CUSTOMS MANAGEMENT ACT, 2011

(Act 22 of 2011)

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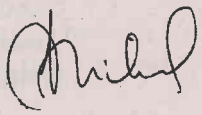
CUSTOMS MANAGEMENT ACT, 2011

(Act 22 of 2011)

I assent



J. A. Michel
President

22nd December, 2011

AN ACT to provide customs procedures and to empower customs officers to discharge their mandate in line with the recommended international best practice, repeal the Customs Management Decree, 1980 and Trades Tax Act, 1993 and to provide for matters connected therewith and incidental thereto.

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. This Act may be cited as the Customs Management Act, 2011 and shall come into operation on such date as the Minister may, by Notice published in the Official Gazette, appoint.

Short title and commencement

Interpretation

2. In this Act unless the context otherwise requires —

"aircraft" means power-driven aircraft, helicopters, non-power driven aircraft, balloons and gliders, but excludes hovercraft;

"appeal" means the act by which a person who is directly affected by a decision or omission of the Customs and is aggrieved thereby seeks redress by means of the Customs appeal procedure in place;

"assessment of duties, taxes or levies" means the determination of the duties, taxes or levies payable;

"Assistant Commissioner of Customs" means the Assistant Commissioner of Customs appointed under section 3;

"audit-based control" means measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books,, records, business systems and commercial data held by the persons concerned;

"bond" means an undertaking, in legal form, by which a person binds himself or herself to Customs to do or not to do some specified act;

"cargo" means all goods, including prohibited or restricted goods, imported or exported in an aircraft or vessel other than goods which are required as stores for consumption or use by or for that aircraft or vessel, its crew and passengers, and the personal baggage of crew and passengers;

"cargo declaration" means information submitted prior to or on arrival or departure of a means of

transport, furnishing the particulars required by the Customs relating to cargo brought to or removed from Seychelles thereon;.

"cargo manifest" means a listing of the goods comprising the cargo or freight carried in a means of transport or in a transport-unit;

"certificate of origin" means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country;

"clearance or release for home use' means the Customs procedure which provides that imported goods enter into free circulation in Seychelles upon the payment of any import duties, taxes or levies chargeable and the completion of the Customs formalities;

"commander", in relation to an aircraft, includes any person having or taking the charge or command of an aircraft;

"compensating products" means products —

(a) obtained within a country resulting from the manufacturing, processing or repair of the goods for which the use of the inward processing procedures is authorised; or

(b) obtained abroad and resulting from the manufacturing, processing or repair of goods for which the use of the outward processing procedure is authorised;

"computer documents and records" includes the following definitions —

(a) "data" means information in a form in which it can be processed;

(b) "data equipment" means any electronic, photographic, magnetic, optical or other equipment for processing data;

"container" includes the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. but does not include vehicles, accessories or spare parts of vehicles, or packaging or pallets;

"country of exportation" in relation to imported goods, means the country from which such goods are exported in to Seychelles, but does not include any country through which such goods are in transit;

"country of origin" means the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade;

"Customs" means the Government Service which is responsible for the administration of customs and laws related thereto;

"Customs Agent" means a person registered as a Customs Agent under the Revenue Administration Act, 2009;

"Customs-approved procedure or use" means, among other things, any of the procedures under which goods may be placed in accordance with this Act;

"Customs debt" means the obligation of a person to pay the amount of the import duties, taxes or levies or export duties, taxes or levies which apply to specific goods under the provisions in force;

"Customs declaration" means any statement or action, in any form prescribed or accepted by the Customs, giving information or particulars required by the Customs;

"Customs duties" means the duties laid down in the Customs tariff in force, to which goods are liable on entering or leaving the Customs territory;

"Customs formalities" means all the operations which must be carried out by the persons concerned and by the Customs in order to comply with the Customs law and any other regulatory provisions in force;

"Customs warehouse" means any place approved by and under the supervision of Customs where goods may be stored under the conditions laid down by the Assistant Commissioner of Customs in terms of this Act;

"Customs warehousing procedure" means the Customs procedure under which imported goods are stored under Customs control in a Customs warehouse without payment of import duties, taxes or levies;

"debtor" means any person liable for payment of a Customs debt;

"depositor" means the person bound by the declaration placing the goods under the Customs warehousing procedure or to whom the rights and obligations of such a person have been transferred;

"declarant" means any person who makes a Customs declaration or in whose name such a declaration is made;

"document" means any physical or electronic medium designed to carry and actually carrying a record of data entries, including—

(i) any form of writing on material;

(ii) information recorded, transmitted or stored by means of a tape recorder, computer or other device, and material subsequently derived from information so recorded, transmitted or stored;

(iii) any label, marking, or other form of writing that identifies anything of which it forms part or to which it is attached by any means;

(iv) any book, map, plan, graph or drawing;

(v) any photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable of being reproduced;

"drawback" means the amount of import duties, taxes or levies repaid under the drawback procedure;

"drawback procedure" means the Customs procedure when goods are exported, provides for a repayment ,total or partial, to be made in respect of the import duties, taxes or levies charged on the goods, on materials contained in them or consumed in their production;

"dutiable goods", means goods of a class or description subject to any duties, taxes or levies of

Customs or excise, whether or not the goods are chargeable with any duties, taxes or levies paid;

"duties, taxes or levies" means import duties, taxes or levies or export duties, taxes or levies;

"duty-free shop" means premises situated at a port, airport or any other location authorised by the Assistant Commissioner of Customs for the purpose of depositing dutiable and taxable goods on which duties, taxes or levies have not been paid;

"equivalent compensation" means a system allowing, under certain Customs procedures, the exportation or importation of goods identical in type, description, quality and technical characteristics of goods previously imported or exported;

"equivalent goods" means goods identical in description, quality and technical characteristics to those imported or exported for inward or outward processing;

"export duties, taxes or levies" means Customs duties and all other duties, taxes or charges which are collected on or in connection with the exportation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by Customs on behalf of another national authority;

"goods declaration" means a statement made in the form prescribed by Customs, by which the persons concerned indicate the Customs procedure to be applied to the goods and furnish the particulars which the Customs require for its application;

"import duties, taxes or levies" means Customs duty and all other duties, taxes or charges collected in connection with the importation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;

"importation" in relation to any goods, means the arrival of the goods in Seychelles in any manner, whether lawfully or unlawfully, from a place outside Seychelles, and includes the act of bringing or causing any goods to be brought into Seychelles;

"importer" means a person by or for whom goods are imported, including a owner of a pipeline, a consignee of goods or a person who is or becomes the owner of, or entitled to the possession of, or beneficially interested in any goods on or at any time after their importation before the goods ceased to be subject to the control of Customs;

"in transit" means goods taken out or sent from any country and brought into Seychelles by sea or air for the sole purpose of being carried to another country either by the same or another conveyance;

"internal waters" means the internal waters of Seychelles as defined in the Maritime Zones Act, 1999;

"inward processing" means the Customs procedure under which certain goods can be brought into Seychelles conditionally relieved from payment of import duties, taxes or levies, on the basis that such goods are intended for manufacturing, processing or repair and subsequent exportation;

"landing" in relation to goods, includes the discharging of goods from a pipeline;

"loading", in relation to goods, includes the pumping or insertion of goods into a pipeline;

"Minister" means the Minister responsible for Finance and trade;

"master", in relation to a vessel, includes any person having or taking charge or command of the vessel;

"officer" means an officer appointed by the Revenue Commissioner in terms of section 8.

"operator" in relation to a pipeline, includes any person responsible for the management, pumping or insertion of goods into, or the discharge of goods from, the pipeline;

"outward processing" means the Customs procedure under which certain goods which are in free circulation in Seychelles may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from import duties, taxes or levies;

"person" means —

(a) a natural person;

(b) a legal person; and

(c) an association of persons whether incorporated or not;

"person established in Seychelles" means —

(a) for a natural person, any person who has his or her habitual residence in Seychelles;

(b) for a legal person or an association of persons, any such person having its registered office, central headquarters or a permanent business establishment in Seychelles;

"personal effects" means all articles which a passenger may reasonably require for personal use during a journey to Seychelles, but excludes any goods imported or exported for commercial purposes;

"private warehouse" means a warehouse reserved solely for the warehousing of goods by a warehouse keeper;

"processing operations" means any of the following—

(a) processing of goods;

(b) destruction of goods;

(c) repair of goods, including restoring them and putting them in order;

(d) use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process;

"public warehouse" means a warehouse available for use by any person for the warehousing of goods;

"rate of yield" means the quantity or percentage of compensating products obtained from the

processing of a given quantity of import goods;

"records, books or other documents" includes –

(a) any records maintained, whether —

(i) in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards; or

(ii) kept in microfilm, magnetic tape or in any non-legible form which is capable of being reproduced in a legible form;

(b) an electronic or other automatic means, by which any non-legible form is capable of being reproduced; or

(c) documents in manuscript, typed, printed, stencilled or created by any other mechanical means or partly mechanical process produced by any photographic or photostatic process;

"Revenue Commissioner" means the Seychelles Revenue Commissioner appointed under the Seychelles Revenue Commission Act 2010;

"re-importation in the same condition" means the Customs procedure under which exported goods may be taken into home use free of import duties, taxes or levies which have not undergone any manufacturing, processing or repairs outside Seychelles;

"re-exportation" means exportation from Seychelles of goods previously imported into Seychelles;

"release or clearance of goods" means the act whereby the Customs make goods available for the purposes stipulated by the Customs procedure under which they are placed;

"Revenue Tribunal" means the Revenue Tribunal established under the Revenue Administration Act, 2009;

"rules of origin" means principles established bilaterally and multilaterally by Seychelles or under international agreements to determine the origin of goods;

"seizure" means taking possession by legal means of goods, documents, information technology hardware, software or storage media and means of transport that are liable in law to forfeiture;

"Seychelles goods" means goods which fall into any of the following categories —

(a) goods wholly obtained in Seychelles and not incorporating goods imported from countries or territories outside Seychelles; and

(b) goods imported from countries or territories outside the Seychelles and released or cleared for home use or for free circulation in Seychelles;

"stores" means —

(a) goods intended for consumption by the passengers and the crew on board vessels or aircraft, whether or not sold; and

(b) goods necessary for the operation and maintenance of vessels or aircraft including

fuel and lubricants but excluding spare parts and equipment;

(c) goods for sale to the passengers and the crew of vessels or aircraft;

"summary declaration" means a declaration to be made before goods arrive into or depart from Seychelles;

"tariff classification of goods" means the determination of the tariff in a tariff nomenclature under which particular goods are classified;

"temporary admission" means a Customs procedure under which certain goods brought into Seychelles on total or partial payment of import duties, taxes or levies is imported for a specific purpose and is intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the bona fide use made of them;

"temporary export goods" mean goods placed under the outwards processing procedure;

"temporary storage" means the storing of goods in premises enclosed or unenclosed specified by Customs pending assignment of goods to another Customs-approved procedure or use;

"territorial waters" means the territorial waters of Seychelles defined under the Maritime Zones Act,1999;

"transhipment" means a Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one

Customs office which is the office of both importation and exportation;

"trade zone" means a zone under the International Trade Zone Act, 1995;

"uncustomed goods" means goods where duties, taxes or levies due and payable have not been paid;

"vessel" means—

(a) any conveyance of transport by water for persons or goods;

(b) a ship, hovercraft, boat or any other vessel used in navigation; or

(c) personal watercraft;

"warehouse keeper" means the person authorised to operate a customs warehouse;

PART II - ADMINISTRATION

I. Appointment, Functions and Powers of the Assistant Commissioner of Customs

Appointment of Assistant Commissioner of Customs

3. There shall be an Assistant Commissioner of Customs appointed by the Revenue Commissioner.

Delegation of powers by Assistant Commissioner of Customs

4.(1) The Assistant Commissioner of Customs may delegate his or her powers under this Act.

(2) Any delegation of the powers of the Assistant Commissioner of Customs may be revoked.

Power to issue guidance and rules

5. The Assistant Commissioner of Customs may, under the general supervision of the Revenue Commissioner issue, for the guidance and direction of officers, policies,

procedures, instructions or rules which shall be binding on the officers.

Power to conclude Administrative Agreements

6. The Assistant Commissioner of Customs with the approval of the Revenue Commissioner and in consultation with the Minister may conclude administrative agreements in the national interest and for Customs control purposes with—

(a) other Customs administrations;

(b) regional and international organisations; or

(c) other government agencies.

Administration of oath and affidavits

7. The Assistant Commissioner of Customs or any officer designated by the Assistant Commissioner of Customs shall be entitled to administer any oath or attest an affidavit required by law in any matter relating to Customs.

Appointment of officer of Customs

8. Any person appointed by the Revenue Commissioner to be an officer of Customs shall have all the powers in relation to the act or duty performed or to be performed by that person as provided for in this Act or any other law relating to customs.

Holding of inquiries

9.(1) The Assistant Commissioner of Customs may hold an inquiry, or may direct an inquiry to be held—

(a) into any matter under his or her management;

(b) into the conduct of any person employed in Customs;

(c) where he has reasons to believe that an offence under this Act has been committed;

(d) wherever it is necessary or appropriate to do so for the purpose of this Act.

(2) The Assistant Commissioner of Customs may by written notice, require any person to attend as a witness and give evidence, or to produce any document in that person's possession or power which relates to any matter relevant to the inquiry.

