the following incentives ;

- (1) In cases where the appointees seize smuggled goods from Places where Danger of accident is not probable, – 10% of the Price of the smuggled goods. In cases where

there has existed danger of harm in dealing with the smuggler, but no murder or injury has resulted – 15% of the value of the smuggled goods except in the case of prohibited goods and drugs. These assignees are not entitled to take advantage of Article 188 of this law.

- (2) Other government officials and relatives not officially involved in The pursuit of smuggling or of the customs house officials who have assisted effectively with the relevant assignees –2.5% of the price Of the seized goods.
- (3) others who effectively aid the appointed official of smuggling 5 % of the value of the seized goods.
- (4) Individuals killed during the seizure of smuggled goods or who are injured such that their injury interferes with work or business shall be paid:
 - To government employees – Afghani 500,000 - 1,000,000 in addition to receiving their retirement salaries and allotted incentives for themselves and their inheritors.
 - To individuals not having retirement rights –Afghanis 800, 000 – 1,500,000 According to the degree of injury to themselves or to their inheritors in addition to the specified incentives.
- (5) If the informer or the seizer of the goods is more than one person, the incentives determined by Article 188 shall be divided between them equally.

ARTICLE 190 (Halfed Incentives)

If the owner of the seized goods is unknown or difficult to locate the seizer of the smuggled goods and also his assistants shall receive one- half of the assigned incentives.

The incentives mentioned in this Chapter shall apply upon a written authorized of the General Directors of Customs.

CHAPTER SIXTEEN **MISCELLANEOUS PROVISIONS**

ARTICLE191 (Assisting Customs Administrations)

- (1) Policing agencies in the Ministry of the Interior and other civil (*mulki*) and military institutions, are obliged to assist the customs in all aspects in its enforcement of this law and other customs legislation.
- (2) Any person is bound to assist in the pursuit of persons accused of smuggling and in the seizure of smuggled goods, if those responsible for preventing smuggling seek help from that person.
- (3) Any person can inform the appropriate authorities if they have knowledge of an attempt or act of smuggling. In this case, the identity of person shall be kept confidential by customs officials.

Article 192 (Presentation of Annual Customs Report)

The Ministry of Finance is obliged to prepare and present an Annual Report to the Council of Ministers. The report should include:

- i. Annual operating budgets
- ii. The number of employees and their grades
- iii. Revenues collected by customs
- iv. Revenues forgone through evasion from payments or forgeries for getting duty relief.
- v. Activities delegated to and from other agencies.
- vi. Other operating information that has impacted the work of Customs

Article 193 (Preferential Provisions)

If any provisions from this law are in conflict with the provisions of any other legislation, the provisions of this law shall prevail.

Article 194 (Date of Enforcement)

Article 194 of this law shall be effective from the date of its endorsement (Tausheh) [by the Head of State] and shall be published in the Official Gazette. From the effective date of this law, the Customs Code published on 28 Saur 1361 (Official Gazette Number 508) and the Regulations Organizing Customs Affairs published on 15/1/1367 (Official Gazette 663) amendments or any other contrary provisions shall be nullified.

ADDENDUM
CHAPTER XXX
ELECTRONIC RECORDS

Article xxx (Definitions)

- i. "**Electronic**" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- ii. "**Electronic record**" means a record created, generated, sent, communicated, received, or stored by electronic means.
- iii. "**Electronic signature**" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- iv. "**Information**" means data, text, images, sounds, codes, computer programs, software, databases, or the like.
- v. "**Record**" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- vi. "**Form**" means a declaration, report, statement, return, application, notification or other document required or provided for under this Law

Article xxx. (Authorization)

- (1) Any person who is required under this Law to file or otherwise provide forms and who meets such eligibility criteria as prescribed by the Minister may file an application with the Minister for authorization to submit and keep such forms by means of an electronic record.
- (2) If the Minister is satisfied that the person who has filed an application under paragraph (1) meets the criteria referred to in that paragraph, the Minister may, in writing, authorize that person to transmit and keep such forms by means of an electronic record, subject to such conditions as the Minister may at any time impose.
- (3) The Minister shall adopt by regulation such measures as required to implement this Article including the form, manner, and content of the application referenced in paragraph (1)

Article xxx. (Time of Filing)

For the purposes of this Law, if a person files or otherwise provides a form by way of electronic record in accordance with such conditions as the Minister shall prescribe, it is deemed to be filed or provided in the prescribed form on the prescribed day.

Article xxx. (Signature Requirements)

If a person is required to sign any form under this Law and that form is submitted by means of an electronic record, it shall have such electronic signature as the Minister shall prescribe.

Article xxx. (Electronic Record-Keeping)

Subject to the authorization and such conditions and restrictions as the Minister may otherwise prescribe by regulation-

- i. where this Law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:
 - accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
 - remains accessible for later reference.
- ii. A requirement to retain a record in accordance with subparagraph (i) does not apply to any information whose sole purpose is to enable the record to be sent, communicated, or received.
- iii. A person may satisfy subparagraph (i) by using the services of another person if the requirements of that paragraph are satisfied.
- iv. Where this Law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, the requirement is satisfied by an electronic record retained in accordance with subparagraph (i).

Article xxx. (Legal Recognition of Electronic Records and Signatures; Notarization and Acknowledgement)

- (1) A record or signature required under this Law may not be denied legal effect or enforceability solely because it is in electronic form, provided it conforms to the requirements set out in this Chapter.
- (2) Where any provision of this Law requires a record to be in writing, an electronic record in accordance with this Chapter satisfies such requirement.
- (3) Where any provision of this Law requires a signature, an electronic signature in accordance with this Chapter satisfies such requirement.
- (4) Where any provision of this Law requires a signature or record to be notarized, acknowledged, verified, sealed or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those laws, together with all other information required to be included by the applicable law, is attached to or logically associated with the signature or record.
- (5) For the purposes of this Law, a document presented by the Minister purporting to be a print-out of an electronic record received under this Chapter shall be received as evidence and, in the absence of proof to the contrary, is proof of the electronic record filed or otherwise provided under this Chapter.

Article xxx. (Regulations)

The Minister shall by regulation prescribe-

- i. the forms or other information that may or shall be provided by means of an electronic record;
- ii. the manner and format in which the electronic records shall be created, generated, sent, communicated, received, and stored and the systems established for those purposes;
- iii. if electronic records must be signed by electronic means, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process
- iv. the control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and,
- v. any other required attributes for electronic records which are specified for corresponding forms under this Law or reasonably necessary under the circumstances