

In the Name of God, the Most Merciful, the Specially Merciful

**The Approval of Council of Ministers of the Islamic Republic of Afghanistan in regards
to the Regulation on Customs Arbitration**

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The regulation on Customs Arbitration is approved in 4 Chapters and 19 Articles by the Council of Ministers. The regulation is enforced after approval date and shall be published in the Official Gazette.

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The President of the Islamic Republic of Afghanistan

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Regulation on Customs Arbitration

Chapter One

General provisions

Basis

Article 1:

This regulation is formulated in the light of the provisions of the articles 19 and 22 of the Customs Law, in order to regulate the method of addressing the objections submitted to the Customs Arbitration as well as regulate organizational structure, duties and responsibilities of Customs Arbitration Administration.

Dependency

Article 2:

The Customs Arbitration Administration is independent in its executions; it shall manage its duties with full impartiality and with consideration of the provisions of the Customs Law, this regulation and other legislations.

Request for Review

Article 3:

The Customs Arbitration will address an objection when the requestor (protestor) is not satisfied with the decision of the General Directorate of Customs or an application for review is rejected by the General Directorate of Customs. In these cases, the requestor can submit his/her objection, in person or by an authorized representative to the Customs Arbitration Administration.

Chapter Two

Organizational Structure (Tashkeel)

Customs Arbitration Administration

Article 4:

- 1- The Customs Arbitration Administration is established within the framework of Ministry of Finance.
- 2- The Customs Arbitration Administration is composed of three members who are appointed for the period of three years upon proposal of Minister of Finance and approval of President as follow:
 1. One Legal Expert
 2. One Economist
 3. One Customs and Commercial affairs expert
- 3- The Customs Arbitration Administration is chaired by Legal Expert member.
- 4- The service tenure of chairman and members of Customs Arbitration Administration can be extended for a period of three years based on decision of Minister of Finance.

Membership requirements

Article 5:

A person can be appointed as a member of Customs Arbitration Administration who has the following qualities:

- 1- Holds Afghan Citizenship
- 2- Holds at least BA degree in field of Law, Economics or Commerce
- 3- At least 10 years of working experience in relevant field
- 4- Shall not be accused by court for conviction of crime or intentional offence

Lack of engagement in other jobs

Article 6:

Members of Customs Arbitration Administration can not work simultaneously in other institutions or do business or work as defense lawyer. Engagement in scientific researches and teaching is an exception of this provision.

Suspension

Article 7:

A member of Customs Arbitration Administration can be suspended for dereliction of duty or disclosing secrets or confidential information of Customs Arbitration Administration upon proposal of Minister of Finance and approval of President.

Secretariat

Article 8:

The Customs Arbitration Administration contains a secretariat in order to perform their activities and the employees of secretariat are appointed according to the provisions of law.

Chapter 3

Responsibilities and Authorities of Customs Arbitration Administration

Responsibilities and Authorities

Article 9:

1. In order to address the objections, the Customs Arbitration Administration uses Customs Law, this regulation and other legislative documents.
2. The Customs Arbitration Administration addresses the objections to the decisions of General Directorate of Customs and demands the necessary explanation about details and evidences related to the petitioner.

3. The General Directorate of Customs is required to provide the documents and evidences mentioned in paragraph 2 of this article, to Customs Arbitration Administration when demanded.
4. The Arbitration Customs Office is required to provide its performance report to the Ministry of Finance.

Responsibilities of Secretariat

Article 10:

1. The Secretariat of Customs Arbitration Administration records the objection case and informs the parties of the venue of the meeting at least one week in advance.
2. The petitioner or his authorized representative can participate in the meeting of Customs Arbitration.
3. If the parties do not show up in the meeting, their absence can not prevent the case from being addressed; the meeting of arbitration will take place and decisions are made

Contents of Opinion (Decision)

Article 11:

The Opinion (decision) of Customs Arbitration Administration includes the followings:

1. Identity of protestor.
2. Demands of protestor.
3. Summary of Case.
4. Evaluating the relevant executions by Customs employees and results of revision of General Directorate of Customs.
5. Evaluating the presented documents and evidences.
6. Confirmation or rejection of executions by the General Directorate of Customs.
7. The decisions made.
8. Signatures of members and stamp of Customs Arbitration Administration.

Arranging Opinion (Decision)

Article 12:

The Customs Opinion of Customs Arbitration Administration will be prepared in three copies, one copy for General Directorate of Customs, second copy will be given to protestor and third copy shall be put in file along other documents.

The secretariat of Customs Arbitration Administration keeps the issued Customs Opinion.

Issuing Customs Opinion (Decision)

Article 13:

The Customs Arbitration Administration shall look in to the documents, evidences and explanations mentioned in article 9th of this regulation regarding recorded protest and will evaluate the executions of General Directorate of Customs and will issue Customs Opinion within (30) days and will notify both parties.

Objection against decision

Arbitration Administration

Article 14:

Whenever protestor, in observance of clause (2) article 20th of Customs Code, dissatisfies with the decision of Customs Arbitration Administration, the requestor can appeal to relevant commercial court within 15 days of Customs Opinion has been issued.

Finality of an Opinion

Article 15:

The Opinion of Customs Arbitration Administration will be final and enforceable in the following cases:

1. When the amount of customs debt in dispute is up to AFA (50,000)
2. If the addressed issue is smuggling goods and executions have been made in accordance of clauses (1, 2, 3 and 4) article 170 of Customs Code.

3. If the amount of customs debt is greater than AFA (50,000) and protestor does not appeal against opinion to the relevant commercial court within the period mentioned in article 14th of this regulation.

Chapter Four

Miscellaneous Provisions

Restoration of Guarantee (Deposit)

Article 16:

- 1- Whenever Customs Arbitration Administration issues Customs Opinion in the favor of protestor, the guarantee or deposit mentioned in clause (5) article 18th of Customs Code, will be returned to protestor and if objection of protestor is rejected or Opinion (decision) of Customs Arbitration Administration in accordance with provision of article 14th of this regulation is final and enforceable, the deposit amount shall go to government bank account.
- 2- If the case is addressed judicially in court, after final decision of court, considering cases of clause (1) of this article, executions will take place about returning the amount of deposit to protestor or transferring it to government bank account.

Pay and benefits

Article 17:

- 1- Salary, recruitment, transfer, promotion, retirement, granting agreement, acceptance of resignation, sick leaves, annual leaves, emergency leaves and other affairs related to Customs Arbitration Administration personnel and members will be in accordance with provisions of government Labor Law and will be executed by considering the provision of this regulation.
- 2- The members of Customs Arbitration Administration, in addition to their salaries, will get monthly allowance or monetary aid which will be determined by the request of Minister of Finance and approved by the President.

Stamp of Customs Arbitration Administration

Article 18:

Customs Arbitration Administration has specific stamp that sign of Government of Islamic Republic of Afghanistan and name of Ministry of Finance and Customs Arbitration Administration is engraved on it.

Date of Enforcement

Article 19:

This regulation is enforced from the date of approval and shall be published in official gazette.