Power vested in the Assistant Commissioner of Customs and officer

10. The Assistant Commissioner of Customs or an officer may —

(a) examine goods imported, exported, in transit and for transhipment;

(b) access premises, vehicles, vessels or aircraft of persons involved in any capacity in international trade transactions;

(c) access all records of the goods, relating to international trade transactions;

(d) take representative samples of goods at importation, post- importation and at export;

(e) detain goods imported or intended for export to establish their compliance with this Act; or

(f) conduct a retrospective audit of the business records, including bank records and computer systems of any person involved in an international trade transaction;

II. Administrative matters

Officers to observe secrecy

11. (1) An officer shall not breach official secrecy of information acquired by the officer in the performance of his or her functions while being, or after ceasing to be an officer and shall not make a record of, divulge or communicate to any person, except in the performance of the officer's functions under this Act,

Commissioner of Customs, unless —

(a) the guarantor is a bank or a financial institution in Seychelles.

(b) a person established in Seychelles and have not commit a serious offence against customs or revenue laws.

(2) The guarantor shall undertake in writing to pay the secured amount of a Customs debt and secured amount of import or export duties, taxes or levies payable following post-release verification.

(3) The Assistant Commissioner of Customs may refuse to approve the guarantor or type of guarantee proposed where either does not appear certain to ensure payment of the customs debt within the prescribed period.

Additional or replacement guarantee

227.(1) Comprehensive guarantees may be replaced with a specific guarantee where the Assistant Commissioner of Customs is satisfied that the goods are subject to fraud and that a comprehensive guarantee would not adequately secure the revenue risk involved in the procedure of operation.

(2) Where the Assistant Commissioner of Customs establishes that the guarantee provided does not ensure or is no longer sufficient to ensure payment of the Customs debt within the prescribed period the Assistant Commissioner of Customs shall require an additional guarantee or a new guarantee.

Release of the guarantee

228.(1) The Assistant Commissioner of Customs shall release the guarantee when the Customs debt has been settled.

(2) Where the Customs debt has been settled in part or may arise in respect of part of the amount which has been secured the settled part of the guarantee shall be released at the request of the person concerned, unless the amount involved does not justify the release.

(2) An officer shall not produce in court any return, assessment or notice of assessment, document or information obtained or acquired by the officer in the performance of functions under this Act, except on a court order.

(3) Nothing in this Act shall prevent—

(a) any officer from revealing any document or information relating to the revenue of any person or any confidential instructions in respect of the administration of this Act to any other officer, where it is needed for the performance of that officer's functions under this Act;

(b) any officer from revealing any document or information to the Auditor General or any other person in the service of the Government or a person authorised by the Revenue Commissioner or the Assistant Commissioner of Customs, where the document or information is needed for the performance of their official functions.

(4) Any person to whom a document or information is revealed under subsection (3), and any person under that person's control, shall in respect of that document or information be subject to the same rights, privileges, obligations and liabilities under subsection (1) or subsection (2) as if that person were an officer.

(5) An officer shall, if and when required by the Revenue Commissioner or the Assistant Commissioner of Customs make an oath, in the manner and form provided, to maintain secrecy in accordance with this section.

12. The Minister may by regulations provide for specific services and fees to be charged by Customs. Specific services

Customs seal

13. Customs shall have a seal, called the Customs Seal, the design of which shall be determined by the Assistant Commissioner of Customs and it shall be used as provided for by this Act.

Customs stamp

14. Customs shall have a stamp, called the Customs Stamp, the design of which shall be determined by the Assistant Commissioner of Customs and it shall be used as provided for by this Act.

Protection of action taken in good gfaith

15.(1) An officer shall not be liable for any civil proceedings for any act done in good faith in the performance of the officer's duties.

(2) The Assistant Commissioner of Customs shall take the necessary precautions not to endanger the safety of life at sea, the security of any vessel and cargo and not to unduly influence any commercial or legal interest, and take into account —

(a) the dangers involved in boarding a vessel at sea;

(b) the need to respect the legitimate commercial activities of a vessel; and

(c) the need to avoid unduly detaining or delaying a vessel.

Designated certain Areas

16.(1) There shall be a designated port or airport approved for customs purposes for —

(a) customs to perform their functions and responsibilities;

(b) clearance of inwards and outwards goods and passengers;

(c) temporary storage of goods.

(2) All previously designated port or airport approved for customs purposes for examination and temporary storage facilities in use at the commencement of this Act shall be deemed to have been established and continued under this Act.

Procedure of goods of Customs to be at the risk of the importer, exporter, or authorised agent

17. The shipping, unshipping, carrying and landing of all goods, including passengers' baggage, and the bringing of goods to the place of examination, the measuring, weighing, counting, unpacking and repacking, the opening and closing of the packages for examination and accounting purposes shall be performed by and at the expense and risk of the importer, exporter or authorised agent as the case may be.

Control or supervision by Customs

18. Goods subject to the control or supervision of the Customs shall not be moved, altered or interfered with except by authorisation of the Assistant Commissioner of Customs and where necessary upon consultation with the relevant competent authorities.

Liability for loss, damage under Customs control

19. Customs shall not be liable for any loss or damage to any goods subject to the control of Customs, except where the loss or damage are by the neglect or default of an officer or a person employed by Customs.

Failure to account for goods

20. Where a person who has possession, custody or control of dutiable and taxable goods which are subject to Customs control or supervision—

(a) fails to keep those goods safely; or

(b) when so requested by the Assistant Commissioner of Customs, does not account for those goods to the satisfaction of the Assistant Commissioner of Customs,

that person shall, on demand by the Assistant Commissioner of Customs, pay to the Government an amount equal to the duties, taxes or levies and any other charges properly payable on the goods entered for home use on the day on which the demand was made.

Evidence of Authority

21. An officer shall, if required, produce evidence of the officer's authority.

III. Importation and exportation

Time of importation and exportation

22.(1) The time of importation of any goods into Seychelles shall be —

(a) in the case of importation by sea, the time at which the vessel importing such goods comes within 12 nautical miles of any island coast of Seychelles or the designated port to which the goods are consigned.

(b) in the case of importation by air when the aircraft lands at a designated airport or the time when the goods are unloaded in Seychelles.

(2) The time of exportation of any goods from Seychelles shall be —

(a) in the case of exportation by sea, when the goods are shipped on board the vessel by which they are to be exported;

(b) in the case of exportation by air, when the aircraft leaves an airport;

(c) in the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under any law the time of exportation shall be deemed to be the time when the exporting vessel or aircraft departs from the last port or airport at which it is cleared before departing for a destination outside Seychelles.

Importation or exportation by pipeline

23.(1) In this Act "shipping" and "loading" where used in relation to importation or exportation, include, in relation to

importation or exportation by means of a pipeline, the conveyance of goods by means of the pipeline and the charging and discharging of goods into and from the pipeline, but subject to any necessary modifications.

(2) Goods imported by means of a pipeline shall be treated as imported at the time when they are brought within the limits of a port.

(3) Goods exported by means of a pipeline shall be treated as exported at the time when they are charged into that pipeline for exportation.

(4) The nature and quantities of goods imported or exported through a pipeline shall be recorded and reported by the operator of the pipeline in the manner directed by the Assistant Commissioner of Customs.

(5) The record and report shall be made by an equipment authorised by customs at the operator's own expense.

(6) The authorisation shall be subject to conditions.

PART III –RIGHTS OF REPRESENTATIVES

I. Declarant and third party representation

Obligation of declarant

24.(1) The importer and exporter shall be the declarant for importation and exportation of goods , except where the importer or exporter is represented by —

(a) a customs agent;

(b) a person authorised to act on behalf of the importer or exporter.

(2) The declarant shall be responsible for the accuracy of the information given in the declaration, the authenticity of

the documents accompanying the declaration and compliance with all the obligations relating to the declaration of the goods in question under the relevant procedure.

Authorisation of representative

25. A person shall be duly authorised to represent an importer or an exporter when—

(a) in the case of a customs agent, such person is authorised, in accordance with the provisions of the Revenue Administration Act; or

(b) in the case of any other person, such person is authorised in writing by the importer or exporter.

Joint liability

26.(1) A customs agent or an authorised representative shall be jointly and severally liable with the persons they represent for any duties, taxes or levies incurred .

(2) Where a customs agent or an authorised representative fails to state that he or she is acting for and on behalf of another person, he or she is deemed to be acting in his or her own name and shall be liable for all duties, taxes or levies payable.

(3) Notwithstanding the customs agent's or authorised representative's primary liability, the importer or exporter shall remain jointly and severally liable for all duties, taxes or levies payable.

Liability of principal

27. A person who appoints a customs agent or an authorised representative to act on that person's behalf shall be responsible for the acts or omissions of the customs agent or authorised representative while acting on that person's behalf.

Agent's Bond

28. A customs agent transacting customs business shall, when required by the Assistant Commissioner of Customs, execute a bond or provide security to the satisfaction of the Assistant Commissioner of Customs in accordance with this Act..

II. General information, decisions and binding decisions given by Customs

Request for Customs information

29.(1) A person may request from customs information concerning the application of this Act.

(2) The information shall be supplied to the person free of charge except where special costs are incurred by Customs, as a result of analyses or expert reports on goods, or the return of the goods and the person may be charged the cost of the services rendered.

Request for binding tariff and origin information

30.(1) A person may request from the Assistant Commissioner of Customs the binding tariff information or binding origin information to determine import or export duties, taxes or levies.

(2) Binding tariff information or binding origin information shall be binding on Customs only in respect of the tariff classification or determination of the origin of goods.

(3) Binding tariff information or binding origin information shall be binding on Customs only in respect of goods on which Customs formalities are completed after the date on which the information was supplied.

(4) Customs formalities in relation to origin of goods shall be prescribed by regulations.

(5) Where a person is providing information, the onus is on the person to prove that—

(a) for tariff purposes, the goods declared correspond in every respect to those described in the information;

(b) for origin purposes, the goods concerned and the circumstances determining the

acquisition of origin correspond in every respect to the goods and the circumstances described in the information.

(6) Binding information shall be valid for a period of 1 year in the case of tariffs and 3 years in the case of origin from the date of issue. It shall be annulled if based on inaccurate or incomplete information provided by the applicant.

(7) Binding tariff information and binding origin information shall cease to be valid—

(a) where a regulation is adopted and the information no longer conforms to the law laid down thereby;

(b) where it is no longer compatible with the legal interpretative rules for tariff classification of goods set out in the regulations;

(c) where it is revoked or amended provided that the revocation or amendment is notified by regulations;

III. Decisions relating to the application of Customs law

Responsibility of person lodging information

31.(1) Any person who lodged a summary declaration, ships report, a Customs entry, a simplified declaration, notification or the submission of an application for an authorisation or any other decision shall be responsible—

(a) for the accuracy of the information given;

(b) the authenticity of any documents lodged or made available; and

(c) for placing the goods in question under the relevant procedure or the authorised operations, where applicable.

(2) Where the declaration or notification is lodged or the application is submitted or requested information is provided by a representative of the person concerned, the representative shall also be bound by the obligations set out in subsection (1).

Appeal against administrative decisions

32.(1) A person dissatisfied with the decision of the Assistant Commissioner of Customs may request that the Revenue Commissioner makes a decision relating to the provision of the customs law and shall furnish all the information and documents required for the purpose of making the decision.

(2) The manner and form in which the request may be made shall be prescribed by regulations.

(3) A person dissatisfied with the decision of the Revenue Commissioner may appeal against such decision under the procedure set out under the Revenue Administration Act, 2009.

Grounds for annulment of decisions

33.(1) Decisions made by the Assistant Commissioner of Customs shall be immediately enforceable except where a decision is in the Appeal process.

(2) The Assistant Commissioner of Customs may annul, amend or revoke a "non-binding" decision issued under the provisions of sections 34 not inconsistent with this Act.

(3) A decision favourable to the person concerned shall be annulled if it was issued on the basis of incorrect or incomplete information where—

(a) the applicant knew or ought reasonably to have known that the information was incorrect or incomplete; and

(b) such decision could not have been taken on the basis of correct or complete information.

(4) The persons to whom the decision was addressed shall be notified of its annulment which shall be effective from the date on which the decision was annulled , unless otherwise specified.

Revocation and amendment of decision

34.(1) A decision favourable to a person shall be revoked or amended where, in cases other than those referred to in section 33 if one or more of the conditions laid down for its issue were not fulfilled.

(2) A decision favourable to a person may be revoked where the person to whom it is addressed fails to fulfil an obligation imposed on the person under that decision.

(3) The person to whom the decision is addressed shall be notified of its revocation or amendment, and the revocation or amendment of the decision shall take effect from the date on which it is received or is deemed to have been received:

Provided where the legitimate interests of the person to whom the decision is addressed so require, the Assistant Commissioner of Customs may defer the date on which the revocation or amendment takes effect.

IV. Provision and preservation of information

Provision and preservation of information

35.(1) A person who is engaged , in the importation or exportation of goods shall keep records, books, documents or data as the Assistant Commissioner of Customs may require.

(2) Any records, books, documents or data shall be preserved for seven years.

(3) The period stated in subsection (2) shall run from the time the goods are —

(a) released for home use in circumstances other than those referred to in subsection (3) or goods declared for export, the declarations

for release for home use or export are accepted;

(b) released for home use duty or tax-free or at a reduced rate of import duty or tax on account of their end-use, cease to be subject to Customs control or supervision;

(c) placed under another Customs procedure.

(4) Where a Customs control is carried out by the Assistant Commissioner of Customs in respect of a Customs debt, and an entry in the accounts requires to be corrected and the person concerned has been notified, the documents shall be preserved for seven years beyond the time limit provided for in subsection (2).

(5) Where an appeal has been lodged the documents shall be preserved until the decision of the appeal.

Furnishing information to officer

36.(1) A person who is engaged in the importation or exportation of goods shall provide information or documents relating to the goods or to their importation, exportation, transhipment or transit within such time and in such form to the Assistant Commissioner of Customs, require.

(2) Notwithstanding subsection (1) where a person has a lien on any document produced, the production of the document shall not affect the lien.

(3) An officer may make copies of, or take extracts from, any document produced under subsection (1).

(4) Where necessary, an officer may for a reasonable period, remove any document produced under subsection (1) and shall provide a receipt for any document so removed.

(5) Where a document removed by an officer is required for the proper conduct of a business, the officer shall

as soon as practicable, provide a copy of the document to the person by whom it was produced or caused to be produced.

(6) Where any documents removed are lost or damaged, the Assistant Commissioner of Customs shall be liable to compensate the owner for any expenses reasonably incurred by the owner in replacing the documents.

Data Protection and client confidentiality

37.(1) All information acquired by the Assistant Commissioner of Customs in the course of performing his or her duties which is by its nature confidential or which is provided on a confidential basis, shall be treated as confidential.

(2) The Assistant Commissioner of Customs shall not disclose confidential information without the express permission of the person who provided it, except for the purposes of Customs controls.

(3) Any communication of confidential data to the Customs administrations and authorities outside Seychelles shall be permitted only in terms of an international agreement ensuring an equivalent level of data protection.

(4) The disclosure or communication of information shall take place in full compliance with data protection provisions in force.

Adherence to line limits

38. Where a period, date or time limit is laid down pursuant to this Act, such period shall not be extended and such date or time limit shall not be deferred unless such extension or deferment is specially allowed under this Act.

V. Scope and use of information technology

Use of Information Technology

39. The Assistant Commissioner of Customs shall make use of information and communication technology in support of Customs procedures with a view to achieving—

(a) effective Customs controls;

(b) effective Customs clearance;

(c) trade facilitation;

(d) efficient revenue collection;

(e) effective data analysis;

(f) efficient production of external trade statistics; and

(g) improved quality of data.

PART IV - APPLICATION OF IMPORT OR EXPORT DUTIES, TAXES OR LEVIES AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS

Classification of goods

40. Goods that are imported or exported shall be classified in accordance with the tariff nomenclature prescribed in the regulations for the purposes of determining the applicable duties, taxes or levies payable.

Origin and valuation of goods

41. The origin and valuation of goods for customs purposes shall be prescribed by regulations.

PART V - OFFICERS' POWERS, OBLIGATIONS OF PERSONS RELATING TO PORTS AND AIRPORTS, SEA AND AIR TRANSPORT

I. Officers' Powers

Power to examine and take account of goods

42.(1) An officer may examine and take account of any goods—

(a) imported, including goods released for home use;

(b) in a public or private warehouse;

(c) being transhipped;

(d) in a free zone;

(e) under a Customs-approved procedure or use;

(f) originated in Seychelles;

(g) have been loaded into any vessel or aircraft at any place in Seychelles;

(h) declared and entered at any approved premises or place for exportation or for use as stores;

(i) brought to any place in Seychelles for exportation or for shipment for exportation or use as stores;

(j) where any claim for drawback, allowance, rebate, remission or repayment of duty or tax is made;

(k) remain on board a calling vessel or aircraft,

(l) require any container to be opened or unpacked and the goods produced to such officer.

(2) Any examination of goods by an officer shall be made at such places approved by the Assistant Commissioner of Customs.

(3) The Assistant Commissioner of Customs may direct that the, goods are skipped on the quay or bulked, sorted, packed, or repacked before account is taken.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for

examination by an officer, and any assistance required for any examination shall be provided, by or at the expense of the owner of the goods.

(5) Where an account is required to be taken of any goods for any purpose by an officer, the Assistant Commissioner of Customs may, with the consent of the proprietor of the goods, appoint another person to draw up the account.

Requirement to take samples

43.(1) An officer may at any time take samples of any goods—

(a) the officer is empowered by this Act to examine;

(b) on the premises where goods manufactured, prepared or subjected to any process are chargeable with any duties, taxes or levies; or

(c) being dutiable and taxable goods are held by a person as stock for that person's business or as materials for manufacturing or processing.

(2) Any sample taken shall be disposed of and accounted for in such manner as the Assistant Commissioner of Customs may direct.

(3) Where any sample is taken from any goods chargeable with duty or tax or levy shall be retained after the duties, taxes or levies has been paid, other than—

(a) a sample taken from goods declared for a Customs procedure on importation; or

(b) a sample taken from goods in respect of which a claim for drawback, rebate, remission or repayment of that duties, taxes or levies is being made,

the officer taking it shall , pay for the sample on behalf of the Assistant Commissioner of Customs such sum as reasonably reflects the wholesale value thereof.

Power to search persons

44.(1) An officer who has reasonable cause to suspect that a person at or in the vicinity of any port or airport or elsewhere is in possession of a dutiable, prohibited or restricted good which was imported or to be exported may without warrant—

(a) search the person;

(b) ensure that the person understands the reason for the search;

(2) Where the person detained to be searched is a female, the search shall be done by a female officer.

(3) Where an officer decides to search a person, the officer may require the person to accompany the officer to a Customs Office or to such other place as may be specified by the officer for the purpose of the search.

Power to search vehicle entering or leaving Trade Zone

45.(1) Any person entering or leaving a trade zone shall answer such questions as an officer may ask with respect to any goods in the person's control or possession and shall, if required by the officer, produce those goods for examination at such place as the Assistant Commissioner of Customs may direct.

(2) An officer may search a vehicle entering or leaving a trade zone.

(3) An officer may detain or seize any dutiable and taxable , prohibited or restricted goods discovered in the course of any such inquiries, searches or examinations.

Power to arrest,without warrant

46.(1) An officer or police officer may without warrant arrest any person who the officer has reasonable grounds to

believe is concerned in the commission or attempted commission of any of the following offences—

(a) unlawful importation or exportation of goods chargeable with any import or export duties, taxes or levies;

(b) importation of any prohibited or restricted goods;

(c) exporting or attempting to export any prohibited or restricted goods;

(d) unlawfully conveying or having in the person's possession any prohibited or restricted goods;

(e) having in possession any smuggled, prohibited or restricted goods; or

(f) smuggling.

(2) A person shall not resist, obstruct or prevent the arrest in pursuance of this section.

Requirement to answer questions

47.(1) A person in charge of an aircraft or vessel within the internal waters of Seychelles or the territorial waters of Seychelles shall—

(a) answer any question asked by an officer relating to the aircraft or vessel, its voyage and any persons or goods that are or have been carried by the aircraft or vessel; and

(b) without delay at the request of an officer produce any documents or records within that person's possession or control relating to the aircraft, vessel, its cargo and stores.

(2) A person boarding or landing from an aircraft or vessel may be questioned by an officer as to whether he has any dutiable and taxable goods or any prohibited goods or restricted goods, in the person's possession, control or custody.

Power to search aircraft vehicle, vessel

48.(1) An officer when conducting a search, shall have free access to any part of the ship, aircraft or vehicle and may—

(a) cause any goods to be marked before they are unloaded from an aircraft, vessel or vehicle;

(b) lock up, seal, mark or otherwise secure any goods carried in the aircraft, vessel or vehicle or container in which they are so carried;

(c) break open any container which is locked;

(d) examine in any manner, using even mechanical means, goods or container in which they are carried.

(2) The following goods and documents found on board a ship, aircraft or vehicle shall be seized and liable to forfeiture—

(a) chargeable with any duties or taxes which have not been paid or secured;

(b) uncustomed goods;

(c) prohibited goods;

(d) restricted goods not covered by a requisite licence, permit or authorisation; or

(e) documentary evidence relating to uncustomed, prohibited or restricted goods.

(3) This section shall not apply in respect of aircraft which is airborne.

(4) An officer or police officer may, upon reasonable suspicion stop and search vehicles for purposes ascertaining whether any dutiable goods or any prohibited or imports or exports as prescribed by regulations.

Power to stop, divert and detain vessels in territorial and inland waters

49. An officer may with the assistance of the police —

(a) stop and board any vessel found within the territorial waters or internal waters, of Seychelles , which the officer has reasonable grounds to suspect of having on board prohibited or restricted goods;

(b) establish effective control of the vessel, its cargo and over any person thereon;

(c) require the master of the vessel to take the ship to the nearest port for the purpose of carrying out further investigations;

(d) search the vessel, any person and any goods on board the vessel;

(e) open or require the opening of any containers, and test or take samples of the goods on the vessel;

(f) require the master to give information concerning the person or any goods on the vessel or the voyage of the vessel;

(g) require the production of documents, books or records relating to the vessel or any persons or goods ,take photographs of any goods or make copies of any documents the production of which is required by Customs;

(h) seize and, secure goods found on the vessel.

Power to enter and search premises under a warrant

50. (1) Where a judicial officer is satisfied any information given upon oath by an officer, that there are reasonable grounds to suspect that any goods liable to forfeiture under this Act is kept or concealed in any building or place, the judicial officer may issue a warrant authorising an officer, and a police officer to enter and search the building or place named in the warrant—

(a) where necessary for the purpose of entry, search and seizure, to break open any door, window or container remove any other impediment or obstruction.

(b) anything searched along with any, records, documents, and other storage device containing information shall be seized, as the officer or police officer sees fit.

(2) Where any person in or about the building or place being searched, is reasonably suspected of concealing on the person's body any goods for which the search if being made, that person may be searched.

(3) Where there are reasonable grounds to believe that the goods are being concealed at another place, the officer may search that other place.

Power to detain aircraft or vessel

51. (1) Where a report has been made by an aircraft or vessel under section 57 and goods are still on board that vessel or aircraft after the expiration of the relevant period, an officer of Customs may in consultation with the port authority or the airport authority, detain that vessel or aircraft until—

(a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except in the case of a vessel or aircraft, in respect of the day of clearance inwards;

(b) any expenses of the removal of the goods by virtue of any provision of this Act from a vessel or aircraft to a public warehouse,

have been paid to the Assistant Commissioner of Customs.

(2) In subsection (1), "the relevant period" means —

(a) in the case of a vessel 21 clear days from the date of making due report of the vessel or such longer period as the Assistant Commissioner of Customs may determine;

(b) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft or such longer period as the Assistant Commissioner of Customs may determine.

(3) Where any derelict or other vessel or aircraft coming to Seychelles under legal process due to stress of weather or safety, an officer may board the vessel or aircraft to verify the goods on board.

Power to board and inspect aircrafts, airports, records, etc.

52.(1) An officer may board an aircraft and inspect —

(a) the aircraft and any goods loaded or carried therein;

(b) all documents relating to the aircraft or goods or persons carried therein, and

shall have the right of access to any part of the aircraft for the purposes of any such inspection.

Power to haul up vessels

53. The person in command of any vessel which is engaged in the prevention of smuggling may —

(a) haul up and leave that vessel on any part of the coast; and

(b) moor that vessel at any place below the high water mark on any part of the coast or of any shore.

Power to patrol coast and land adjoining airports

54. Any person acting in aid of an officer may, patrol upon and pass freely along and over any part of the coast or of the shore or of any airport or land adjoining any airport.

Power to inspect books, documents of computer records etc.

55. (1) Any provision under this Act, which requires a person—

(a) to produce, furnish or deliver any book, record or document, or cause any book record or document to be produced, furnished or delivered to Customs; or

(b) to permit the Assistant Commissioner of Customs or a person authorised by the Assistant Commissioner of Customs, to inspect any book, record or document or to make or take extracts or copies of or remove any book, record or document,

shall have effect as if any reference in that provision to a book, record or document were a reference to anything in which information of any description is recorded and any reference to a copy of a book, record or document were a reference to any information recorded in the book, record or document has been copied, by whatever means and whether directly or indirectly.

(2) A person authorised by the Assistant Commissioner of Customs to exercise the powers conferred by these provisions—

(a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with any book, record or

document within the meaning given by the above provisions, which, a person is or may be, required under any law to produce, furnish or deliver, or cause to be produced, furnished or delivered or to inspect, make or take extracts from or copies of or remove; and

(b) may require the person on whose behalf the computer is or has been so used or any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford that person such reasonable assistance as the Assistant Commissioner of Customs may require for the purposes of subsection (a).

II. Arrival and boarding of aircraft and vessel

Master to report on arrivals

56. The commander of an aircraft or a master of a vessel arriving in the Seychelles shall not land or dock at any place other than an airport or port unless forced to do as a result of force majeure.

Delivery of inward report

57.(1) The commander of an aircraft or a master of a vessel upon arrival, shall —

(a) within three hours after landing or within twenty four hours of docking the and before any goods are discharged, deliver to the proper officer an inward report in the prescribed form, with as many copies together with such other documents or information as may be required;

(b) answer any questions asked by an officer with regard to the aircraft or vessel, its cargo, crew, passengers flight or voyage.

(2) A person other than the port pilot, health officer or any other person authorised by the health officer or Assistant

Commissioner of Customs shall not enter or leave the aircraft or ship, unload any cargo until an inward report has been made and any other inspection or examination of the aircraft or vessel, its passengers or cargo have been completed.

(3) The commander of an aircraft or master of a vessel shall provide an explanation to the satisfaction of the Assistant Commissioner of Customs where —

(a) the bulk of the cargo is broken;

(b) any alteration is made in the stowage of any goods carried ;or

(c) any part of the goods is staved, destroyed or thrown overboard or any container is opened.

Bringing-to ship

58.(1) A master of a vessel arriving within the territorial waters of Seychelles or a commander of an aircraft landing at an airport in Seychelles, shall —

(a) bring the ship or aircraft for boarding by an officer or other authorised persons; and

(b) ensure that the ship or aircraft remains stopped until an officer directs that the ship may proceed.

(2) The ship or aircraft carrying officers or other authorised persons shall identify itself as being a ship or aircraft in the service of the Government of Seychelles.

(3) The master of the ship shall by all reasonable means facilitate the boarding of the ship by officers or authorised persons.

(4) The master of the ship shall for reasonable cause, if so directed by the officer, cause the ship to ship to leave the territorial waters of Seychelles immediately.

(5) An officer who gives a direction under subsection (4) shall first consult the Assistant Commissioner of Customs or a person authorised by the Assistant Commissioner of Customs prior to giving such direction.

Missing goods subject to duties, taxes or levies

59. Where goods claimed to have been imported are not in accordance with the vessel's or aircraft's inward manifest, the missing goods shall be subject to duty , tax or levy unless the missing goods are accounted to the satisfaction of the Assistant Commissioner of Customs.

Liability of derelict goods, etc.

60.(1) A person in possession of any derelict goods, flotsam, jetsam, lagan or wreck shall deliver the same to the Customs without delay.

(2) A person shall not, except with the authority of an officer, move, alter or interfere with any derelict goods, flotsam, jetsam, lagan or wreck.

(3) All derelict goods, flotsam, jetsam or lagan saved or coming ashore from any wreck shall be subject to the same duty or tax as goods of the like kind on importation into Seychelles.

III. Clearance of Passengers

Clearance of passengers

61.(1) A person arriving or leaving Seychelles shall—

(a) produce for examination any baggage and all goods in his possession or control to the proper officer and shall answer questions as the proper officer of Customs may put to him;

(b) produce any requested book, record or document in his possession or control and answer fully and truthfully any questions put to him or her by the proper officer;

(c) not dispose of any goods in his possession or control until the proper officer has released

such goods from Customs control and all formalities in relation to the goods have been complied with.

(2) Goods conditionally relieved from duties, taxes or levies shall not be disposed of until the relieving conditions are satisfied.

(3) (a) Where unaccompanied baggage of a person arrives after the person arrives, the unaccompanied baggage shall be cleared in the manner prescribed in sub-section (1) and (2).

(3) (b) Where such baggage is not cleared within six months from the date of its delivery to Customs the uncleared baggage shall be dealt as prescribed by regulations.

(4) A person who fails to declare goods as required by this Act shall be liable on conviction to a fine of three times the value of the goods not declared or a fine of SCR25,000 whichever is the greater, and the goods shall be seized and be liable for forfeiture.

(5) The baggage of a person may be examined and delivered in such manner as a proper officer of Customs may direct, and it shall be the duty of the person in charge of the baggage to produce, open, unpack and repack the baggage.

(7) Any person or class of persons may be exempted from the provision of this section if they fall with the category prescribed by regulations.

Passengers in transit

62.(1) A person in transit who does not leave the transit area shall not be required to pass any Customs control.

(2) The Assistant commissioner of Customs shall be allowed to maintain general surveillance of transit areas and

take necessary action where a custom offence is suspected of either having been committed, is being committed or where the passenger is suspected of being in possession or control of any prohibited or restricted goods.

PART VI – ENTRY OF GOODS

I. Prohibited or restricted imports

Prohibited or restricted imports

63.(1) It is unlawful to import into Seychelles any of the goods prescribed in the regulations.

(2) The Minister may by regulations, prohibit the importation into Seychelles of—

(a) any specified goods; or

(b) goods of a specified class or classes.

(3) Dutiable or taxable good shall not be exempt from duties, taxes or levies due to their importation being unlawful.

(4) All prohibitions and restrictions in force at the commencement of this Act prohibiting or restricting the importation of goods into Seychelles shall continue in force until they are amended or repealed under this Act.

II. Entry of goods into Seychelles

Summary declaration

64.(1) Any goods brought into Seychelles shall be covered by a summary declaration, both in electronic form and hard copy or in any other manner acceptable to the Assistant Commissioner of Customs, except for goods carried by means of transport on innocent passage through the territorial waters or airspace of Seychelles.

(2) The summary declaration shall be made available to the proper officer of Customs —

(a) in the case of goods arriving by vessel, within 24 hours before arrival, excluding weekends and public holidays;

(b) in the case of goods arriving by aircraft, immediately following the departure of the aircraft from the country of departure.

(3) The Assistant Commissioner of Customs may require the lodgement of a notification and the manifest data prior to the lodgement of the summary declaration and the summary declaration shall be lodged at the Customs office before the goods are brought into Seychelles.

(4) The Assistant Commissioner of Customs may require a certified copy of the export manifest or passenger list from the country of exportation to be presented in support of the summary declaration.

(5) The export manifest shall be certified by the Customs officer responsible for the clearance of the goods and passengers on their outward voyage from Seychelles.

Lodgement of summary declaration

65. The summary declaration shall be lodged by—

(a) the person who brings the goods or who assumes responsibility for the transportation of the goods in Seychelles;

(b) the importer or consignee or other person on whose behalf the goods are imported;

(c) any person who present the goods or to have them presented at Customs; or

(d) a representative of one of the persons referred to in paragraphs (a) or (b).

Amendment of summary declaration

66. The Assistant Commissioner of Customs may allow the summary declaration to *be* amended after it has been lodged, provided that such amendment is made before the Assistant Commissioner of Customs has—

(a) informed the person who lodged the summary declaration that the proper officer intends to examine the goods; or

(b) established that the particulars of the summary declaration are incorrect; or

(c) allowed the removal of the goods.

Waiver of summary declaration

67. An officer may waive the lodging of a summary declaration or allow the master to present a notification instead before the expiry of the time limit referred to in section 64(2).

Reporting lost or wrecked aircrafts or vessels

68. When any aircraft or vessel is lost or wrecked at any place within the territorial waters of Seychelles , the commander or master, or the authorised agent of the aircraft or vessel shall, without any unnecessary delay, lodge a report of the aircraft or vessel and of the goods to the Assistant Commissioner of Customs, as far as it may be possible to do so.

Customs control and supervision

69.(1) All goods brought into Seychelles shall from the time of their entry be subject to —

(a) Customs control or supervision; and

(b) be subject to prohibitions and restrictions, justified on grounds of public morality, public security, the protection of the health and life of humans, animals or plants, the environment, the national treasures, relics, the implementation of fishery conservation or the protection of industrial or commercial property including any prohibited goods.

(2) All imported goods shall remain under the control of Customs for as long as necessary to determine their customs status.

Obligation on persons converying the goods

70.(1) A person who brings goods into Seychelles shall convey them without delay to the Customs office or to any other place approved by the Assistant Commissioner of Customs.

(2) Any person who assumes responsibility for the carriage of goods after they have been brought into Seychelles shall become responsible for compliance with the obligation laid down in subsection (1).

(3) The person presenting the goods shall make a reference to the summary declaration lodged in respect of the goods.

(4) Goods once presented to Customs and with the permission of an officer, may be examined or samples of the goods may be taken, in order that the goods are assigned an approved customs procedure.

Cargo manifest

71.(1) Goods presented to the Customs in terms of section 70 shall be covered by a cargo manifest.

(2) The Assistant Commissioner of Customs may permit the use of a prescribed commercial or an official document which contains the particulars necessary for identification of the goods.

Lodgement of cargo manifest

72.(1) The cargo manifest shall be lodged by the person referred to under section 70.

(2) The cargo manifest shall be lodged when the goods have been presented to Customs or prior to the arrival of the goods under declaration.

(3) The Assistant Commissioner of Customs may:

(a) allow a period for lodging a cargo manifest which shall not extend beyond the first working day following the day on which the goods are presented to Customs;

(b) waive the lodging of a cargo manifest provided that it does not affect customs supervision or the customs procedure for clearance of the goods.

(4) The forms and procedures relating to cargo manifest shall be prescribed by regulations.

Tariff classification

73. Any person with a beneficial interest in goods under Customs supervision and control may, with the permission of the Assistant Commissioner of Customs, at any time examine the goods or take samples, in order to determine their tariff classification, Customs value or Customs status.

Release of goods

74. Goods shall not be removed from Customs supervision or control until release is granted or the goods are cleared by an officer of Customs or as otherwise provided for by this Act.

Force majeure

75. Where by reason of force majeure, the obligation laid down in section 67 cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall without delay inform an officer of the situation. Where the force majeure do not result in total loss of the goods the officer shall be informed of their precise location.

Trade samples

76.(1) Where dutiable goods are declared at the time of their importation to be trade samples, the Assistant Commissioner of Customs may allow such goods to be exempted from duty, tax or levy, if—

(a) the importation is in compliance with restricted and prohibited imports regulations;

(b) such goods are prominently and indelibly marked "Sample", "Tester" or "Not for Sale", as is the acceptable business norm ;

(2) In this section, "trade samples" means articles which are imported solely—

(a) for the purpose of being shown, used as testers, or demonstrated in Seychelles for the soliciting of sales or orders for goods to be supplied from abroad; or

(b) by a manufacturer for the purposes of copying, testing or experimenting before the manufacturer produces those articles in Seychelles,

and are not put to commercial use.

III. Stores

Stores

77. Stores which are carried in a vessel or aircraft arriving in the Seychelles shall be exempt from import duties, taxes or levies provided that they remain on board.

Stores required for consumption

78. Stores on board of vessels or aircraft which are required for consumption in the operation and maintenance of vessels and aircraft shall be exempted from import duties, taxes or levies provided that they remain on board.

Declaration of stores

79.(1) When a declaration concerning stores on board vessels or aircraft arriving in Seychelles is required by the Assistant Commissioner of Customs, the information shall be kept to minimum in the declaration for the purposes of Customs control.

(2) The Assistant Commissioner of Customs shall allow the issue of stores for consumption on board during the stay of a vessel in Seychelles in such quantities as deemed

necessary having regard to the number of the persons on board and the length of the stay of the vessel in Seychelles.

(3) The Assistant Commissioner of Customs may waive the requirement of a separate declaration of goods remaining in stores on board an aircraft or vessel.

Removal of stores

80. The Assistant Commissioner of Customs shall when necessary require the removal of stores from the vessel or aircraft for storage elsewhere during their stay in Seychelles.

Forfeiture of stores

81. Stores shipped other than in accordance with the conditions laid down under this Act shall be liable to forfeiture and may be seized.

Sealing of stores

82. All stores taken on board any aircraft or vessel free of import duties, taxes or levies shall be placed under a seal by a proper officer of Customs and shall remain under such seal until the departure of the aircraft or vessel from Seychelles.

Supply and granting of stores

83. The procedures and conditions relating to the supply and granting of stores to an aircraft or vessel shall be prescribed by regulations.

Duty free shop

84. The provisions of sections 136 to 156 relating to Customs warehouses apply with the necessary changes to duty or tax-free shops within Seychelles. A Customs warehouse to which this section applies shall be known as a "duty or tax-free shop".

Removal of goods from Duty free shop

85.(1) Duty or tax-free goods shall not be removed from a duty or tax-free shop, by an authorised warehouse keeper without prior permission from an officer of Customs to any other approved Customs warehouse.

(2) The Assistant Commissioner of Customs may, subject to such conditions and restrictions permit an authorised warehouse keeper to remove duty or tax-free goods from the duty or tax free shop to any other Customs-approved procedure or use.

Purchase of goods from Duty free shop

86.(1) Subject to passenger and crew allowances as prescribed by regulations, persons on inward journeys to Seychelles or outward journeys from Seychelles to destinations outside Seychelles may purchase goods duty or tax-free in the duty or tax-free shop.

(2) The sale of alcoholic beverages and tobacco are restricted to persons of or above 18 years.

PART VII - TRANSHIPMENT, TRANSIT AND CONTROL OF UNCLEARED GOODS

I. Transhipment

Procedures for transhipment

87.(1) Goods admitted to transhipment procedure shall not be subject to the payment of duties, taxes or levies provided the conditions laid down by the Assistant Commissioner of Customs are complied with.

(2) A transhipment entry shall be as follows —

(a) a single goods declaration may be provided to cover both the arrival and removal of goods; or

(b) a commercial or transport document setting out the particulars of the goods may be accepted by the Assistant Commissioner of customs as if the document was a single goods declaration.

(3) The forms and procedures for transhipment entry may be prescribed by regulation.

(4) Customs shall record the goods which arrive for transhipment, keeping a list of goods in transhipment, and removing goods from the list when they leave on their onward journey.

(5) The Assistant Commissioner of Customs may take action at the time of importation to ensure—

(a) that the goods to be transhipped will be identifiable at the time of exportation

(b) that unauthorised interference is easily detectable by sealing the goods container on arrival and examining the seal on departure;

(c) a time limit is fixed or to be approved for the exportation of goods

(6) The proper officer of Customs shall overlook the loading of the goods for transhipment onto the exporting vessel or aircraft and certify the transhipment and re-exportation.

(7) At the request of the person concerned the Assistant Commissioner of Customs may specify, conditions to facilitate the exportation of goods in transhipment.

(8) Transhipment of goods shall not be refused solely on the grounds of the country of origin of the goods, the country of consignment or the country of destination, except in the case of prohibitions or restrictions applying to the goods or their destination.

Declarant of goods in transhipment

88.(1) The declarant for goods in transhipment may be a person other than the owner of the goods, a carrier, forwarding agent, the consignee or an agent approved by Customs.

(2) The declarant shall be responsible to Customs for compliance with the obligations and conditions laid down for the transhipment procedure.

Security for transhipment

89.(1) The Assistant commissioner of Customs shall determine the type, level and amount of security required to

commensurate with the revenue risk involved in the transhipment.

(2) Any security given shall be discharged without delay where it has been established to the satisfaction of the proper officer of Customs that the declarant has fulfilled the obligations and complied with any conditions laid down for the transhipment and re-exportation.

Examination of goods in transhipment

90.(1) Goods declared for transhipment may be examined by the proper officer of Customs at any time and such examination may be conducted on board of an aircraft or vessel or while the goods are unshipped under Customs supervision or control.

(2) Goods declared for transhipment but not reported as such by the aircraft or vessel shall be examined to confirm if they are goods for transhipment.

Transhipment of goods in force majeure

91. The Assistant Commissioner of Customs may allow transhipment of goods to be assigned another *Customs-approved* procedure or use in the case of force majeure.

Forfeiture of transhipment goods

92. The unauthorised diversion of transhipment goods to home use shall render the goods liable for forfeiture.

Unauthorised transhipme t

93. Any person without the prior authorisation from the Assistant Commissioner of Customs, tranships any goods, or attempts to remove any goods from any aircraft or vessel to another aircraft or vessel, commits an offence, and the goods shall be liable for forfeiture.

II. Transit Procedure

Removal of goods in transit under Customs control

94.(1) The Assistant Commissioner of Customs may allow imported goods declared for transit to be removed under customs control without payment of import duties, taxes or levies subject to such conditions, restrictions or time limits determine by the Assistant Commissioner of Customs.

(2) The Assistant Commissioner of Customs shall allow goods to be in transit in Seychelles from an office of entry to an office of exit;

(3) Where goods are declared to be in transit, the Assistant Commissioner of Customs may request the person responsible of the goods to lodge security in the form and in an amount prescribed by regulations.

95. The Assistant Commissioner of Customs may, under the provision for prohibited and restricted imports, restrict or otherwise control the entry of certain goods from entering Seychelles.

Prohibition and restriction

96. The customs transit procedures shall be discharged by the presentation of the goods and the supporting documents at the designated office, prescribed by regulations provided the —

Transit procedures

(a) goods have not been interfered with in any way;

(b) goods have not been used;

(c) proper office of customs certifies the discharge of the transit procedure

97. Where there has been a breach of transit procedures that has resulted in a customs debt, the debt incurred shall be determined in accordance with section 214 as appropriate.

Breach of transit procedure

III. Control of uncleared goods

98.(1) The Minister may prescribe regulations for —

Movement of uncleared goods

(a) the movement of imported goods between the place of importation and a place for the clearance or release of such goods, a trade zone, a Customs warehouse or the place of exportation of such goods;

(b) the movement of goods between—

(i) a trade zone and a place approved by the Assistant Commissioner of Customs for the clearance or release of such goods;

(ii) a trade zone to another trade zone;

(iii) an authorised Customs warehouse to another, or for re-exportation;

(c) the movement of goods for export between a place approved by the Assistant Commissioner of Customs for the examination of such goods and the place of exportation;

(d) the goods to be moved within a period and by such route;

(e) goods to be carried in a vehicle or container complying to requirements as specified;

(f) prohibition of loading or unloading of the vehicle or container or any interference with the security of the vehicle or container;

(g) appropriate security to cover any duties, taxes or levies chargeable on the goods.

(2) Any documents required to be produced as a result of the conditions laid down under subsection (1) shall be produced in such form and manner and contain particulars as the Assistant Commissioner of Customs may direct.

(3) Any person who contravenes or fails to comply with any condition or restriction imposed commit an offence and is liable on conviction to a fine of SCR 50,000 and any goods in respect of which the offence was committed shall be liable to forfeiture.

PART VIII - CUSTOMS PROCEDURES

I. Declaration

Declaration of goods

99.(1) All goods brought into Seychelles except where otherwise provided, shall be placed under a customs procedure and be covered by an appropriate customs declaration irrespective of their nature, quantity, their country of origin, consignment or destination.

(2) Goods manufactured in Seychelles declared for a customs procedure shall be subject to customs supervision and control from the time of acceptance of the declaration until they leave Seychelles, abandoned or the Customs declaration is invalidated.

Types of Customs declaration

100.(1) A Customs declaration shall be —

(a) in writing or in an electronic format provided for by this Act;

(b) by means of an oral declaration in the case of goods of a non-commercial nature contained in a person's baggage;

(c) by electing and proceeding through a green "nothing to declare" channel or a red "goods to declare" channel for the clearance of a person and their baggage where appropriate; or

(d) by the importer or exporter informing customs to place the goods under an approved Customs procedure;

(2) Any other customs procedure may be prescribed by regulations.

Declaration of consignment

101. The Assistant Commissioner of Customs may, at the request of the declarant agree that a single or aggregate

tariff declaration be made to a whole consignment, provided that—

(a) the consignment is non-commercial;

(b) the consignment contains goods falling under different tariff classifications;

(c) any duties, taxes or levies payable, shall not be less than the amount payable if all of the items had been classified individually.

Acceptance of provisional or incomplete declaration

102. Where the declarant is unable to provide all the information required to make a complete declaration the Assistant Commissioner of Customs may accept a provisional or incomplete declaration for a specified period as prescribed by regulations.

Lodgement of declaration

103.(1) The Assistant Commissioner of Customs may impose conditions for—

(a) the prior lodgement, acceptance and checking of declaration before the goods arrives in Seychelles; and

(b) the pre-clearance of goods before the goods arrive in Seychelles.

(2) Any person who without reasonable excuse contravenes any condition imposed by the Assistant Commissioner of Customs , commits an offence and liable on conviction to a fine of not more than 50% of the tax liability.

(3) The date of acceptance of the declaration shall be the date determining the rate of duties, taxes or levies chargeable on the goods .

(4) In the event that forestalling is established, the newly imposed higher rate of duties, taxes or levies or other charges and measures shall apply.

Amendment of declaration

104.(1) The declarant shall, be allowed to amend the particulars of the goods declared after it has been accepted by customs where the amendments apply to the goods originally covered.

(2) Amendments shall not be permitted where the proper officer of customs has—

(a) informed the declarant that the goods are to be examined;

(b) established that the particulars in the declaration are incorrect;

(c) released or cleared the goods.

(3) Notwithstanding subsection (2) the Assistant Commissioner of Customs may allow amendments where, after the examination of the goods or after an investigation he or she is satisfied that no fraud or other irregularity was involved in the declaration.

Invalidation of declaration

105.(1) The Assistant Commissioner of Customs shall, at the request of the declarant, invalidate a declaration already accepted, where—

(a) the goods are immediately to be placed under another customs procedure or use;

(b) as a result of special circumstances, the placing of the goods under the Customs procedure or use for which they were declared is no longer justified; or

(c) the declarant provides proof that goods declared in error for the Customs procedure covered by that declaration.

(2) Where the proper officer of Customs has informed the declarant of his intention to examine the goods, a request

for invalidation of the declaration shall not be accepted before the examination has taken place.

(3) The declaration shall not be invalidated after the goods have been released or cleared from customs custody.

Forestalling

106. In the absence of forestalling, the date to be used for the purposes of all the provisions governing the approved Customs procedure for which the goods are declared, shall be the date of acceptance of the declaration by the Customs.

Examination of goods

107.(1) The declarant shall be responsible for the transportation of the goods to the place where they are to be examined and the cost involved in the examination of the goods.

(2) The declarant shall have the right to be present when the goods are examined and when samples are taken.

Further examination of goods

108.(1) (a) Where only part of the goods covered by a declaration is examined or samples are taken the results of the partial examination or analysis shall apply to all the goods covered by the declaration.

(b) Where a declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

(2) A declarant may request further examination or sampling of the goods at the declarant's own cost where the declarant considers that the results of the partial examination or analysis is not valid.

(3) The request shall be granted, where the goods have not been released from customs control or, if they have been released, the declarant proves that they have not been altered.

Verification of the declaration

109.(1) The proper officer of Customs may, for the purpose of verifying the accuracy of the particulars contained in a

declaration request further documents from the declarant and take samples of the goods for analysis.

(2) Where an officer verify the declarations and accompanying documents or examine the goods, the officer shall indicate in the copy of the declaration retained or in a document attached the basis and results of the verification or examination and in the case of partial examination of the goods, particulars of the consignment examined.

(3) Where an officer neither verify the declaration nor examine the goods, the officer shall not endorse the declaration or any document.

(4) The results of verifying the declaration shall be used for the application of the Customs procedure under which the goods are placed.

Compliance with Customs procedures

110.(1) The Assistant Commissioner of Customs shall take the necessary measures to identify the goods where identification is required to ensure compliance with the Customs-procedure or use for which the goods have been declared.

(2) The identification affixed to the goods or transport shall be removed or destroyed only by an officer, authorised by the Assistant Commissioner of Customs, by economic operators or as a result of unforeseen circumstances or force majeure.

Release of goods

111.(1) Customs shall release or clear the goods as soon as the declaration has been verified or accepted without verification where the goods are not subject to any prohibition or restriction and the formalities for placing the goods under the appropriate procedure has been completed. Where two or more items are declared under a declaration each item shall constitute a separate declaration.

(2) All goods covered by the same declaration shall be released at the same time.

(3) Where laboratory analysis of samples or expert advice relating to the goods are required by customs, the goods may be released before the results of such an examination are known, if—

(a) any security required by the Assistant Commissioner of Customs in respect of chargeable duties or taxes has been furnished; and

(b) Customs are satisfied that the goods are not subject to any prohibition or restrictions in force.

Goods pending decision

112. (1) Where it is impractical to immediately ascertain the duties, taxes or levies payable in respect of any goods declared for home use or exportation, customs may allow goods to be cleared upon the declarant giving security by deposit of money or otherwise to the satisfaction of the goods.

(2) Where a declaration for home use is not complete, customs may treat such goods as declared for home use and require the declarant to provide any outstanding particulars.

(3) Where the goods are cleared for home use customs shall notify the declarant of the amount of duties, taxes or levies and other charges payable on the goods.

(4) The declarant shall pay the amount specified in the notice or the amount may be deducted from any deposit paid.

(5) The declarant may appeal to the Revenue Tribunal if there is a dispute as to the amount specified in the notice.

Release on payment of the Customs debt or provision of a guarantee

113.(1) Where a Customs declaration gives rise to a Customs debt, the goods shall be released on the condition of the payment of the debt or the provision of a guarantee to cover that debt.

(2) Where a Customs-approved procedure or use requires that a guarantee is provided for the release of the goods ,the goods shall not be released until a guarantee is provided.

Certification of goods

114. Goods shall not be released and will be liable for confiscation or sale, where —

(a) it has not been possible to examine the goods within the period prescribed by regulations;

(b) the documents which must be produced before the goods can be placed under an approved customs procedure have not been produced;

(c) payments or security for the import or export duties or taxes have not been made within the prescribed period;

(d) the goods are subject to a prohibition or restriction under section 63.

Simplified procedure

115. The Minister may prescribe by regulations for simplified and supplementary declarations for clearance of goods.

Disposal of goods

116. The Minister may prescribe by regulations for goods liable for forfeiture and seizure and procedure for dispose of goods.

Post clearance amendment of declaration

117.(1) Customs may at the request of the declarant amend the declaration after release of the goods.

(2) Customs may after releasing the goods, inspect any commercial documents and data relating to the import or export of the goods or to subsequent commercial operations involving those goods.

(3) The inspections under subsection (2) may be

carried out at the premises of the declarant or at any other place where the goods or documents are available.

(4) Where goods have been released on incorrect or incomplete information which reveals in the revision or posts clearance examination, customs shall take appropriate measure to recover any unpaid taxes, duty or levy and impose a fine if necessary.

II. RELEASE OR CLEARANCE FOR HOME USE AND RELIEF FROM IMPORT DUTIES

Importation under home use procedure

118. All imported goods to be cleared under the home use procedure shall entail the following—

(a) collection of import duties, taxes or levies chargeable on the goods;

(b) application of the policy measures relating to the goods;

(c) presentation of any licences, permits, certificates relating to the importation or exportation of the goods;

(d) completion of all formalities for the importation of the goods and their assignment to home use procedure.

Customs supervision of end-use goods

119.(1) Where goods are cleared for home use at a reduced or zero rate of duty or tax , the goods shall remain under Customs supervision or control.

(2) Customs supervision or control shall end where—

(a) the conditions laid down for granting a reduced or zero rate of duty or tax cease to apply;

(b) the goods are exported or destroyed; or

(c) duties, taxes or levies have been paid for a purpose other than for home use.

Condition for granting of relief on goods returned after export

120.(1) Seychelles goods which are exported from Seychelles, and are returned to Seychelles within a period of three years and declared for release for home use shall, at the request of the declarant be granted relief from import duties, taxes or levies.

(2) The Assistant Commissioner of Customs may extend the three year period referred to in subsection (1) in order to take account of special circumstances.

(3) Where prior to goods being exported from Seychelles the goods had been released or cleared for home use and duty, tax-free, levy or a reduced rate is applied, any relief from duty ,tax or levy under subsection (1) shall be granted only if the goods are to be released or cleared for home use and for the same end-use.

(4) Where the end-use for which the goods are to be released or cleared is no longer the same, the amount of import duties, taxes or levies shall be reduced by any amount collected on the goods when they were first released for home use.

(5) Should the latter amount exceed that levied on the release or clearance for home use of the returned goods, no repayment shall be granted.

Condition for not granting relief from import duties, taxes or levies

121. The relief from import duties, taxes or levies shall not be granted for goods exported from Seychelles under the outward processing procedure unless those goods remain in the same condition in which they were exported.

Waiver of relief

122. The Assistant Commissioner of Customs may waive the requirement for the relief from import duties, taxes or levies provided for in section 124 if goods are re-imported in the same condition in which they were exported.

PART IX - CUSTOMS PROCEDURES

I. Special Procedures

Special procedures

123. Goods may be placed under any of the following special procedures —

(a) storage comprising of temporary storage, customs warehousing or trade zone;

(b) specific use of temporary admission or end-use;

(c) processing comprising of inward processing and outward processing.

Application for special procedure

124.(1) An application for the use of the special procedures shall be made to the Assistant Commissioner of Customs, who may authorise the use of a special procedure and set out conditions.

(2) Where the Assistant Commissioner of Customs directs otherwise an authorisation for the use of special procedure shall be granted to any of the following person —

(a) a person resident in Seychelles;

(b) a person who provides *a* guarantee required under a customs procedure;

(c) a person who uses the goods or arrange for their use or is responsible to carry out processing procedure of the goods in temporary admission or inward processing procedure,

(3) Except where the Assistant Commissioner of Customs directs otherwise an authorisation shall be granted where the following conditions are fulfilled —

(a) Customs are able to supervise and monitor the procedure without having to introduce administrative arrangements;

(b) any interests of Seychelles producers would not be adversely affected by an authorisation for the inward or outward processing or temporary admission procedure.

(4) The holder of the authorisation shall notify the Assistant Commissioner of Customs of any factors arising after the authorisation has been granted which may influence its continuation or content.

(5) The holder of an authorisation shall keep records in a form approved by the Assistant Commissioner of Customs.

Transfer of special procedure

125. The rights and obligations of the holder of an authorisation for a special procedure may be transferred to another person.

Discharge of special procedure

126. A special procedure shall end or be discharged when the goods placed under a procedure are—

(a) placed under another Customs-approved procedure or use;

(b) have left Seychelles; or

(c) are abandoned.

Usual forms of handling

127.(1) Goods placed under Customs warehousing, a processing procedure or in a trade zone may undergo the usual manner of handling intended to preserve them and improve their appearance, marketable quality or prepare for distribution or resale.

(2) The Minister may prescribe the manner of handling by regulations

(3) Where costs for usual manner of handling have been incurred, such costs or the increase in value shall not be taken into account for the calculation of the import duties, taxes or levies where satisfactory proof of these costs is provided by the declarant:

Provided that Customs value, nature and origin of import goods used in the operations shall be taken into account for the calculation of the import duties, taxes or levies.

Equivalent goods

128.(1) Equivalent goods shall consist of Seychelles goods which are stored, used or processed instead of the goods placed under a special procedure.

(2) Under the outward processing procedure, equivalent goods shall consist of non-Seychelles goods which are processed instead of Seychelles goods placed under the outward processing procedure.

(3) Equivalent goods of the 8 digit harmonised system commodity code, commercial quality and technical characteristics shall be the same as the goods being replaced.

(4) The Assistant Commissioner of Customs may derogate from the aforementioned provisions of this section where it would be in the national interest to do so.

(5) The Assistant Commissioner of Customs shall authorise the proper conduct of the procedure and ensure Customs supervision and control in —

(a) the use of equivalent goods under a special procedure other than temporary admission and temporary storage procedure;

(b) the exportation of processed products obtained from equivalent goods before the importation of the goods they are replacing in inward processing procedure;

(c) the importation of processed products are obtained from equivalent goods before the exportation of the goods they are replacing in outward processing procedure.

(6) The Assistant Commissioner of Customs shall specify the conditions under which the use of equivalent goods under temporary admission may be authorised.

(7) The use of equivalent goods shall not be permitted with usual manner of handling as defined in section 127 or where it would lead to an unjustified advantage in import duties, taxes or levies.

(8) Where the processed products are liable to export duties, taxes or levies under subsection (5) (b) and not exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the duties or taxes should the import goods not be exported within the period stipulated.

II. Presentation of goods to Customs

Unloading of goods

129.(1) Goods shall not be unloaded or transhipped without the permission of an officer at the place designated by the Assistant Commissioner of Customs:

Provided the Assistant Commissioner of customs shall be informed in the event of an imminent danger necessitating the immediate unloading of all or part of the goods.

(2) An officer may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport, carrying them.

(3) All goods presented to Customs shall not be removed from the place where they have been presented without the permission of an officer.

Goods under certain procedures

130. (1) All imported goods presented to Customs shall be placed under a Customs procedure.

(2) A declarant may chooses a Customs procedure to declare the goods irrespective of their nature, quantity, country of origin, consignment or destination.

III. Unloading and temporary storage of goods

Provisions for storage

131. (1) For the purposes of the following sections storage shall comprise of—

(a) temporary storage;

(b) Customs warehouse; and

(c) trade zone.

(2) Goods imported into Seychelles may be stored under the storage procedure without being subject to the following—

(a) import duties, taxes or levies;

(b) any other charges applicable to the importation of the goods;

(c) commercial policy measures, in so far as they do not apply to the entry or exit of goods into or from Seychelles.

Responsibilities of holder of authorisation

132. (1) The holder of the authorisation and the declarant shall be responsible to —

(a) ensure that goods under the temporary storage, Customs warehousing or free zone procedures are not removed from Customs supervision;

(b) fulfil the obligations arising from goods in temporary storage or Customs warehousing or trade zone procedures;

(2) The Assistant Commissioner of Customs may require the declarant to provide a guarantee to ensure payment of any Customs debt and other charges that may be incurred, where the authorisation concerns a public warehouse.

IV. Storage

Temporary storage

133. Goods not declared under a Customs-approved procedure or use shall be declared for the temporary storage procedure by the holder of the goods on their presentation to Customs, they are—

(a) goods which are brought into Seychelles, other than directly into a trade zone;

(b) goods which are brought into another part of Seychelles from a trade zone;

(c) where import manifest and the inward reports relating to the goods have been lodged with the proper officer of Customs within the prescribed time limits;

(d) Goods not declared for any other customs approved procedure or use; or

(e) Goods in question have been presented to customs.

Removal of goods to a public warehouse

134.(1) Procedures relating to the removal of goods to a public warehouse shall be prescribed by regulations.

(2) The Assistant Commissioner of Customs may treat the goods as having been abandoned, where they are placed in a public warehouse by an officer and are not assigned a Customs-approved procedure or use.

(3) Goods placed under temporary storage shall be declared and removed under a customs approved procedure or use within three months after being placed in a public warehouse, but goods which are naturally subject to speedy decay shall be declared and removed forthwith.

(4) The Assistant commissioner of Customs may extend the period specified in subsection (3) to clear the goods from the public warehouse.

Restriction on the operation of goods in temporary storage

135.(1) Goods under the temporary storage procedure shall be stored only in approved temporary storage facilities and shall be subject only to the manner of handling designed to ensure their preservation without altering their condition.

V. Warehousing of Goods

Definition

136. A Customs warehouse may be a public warehouse or private warehouse available for storage of goods.

Approval of public warehouse

137.(1) The Minister may by notification in the Official Gazette approve public warehouse where dutiable goods may be deposited and kept without payment of duties, taxes or levies.

(2) A public warehouse in use at the commencement of this Act shall continue unless otherwise determined by the Minister.

(3) The Assistant Commissioner of Customs may allow subject to prohibitions and restrictions the storage in a public warehouse of all goods irrespective of the quantity, country of origin or country of destination.

(4) Goods which are hazardes and require special installations and are likely to affect other goods will be accepted by a warehouses only specially designed and authorised by Revenue Commissioner.

138.(1) A person who is established in Seychelles may apply to operate a private warehouse.

Application for private warehouse

(2) An application shall be made in writing, to the Assistant Commissioner of Customs, and the applicant shall provide information required for granting the authorisation.

(3) The Assistant Commissioner of Customs may impose conditions when granting the authorisation

139.(1) When an application is made to place certain goods in a public warehouse, the owner of the goods shall execute a bond prescribed by regulations.

Warehouse bond

(2) A bond relating to the goods or portion of goods of one conveyance only and shall be in a form prescribed by regulations.

(3) Notwithstanding subsection (2), the Assistant Commissioner of Customs may allow an importer to enter into a general bond in such amount and subject to such conditions as the Assistant Commissioner of Customs may determine .

(4) A bond executed under this section by an importer in respect of any goods shall continue in force even if the goods are transferred to another person or the removal of the goods to another public warehouse Unless the other person enters into a fresh bond in the same amount with customs.

140.(1) A warehouse keeper shall be responsible to —

Warehouse keepers

(a) ensure that while the goods are in customs warehouse they are not removed from Customs supervision or control;

(b) fulfil the obligations that arise from the storage of goods covered by the warehousing procedure;

(c) comply with the particular conditions specified in the authorisation;

(d) receive and account for payment of duty ,tax or levy in force on all goods in warehouse and on their removal from the warehouse;

(e) keep stock records of all the goods placed under the customs warehousing procedure in the form approved by the Assistant Commissioner of customs; and

(f) produce the goods whenever required and facilitate their examination by the proper officer.

(2) With the approval of the Assistant Commissioner of Customs, the obligations of the warehouse keeper may be transferred to another person.

(3) The warehouse keeper shall not be liable for any loss or deficiency in goods occurring in the warehouse if the Assistant Commissioner of Customs is satisfied that the loss and deficiency resulted from —

(a) the total destruction or irretrievable loss of the goods as a result of unforeseeable circumstances or force majeure; or

(b) as a consequence of an authorisation by the Assistant Commissioner of Customs.

Guarantee to ensure compliance with conditions

141. The Assistant Commissioner of Customs may require that the warehouse keeper provide a guarantee in connection with the responsibilities specified in section 140 (1) (a) to (c).

Depositors' obligations

142. The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the Customs warehousing procedure.

143.(1) The Assistant Commissioner of Customs may upon a request allow—

Authorised processing of goods in a Customs warehouse

(a) goods to be stored on the premises of the Customs warehouse;

(b) goods to be processed subject to conditions on a Customs warehouse under the inward processing procedure or home use procedure.

(2) Goods referred to in subsection (1), shall not be subject to the Customs warehousing procedure.

(3) Goods referred to in subsection (1) shall be entered in the stock records provided for in section 140(e).

144.(1) A person authorised by the Assistant Commissioner of Customs to remove the goods in a warehouse may—

Operations permitted in a Customs warehouse

(a) inspect the goods

(b) take samples against payment of import duties, taxes or levies applicable;

(c) carry out operations necessary for their preservation; and

(d) carry out other handling operations necessary to improve their packaging or marketable quality or to prepare them for shipment.

(2) The Assistant Commissioner of Customs may impose conditions in respect of subsection(1).

145.(1) Where goods admitted in a Customs warehouse are not cleared or re-warehoused within one year from the date of first entry for warehousing. The Assistant commissioner of Customs shall give one month notice to the owner of the goods,

Time limits for the storage of goods in a Customs warehouse

after which the goods may be seized and disposed of in accordance with section 116.

(2) Notwithstanding the provisions of subsections (1), the Assistant Commissioner of Customs may prescribe time limit for goods stored in a private warehouse and for certain warehouse goods.

Temporary removal of goods from warehouse

146.(1) Goods placed under the Customs warehousing procedure may be temporarily removed when authorised by the Assistant Commissioner of Customs, who may stipulate conditions on removal.

(2) Where the goods are outside the Customs warehouse they may undergo the handling operations referred to in section 127.

Transfer of goods between Customs warehouse

147. The Assistant Commissioner of Customs may allow goods placed under the warehousing procedure to be transferred from one warehouse to another warehouse.

Closure of Customs warehouse

148. Where a warehouse is to be closed, a depositor shall be given sufficient time to remove the goods to another warehouse or to place them under another approved Customs procedure

Costs of warehousing

149.(1) Where a Customs debt is incurred in respect of import goods and the Customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs need not be included in the Customs value if they are shown separately from the price actually paid or payable for the goods.

(2) Where the goods have undergone the usual manner of handling within the meaning of section 127, the nature of the goods, the Customs value and the quantity to be taken into account in determining the amount of import duties, taxes or

levies shall, at the request of the declarant, be those which would be taken into account for the goods, if they had not undergone such handling.

(3) The rate of duties, taxes or levies tax shall be at the time the Assistant Commissioner of Customs assess the declaration for home use.

Warehouse rent

150. Where goods are lodged in a warehouse or other place of deposit provided by Customs for the security of the duties, taxes or levies payable or until customs procedure for importation of goods have been complied with, the Assistant Commissioner of Customs may charge, a warehouse rent for such period the goods remain in the warehouse.

Waiver of warehouse rent

151.(1) The Assistant Commissioner of Customs may direct the repayment or remission of whole or part of any warehousing rent paid or payable where it would be equitable to do so.

(2) Goods deposited in a place approved by Customs shall be deemed to be in a warehouse. The owner of the warehoused goods shall be responsible for any charges incurred by the Assistant Commissioner of Customs until such time as the goods are released and removed under *a* Customs-approved procedure or use.

(3) The Assistant Commissioner of Customs shall not be responsible for any damage which the goods may sustain.

Examination of goods in warehouse

152.(1) The proper officer may, at any time by order in writing, direct that any goods or packages lodged in any warehouse shall be opened and examined and cause the opened goods or packages to be sealed or marked in such manner as the proper officer thinks fit.

(2) Goods that have been sealed and marked after examination, shall not be opened without the permission of the proper officer.

Manufacture and other operations in relation to goods in a warehouse

153.(1) The owner of any warehoused goods may by giving fifteen days prior notice in writing to the Assistant Commissioner of Customs to carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) In the course of any operation or process under subsection (1) there is waste or refuse in whole or any part of the goods produced by such operation or process are exported, no duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into Seychelles in that condition..

(3) If the whole or any part of the goods produced by such operation or process are cleared from the warehouse for home-consumption any duties, taxes or levies shall be charged on the quantity of such goods cleared for home-consumption and on the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to such goods cleared for home-consumption in a manner to be prescribed by rules in the regulations.

Weighting and handling

154.(1) All operations relating to weighing and handling of the goods, whether warehoused or not, shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

(2) Where the presence of officers is required or necessary for the proper performance of such operations as are described in subsection (1), the owner, importer, exporter, consignor, consignee or agent, as the case may be, shall at his or her own expense provide such officers with the necessary transport between the Customs office and the place where those operations are to be performed.

155. Where ad valorem duty is levied on goods damaged or deteriorated due to an unavoidable accident or cause after they have been entered for warehousing and assessed under section 209 and before they are cleared, shall, at the request of the owner be reassessed for duty, tax or levy according to the actual value and a new bond may be executed for the unexpired term of warehousing.

Re-assessment of warehoused goods when damaged or deteriorated

156.(1) The Assistant Commissioner of Customs shall not levy any duties, taxes or levies where goods in a public warehouse for which a bond has been given and have not been cleared are lost or destroyed by unavoidable accident or cause.

Loss or destruction of warehouse of goods

(2) Where goods are lost or destroyed in a private warehouse, the owner shall notify the Assistant Commissioner of Customs in writing within two working days after the discovery of the loss or destruction.

PART X – PRIVILEGED OPERATIONS

I. Reliefs from Customs Duties

157. Where goods cleared for home use or export the Assistant Commissioner of Customs may determine and grant relief from import or export duties, taxes or levies on account of special circumstances,

Provision for specific use

158. Where a temporary export declaration has been lodged, and the goods are re-imported into the Seychelles within the prescribed period of their exportation, total or partial relief of import duties and taxes shall be granted, if —

Relief on export after repair under specific conditions

(a) the re-imported goods were repaired, and such repairs could not have been undertaken in Seychelles;

(b) equipment or other goods were added to the exported goods that could not be added in Seychelles;

(c) processing or manufacturing was done on the re-imported goods and the goods exported are the product of and originated within Seychelles.

Re-importation of goods and same state return

159(1) Goods re-imported into Seychelles in the same condition following their exportation with notification of intended return includes —

(a) packing, containers, pallets, and commercial road vehicles which are in use for the international transport of goods;

(b) goods and equipment used for a display abroad at exhibitions, fairs, meetings or similar events of a commercial, technical, religious, educational, scientific, cultural or charitable nature; or

(c) professional equipment.

(2) Goods re-imported as a result of unforeseen circumstances which arise after they are exported outright, whereby—

(a) an exporter may encounter unforeseen difficulties which may lead to the re-importation of goods which had been exported where—

(i) they have remained unsold;

(ii) the consignee refuses them as not conforming to contract; or

(iii) they have been damaged during transportation;

(b) Goods may also be re-imported as a result of

a new transaction for their return to Seychelles from which they were exported, or they were exported inadvertently.

Condition for relief on re-importation and same state return

160. Goods that are re-imported or returned to Seychelles in the same condition shall be entitled to free import duties, taxes or levies and to repayment of any duty, tax or levy paid on exportation, as prescribed by regulations.

II. Inward Processing

Application of inward Processing

161.(1) The inward processing procedure shall apply where—

(a) non-Seychelles goods intended for re-export from Seychelles in the form of compensating products, without such goods being subject to import duties, taxes or levies or commercial policy measures;

(b) goods cleared for home use with repayment or remission of the import duties, taxes or levies if they are exported from Seychelles in the form of compensating products;

(c) goods placed under another Customs procedure where conditions for inward processing are met and the previous approved Customs procedure is properly discharged.

(2) Subject to subsection (2) the Assistant Commissioner of Customs may allow—

(a) compensating products to be obtained from equivalent goods;

(b) compensating products obtained from equivalent goods to be exported from Seychelles before importation of the

import goods.

(3) The Assistant Commissioner of Customs may allow equivalent goods of the same quality and have the same characteristics as the import goods, equivalent goods to be at a more advanced stage of manufacture than the import goods, if determined in accordance with customs procedure.

(4) Customs may adopt measures to facilitate subsection (2).

(5) Where subsection (2) (b) is applied and the compensating products would be liable to export duties, taxes or levies if they are not being exported or re-exported under an inward processing operation, the holder of the authorisation shall provide a security to ensure payment of the duties should the import goods be imported within the period prescribed.

Authorisation for the inward processing procedure

162.(1) The Assistant Commissioner of Customs shall authorise inward processing procedure at the request of the person who carries out the processing operations or who arranges for them to be carried out.

(2) The authorisation may be granted —

(a) to a person established in Seychelles in respect of imports of a non-commercial nature;

(b) to the use of the goods referred to in section 164 (2), the import goods can be identified in the compensating products or, where compliance with the conditions laid down in respect of equivalent goods can be verified;

(c) where the inward processing procedure can help create the most favourable conditions for the export or re-export of compensating products, provided the interest of Seychelles producers are not adversely affected.

Period for discharge

163.(1) The Assistant Commissioner of Customs shall specify the period within which the compensating products shall be exported or re-exported or assigned another Customs approved procedure or use.

(2) The period specified under subsection (1) shall take into account of the time required to carry out the processing operations and dispose of the compensating products and shall run from the date on which the imported goods are placed under the inward processing procedure. The Assistant Commissioner of Customs may grant an extension of the period specified on an application made by the owner or representative.

(3) The Assistant Commissioner of Customs shall specify the period within which the imported goods must be declared for the procedure and that period shall run from the date of acceptance of the export declaration relating to the compensating products obtained from the corresponding equivalent goods.

Establishment of the rate of yield

164.(1) The Assistant Commissioner of Customs shall set the rate of yield of the operation or the method of determining such rate. The rate of yield shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.

(2) Standard rates of yield may be set in accordance with the Customs procedure on the basis of actual data previously ascertained, where the processing operation which is carried out under technical conditions involving goods of substantially uniform characteristics in the production of compensating products of uniform quality.

Unauthorised condition

165. Goods in the unaltered condition or compensating products considered to have been cleared for home use may be determined in accordance with the Customs procedure.

Determination of debt

166.(1) Where a Customs debt is incurred the amount of debt shall be determined on the duties, taxes or levies appropriate to the importation of the goods at the time of acceptance of the inward processing procedure.

(2) If at the time referred to in subsection (1), the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration for clearance for home use.

Duties or taxes or levies on waste and scrap

167. Notwithstanding section 166, specific rules of assessment shall apply in the following circumstances —

(a) waste and scrap having a commercial value shall be classified and valued as waste and scrap and liable to duty or tax. The rate of duty or tax chargeable shall be that in force at the time the declaration for home use is accepted by Customs;

(b) where a Customs debt is incurred in respect of—

(i) goods in the unaltered state;

(ii) secondary compensating products; or

(iii) unaccounted-for losses or deficiencies;

the amount of those debts shall be determined at the time of acceptance of the inward processing procedure.

Temporary re-export for further processing

168.(1) Subject to prior authorisation by the Assistant Commissioner of Customs, some or all of the goods placed under the inward processing procedure, may be temporarily re-exported for the purpose of further processing outside Seychelles, in accordance with the conditions laid down for the outward processing procedure.

(2) Where a Customs debt is incurred in respect of re-imported products, the following shall be charged —

(a) import duties, taxes or levies on the compensating products or goods in the unaltered state referred to in subsection (1), shall be calculated in accordance with section 166; and

(b) import duties, taxes or levies on products re-imported after processing outside of Seychelles, shall be calculated in accordance with the provisions relating to the outward processing procedure, on the same conditions as would have applied had the products been exported under the latter procedure been cleared for home use before such export took place.

III. Temporary Admission

Relief on temporary admission

169.(1) The temporary admission procedure may be prescribed by regulation.

(2) Imported goods to be placed under the temporary admission procedure, may be used in Seychelles, with total or partial relief from import duties, taxes or levies and such goods shall be subject to any prohibitions or restrictions, for the time being in force, upon their importation or exportation into or from Seychelles.

(3) The temporary admission procedure may be used under the following condition where —

(a) goods are intended for re-export;

(b) goods are not intended to undergo any change except normal depreciation due to the use made of them;

(c) goods shall be imported for a specific purpose;

(d) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure;

(e) in the case of vehicles or yachts they must not have previously been imported into Seychelles within three years of the current importation;

(f) the goods shall not be, or be offered to be, lent, sold, pledged, hired, or otherwise disposed of.

Period for temporary admission

170.(1) The Assistant Commissioner of Customs shall determine the period within which goods placed under the temporary admission procedure must have been re-exported or placed under a subsequent Customs procedure.

(2) The maximum period shall be no more than twelve months. Where goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same holder of authorization.

(3) The Assistant Commissioner of Customs may at the request of the owner or representative extend the periods in subsection (1) and (2) to twenty four months.

Partial or total relief on temporary admission

171.(1) The temporary admission procedure with partial relief from import duties, taxes or levies shall be applied where goods while remaining the property of the person established outside Seychelles are not covered by the provisions of section 171 (2) or which are covered by such provisions but do not fulfil

all the conditions provided for the grant of temporary admission with total relief.

(2) The circumstances and conditions under which temporary admission procedure may be used with total relief from import duties, taxes or levies shall be prescribed by regulations.

Amount of import duties, taxes or levies on partial relief

172. The amount of import duties, taxes or levies in respect of goods placed under the temporary admission procedure with partial relief from import duties, taxes or levies shall be based on a percentage which shall be prescribed by regulations.

Determination of duties, taxes or levies

173. (1) The circumstances, conditions and amount of import duties, taxes or levies in respect of goods placed under the temporary admission procedure with partial relief from import duties, taxes or levies may be prescribed by regulations.

(2) Transfer of the rights and obligations deriving from the temporary admission procedure pursuant to section 125 shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.

(3) Where the transfer referred to in subsection (2) is made with partial relief for both persons authorised to use the procedure during the same month, the person holding the initial authorisation shall be liable to pay the amount of import duties, taxes or levies due for the whole of that month.

Determination of taxation element

174.(1) Where a customs debt is incurred in respect of import goods the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods at the time of acceptance of the declaration of placing the goods under the temporary admission procedure and the amount of debt shall determined on the basis of taxation element appropriate to the goods in pursuant to 214.

(2) Where a customs debt is incurred in respect of goods for reasons other than the placing of goods under the temporary admission procedure with partial relief the amount of debt shall be the difference between the amount of duty calculated pursuant to subsection (1) and payable.

Security for temporary admission

175. The Assistant Commissioner of Customs may require *a* security for the temporary admission of goods under total or partial relief of duties, taxes or levies.

Termination of temporary admission procedure

176. The temporary admission procedure may be terminated by lodging a goods declaration for re-exportation of the imported goods or by placing the imported goods under another approved Customs procedure.

IV. End- Use Procedure

Customs control and supervision under the end-use procedure

177. Goods placed under the end-use procedure, may be released for home use under a duty exemption or at a reduced rate and such goods shall remain under Customs supervision and control.

Termination of Customs control and supervision under end-use procedure

178. Customs supervision and control under the end-use procedure shall cease in the following cases —

(a) where the goods have been used for purposes laid down for the application of the duty exemptions or reduced rate;

(b) where the goods are exported, destroyed or abandoned;

(c) where the goods have been used for purposes other than those laid down for the application of the duty exemptions or reduced duty rates and the chargeable import duty have been paid.

V. Outward Processing

Outward processing procedure

179.(1) Under the outward processing procedure Seychelles goods may be temporarily exported from Seychelles to undergo processing operations, and the compensating products may be released for home use with total or partial relief from import duties, taxes or levies.

(2) Outward processing procedure shall not be allowed for the following Seychelles goods—

(a) goods the export of which gives rise to repayment or remission of import duties, taxes or levies;

(b) goods which, prior to exportation, were released for home use and such use have not been fulfilled under, a duty, levy, tax exemption or at a reduced rate of duties, taxes or levies, unless these goods have to undergo repair operations.

(3) Exceptions *to* subsection (2) (b) may be prescribed by regulations.

Authorisation for using outward processing procedure

180.(1) An authorisation to use the outward processing procedure shall be issued at the request of—

(a) a person responsible for the processing operations; or

(b) a person in respect of goods of Seychelles origin within the meaning of section 41, where the processing operation consists in incorporating goods obtained outside Seychelles and imported as compensating products where the use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of

Seychelles producers of products identical or similar to the imported compensating products.

(2) Exceptions to subsection 1 (b) shall be prescribed by regulations.

Grant of authorisations

181.(1) Authorisation to use outward processing procedure shall be granted —

(a) to persons established in Seychelles;

(b) where it is possible to establish that the compensating products have resulted from processing of the temporary export goods;

(c) Where the interests of Seychelles processors or producers are not affected.

(2) Exceptions to subsection (1) may be prescribed by regulations.

Period for re-importation and the rate of yield

182.(1) The Assistant Commissioner of Customs may specify the period within which the compensating products must be re-imported in Seychelles and that period may be extended .

(2) The Assistant Commissioner of Customs shall set the rate of yield of the operation or, where necessary, the method of determining that rate.

Conditions for grant of total or partial relief on compensating product

183.(1) The total or partial relief from import duties, taxes or levies provided for in section 184, shall be granted for outward processing where the compensating products are declared for clearance for home use by or on behalf of—

(a) the holder of the authorisation, or

(b) a representative.

(2) The total or partial relief from import duty,tax or levy shall not be granted where a condition relating to the outward processing procedure is not fulfilled unless it is established that the failures have no significant effect on the correct operation of the said procedure.

Duties, taxes or levies on outward processing goods

184.(1) The total or partial relief from import duties, taxes or levies provided in section 179 shall be effected by deducting from the amount of the import duties, taxes or levies applicable to the compensating products cleared for home use the amount of the import duties, taxes or levies that would be applicable on the same date to the temporary export goods if they were imported into Seychelles from the country in which they underwent the last processing operation.

(2) The amount to be deducted pursuant to subsection (1) shall be calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration relating to the clearance for home use of the compensating products.

(3) The value of the temporary export goods shall be taken into account of the goods in determining the Customs value of the compensating products in accordance with of section 41 or, if the value cannot be determined in that way, the difference between the Customs value for the compensating products and the processing costs determined by reasonable means:

Provided that—

(a) certain charges determined in accordance with the Customs procedure shall not be taken into account in calculating the amount to be deducted;

(b) the temporary export goods cleared for home use at a reduced rate by virtue of their end use, as long as the conditions for granting the reduced rate continue to apply and the amount to be deducted shall be the amount of import duties, taxes or levies actually levied when the goods were cleared for home use prior to being placed under the outward processing procedure.

(4) The rate for temporary export goods qualify for home use for reduced or zero rate of duty by virtue of their end use and shall take into account where goods have undergone operations consistent with such end-use in the country where the processing operation or last such operation took place.

(5) Where compensating products qualify for a preferential tariff measure within the meaning of section 40 and the measure exists for goods falling within the same tariff classification as the temporary export goods, the rate of import duties, taxes or levies to be taken into account in establishing the amount to be deducted pursuant to subsection (1) shall be that which would apply if the temporary export goods fulfilled the conditions under which that preferential measure may be applied.

Total relief on duties, taxes or levies on repaired goods

185.(1) Where the purpose of the operation is the repair of the temporary export goods and the Assistant Commissioner of Customs is satisfied that goods have been repaired free of charge due to contractual or statutory obligation arising from a guarantee or due to a manufacturing defect, the temporary export goods shall be eligible for total relief from import duties, taxes or levies.

(2) Subsection (1) shall not apply where the manufacturing defect has been taken into account at the time when the goods were first cleared for home use.

186. Where any repair on temporary export goods are carried out, a partial relief from import duties, taxes or levies shall be granted on the goods returned pursuant to section 179 based on the taxation element and customs value on the repair cost of the compensating products on the date of acceptance of declaration for clearance for home use.

Partial relief on duties and taxes on repaired goods

187.(1) A replacement product , may, in accordance with subsections (2) to (6), replace a compensating product, under the standard exchange system.

Standard exchange system

(2) The Assistant Commissioner of Customs may authorise the standard exchange system to be used where the processing operation involves the repair of Seychelles goods.

(3) Replacement products shall fall under the same tariff sub headings and have the same commercial quality and technical characteristics as the temporary export goods had the goods undergone any repair.

(4) Where the temporary export goods have been used prior to export, the replacement products shall also be used products.

(5) The Assistant Commissioner of Customs may, waive the fore-going requirement if the replacement product are supplied free of charge, due to a contractual or statutory obligation arising from a guarantee due to manufacturing defect.

(6) Standard exchange shall be authorised only where conditions laid down in subsections (3) and (4) are fulfilled.

(7) The provisions which would be applicable to the compensating products shall apply to the replacement products.

188.(1) The Assistant Commissioner of Customs may, on conditions prescribed by regulations, authorise replacement products to be imported before the defective goods are exported.

Prior importation of replacement products

(2) A guarantee shall be provided for importation of a replacement product covering the amount of the import duties, taxes or levies payable should the defective goods not be exported in accordance with subsection (3).

(3) The defective goods shall be exported within a period of two months from the date of acceptance by Customs of the declaration for the clearance for home use of the replacement products.

(4) Where the defective goods cannot be exported within the period referred to in subsection (3), the Assistant Commissioner of Customs may, at the request of the person concerned, extend that period.

Duty on prior importation

189. Where, provisions of section 184 applies prior to importation, the amount to be deducted shall be determined on the basis of the cost incurred to bring the temporary export goods for outward processing on the date of acceptance of the declaration.

PART XI - EXPORT PROCEDURE AND CLEARANCE OF AIRCRAFTS AND VESSELS

I. Prohibited or restricted exports

Prohibited or restricted exports

190.(1) A person shall not export from Seychelles goods the exportation of which is prohibited or restricted as prescribed by regulation under subsection (2).

(2) The Minister may prescribe by regulations where it is in the public interest to prohibit any specified goods or goods of a specified class.

(3) A prohibition imposed under this section may be —

(a) general, limited, absolute or conditional;

(b) limited to the export of goods to a specified place or to a specified person or class of persons.

(4) A restricted good may be exported under the authority of a permit or consent to be granted subject to such conditions not inconsistent with the provisions of the restriction, as may be imposed by the Assistant Commissioner of Customs.

(5) A prohibition under this section shall not apply to goods already loaded into the exporting aircraft or vessel at the time when the prohibition or restriction comes into force.

II. Export Procedure

Obligation to lodge pre-departure declaration

191.(1) A pre-departure declaration shall be lodged with customs for goods leaving Seychelles

(2) The conditions under which goods are to be exported from Seychelles may be prescribed by regulations.

Measures establishing procedure relating to pre-departure declaration

192. (1) The Assistant Commissioner of Customs may specify —

(a) goods leaving Seychelles which are not subject to a pre-departure declaration;

(b) where the requirement for a pre-departure declaration may be waived or adapted;

(c) the deadline by which the pre-departure declaration shall be lodged before the goods are exported from Seychelles;

(d) any exceptions from and variations to the deadline referred to in paragraph (c);

(e) the Customs office at which the pre-departure declaration shall be lodged where risk analysis and risk-based export and exit controls are to be carried out.

(2) In adopting these measures, Assistant Commissioner of Customs shall take into account of the following —

(a) the special circumstances;

(b) the application of measures to certain types of goods, traffic and modes of transport; or

(c) special security arrangements under an international agreement.

Entry of goods for export

193.(1) The manner and procedure of entry of goods to be exported by an exporter shall be prescribed by regulations.

(2) A person who makes an entry under this section shall—

(a) answer any questions relevant to matters arising under this Act asked by an officer with respect to the goods; and

(b) at the request of the officer present the goods to be examined.

(3) Where goods are exported under a drawback the making of any such entry is deemed to be the making of a claim for drawback.

(4) Unless the Assistant Commissioner of Customs otherwise determines, no right to drawback exists in the case of goods placed on an aircraft or vessel before entry has been made.

(5) Except as otherwise permitted by the Assistant Commissioner of Customs goods shall not be loaded for export until a declaration completed in the prescribed form and manner has been made.

Goods for export to be covered by a declaration

194.(1) Goods loaded for export shall not re land in Seychelles, without the permission of the proper officer.

(2) Where goods are not exported the person who lodged the pre-departure declaration shall immediately give

notice to the proper officer of the failure to export and the reasons for it and the Assistant Commissioner of Customs —

(a) shall cancel or amend the declaration; and

(b) where applicable, allow the goods to be released from the control of Customs.

III. Customs-Approved Secure Exports Schemes

Secure exports scheme

195. Customs may provide for a secure exports scheme to ensure that goods to be exported are —

(a) packaged securely and with no other goods; and

(b) conveyed securely and without interference to the place of shipment and duly exported.

Approval of secure exports scheme

196.(1) The Assistant Commissioner of Customs may, on application, authorise a person to use the secure export scheme.

(2) An authorisation shall be in writing and may be subject to such conditions as the Assistant Commissioner of Customs sees fit.

(3) The Assistant Commissioner of Customs may, at any time for reasonable cause, revoke or vary the terms of an authorisation.

(4) An authorisation shall specify the manner in which the goods to be exported under the scheme are to be packed, the person handling the packing, the conveyance of the goods and any other requirements.

Conditions of secure exports scheme authorisation

197.(1) An authorisation shall specify the manner and conditions of the goods packed under the export scheme, such as —

(a) secure packages to be used;

(b) seal or markings to be applied to the packages in order to indicate —

(i) the package contains only declared goods when it was secured as approved; and

(ii) identify tampering or interference with the package after it is secured.

(c) the persons who are to pack and convey the goods and the security checks to be applied to those persons;

(d) the conditions under which the packing is to occur;

(e) the manner in which the goods are to be conveyed;

(f) any place or place of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment;

(g) any other requirements.

(2) An exporter shall submit in advance an electronic export goods declaration to the officer prior to exportation.

(3) For container shipments, the declaration should be lodged prior to the goods being packed into the container.

Conditions to be acknowledged in secure exports scheme

198. A secure exports scheme shall include express acknowledgements by the exporter concerned —

(a) the goods to be exported under the scheme are subject to customs control from the time

when they are first secured in a customs approved scheme package until the exportation of the goods to a place outside Seychelles;

(b) the power of detention and search under section 48 are available if they are suspected to be goods that are —

(i) subject to customs control: or

(ii) in customs approved secure package

(c) an officer may question any or all of the following persons about any goods destined to be exported from Seychelles —

(i) the owner or operator of a vehicle where an office has reasonable cause to suspect that there are goods in the vehicle subject to customs control or in customs approved secured package;

(ii) the owner or occupier of premises where an officer has reasonable cause to suspect that there goods within the premises subject to customs control or in customs approved secured package;

(iii) a person employed by a person described in subparagraph (1) or (ii)

199.(1) All goods including non Seychelles goods leaving Seychelles shall be subject to exit formalities and the goods shall be placed under the export procedure and shall be subject to —

Formalities and Customs supervision

(a) the repayment or remission of any import duties, taxes or levies;

(b) the collection of export duties, taxes or levies where applicable;

(c) Customs supervision and control from the time the goods are presented and declared for export to the time they leave Seychelles.

(2) The release for export shall be granted on condition that the goods leave Seychelles in the same condition as when the pre-departure declarations were accepted.

Export of non-Seychelles goods

200.(1) A re- export notification shall be lodged for Non-Seychelles goods.

(2) Subsection (1) shall not apply to the following goods —

(a) goods transhipped within, or directly exported from, a trade zone;

(b) goods under the temporary storage procedure which are directly exported from an authorised temporary storage facility.

Exit summary declaration: outward report

201.(1) Where non-Seychelles goods are destined to leave Seychelles and a re-export notification is not required, an exit summary declaration shall be lodged with Customs before the goods are to be taken out of Seychelles.

(2) The Assistant Commissioner of Customs may provide the manner and form of the exit summary declaration.

(3) The exit summary declaration may be lodged by one of the following persons —

(a) the person who brings the goods, or who assumes responsibility for the carriage of the goods out of Seychelles;

(b) the exporter or consignor or other person in whose name or on whose behalf the persons referred to in paragraph (a) act;

(c) any person who is able to present the goods to the proper officer.

Amendment of the exit summary declaration

202.(1) A person who lodges the exit summary declaration, may amend the particulars of that declaration after it has been lodged.

(2) Notwithstanding subsection (1), no amendment shall be allowed where Customs have—

(a) informed the person who lodged the summary declaration that they intend to examine the goods;

(b) established that the particulars are incorrect; or

(c) allowed the removal of the goods.

IV. Clearance Outward of Aircrafts and Vessels

Customs clearance prior to departure

203. The commander of an aircraft or master of a vessel other than an aircraft or vessel calling for bunkers, provisions and stores shall not depart with the ship or aircraft from a port in Seychelles to a destination outside Seychelles without receiving a certificate of outward clearance for the aircraft or vessel from the Assistant Commissioner of Customs.

Certificate of clearance

204.(1) A certificate of clearance shall be granted where the person in charge of an aircraft or vessel—

(a) deliver to Customs within such time prescribed, an outward report containing particulars verified by declaration and accompanied by supporting documents as the

Assistant Commissioner of Customs may require;

(b) answer any question asked by an officer relating to the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or journey;

(c) produce such documents as may be required by an officer relating to the vessel or aircraft, its passengers, crew, cargo, stores, and its intended voyage or journey; and

(d) comply with all requirements in this or any other Act concerning the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or journey.

(2) Where a commander of an aircraft or master of a vessel fails to depart from a airport or port in Seychelles within 36 hours from the time the clearance certificate was issued, the clearance shall lapse and The commander or master shall obtain a new clearance outwards before the aircraft or vessel shall be permitted to depart from a airport or port in Seychelles.

Boarding of outward aircraft or vessel

205. The person in charge of an aircraft or vessel departing from a airport or port in Seychelles, shall, if required to do so by an officer, facilitate the boarding of the officer.

Power to refuse or cancel outward clearance

206.(1) A certificate of outward clearance shall not be granted to an aircraft or vessel unless all requirements of the law with regard to the inward and outward cargo have been duly complied with.

(2) The detention of any aircraft or vessel in pursuance of the any powers conferred or duties, taxes or levies imposed under any law or for the purpose of securing compliance with any provisions relating to importation or exportation of goods —

(a) the officer may at any time refuse clearance of any aircraft or vessel; and

(b) where clearance has been granted to an aircraft or vessel by an officer may at any time while the aircraft at any airport or the vessel is within the limits of any port in Seychelles request the clearance certificate be returned.

PART XIII – CUSTOMS DEBTS AND GUARANTEES

I. General provisions

Assessment of duties, taxes or levies

207.(1) The assessment of duties, taxes or levies on import goods and export goods shall be based , on the following dutiable or taxable elements —

(a) tariff classification in accordance with the Customs tariff for the time being in force in Seychelles;

(b) Customs value or quantity where the duties, taxes or levies applicable are ad valorem or specific or a combination thereof; and

(c) country of origin or consignment.

(2) The amount so determined shall constitute a customs debt.

Self-assessment by the declarant and prior payment of duties, taxes or levies

208.(1) Except as otherwise provided for in this Act, the legal onus is on the declarant to determine and declare the declarant's duty or taxable liability to the Assistant Commissioner of Customs.

(2) Dutiable or taxable goods shall not be diverted to home use or assigned a Customs-approved procedure or use unless the duties, taxes or levies chargeable have been paid or secured.

(3) Dutiable or taxable goods diverted to home use or assigned a Customs procedure or use without payment or

securing payment for duties, taxes or levies are liable to forfeiture and may be seized.

Customs debt in relation to home use and temporary admission

209.(1) A Customs debt on importation shall be incurred —

(a) where goods released for home use are liable to import duties, taxes or levies;

(b) where goods are placed under the temporary admission procedure with partial relief from import duties, taxes or levies;

(c) on the date of acceptance of a Customs declaration;

(d) when the unlawful entry into Seychelles of goods is liable to import duties, taxes or levies;

(e) when there is unlawful entry of goods into a trade zone or warehouse;

(f) goods are removed without authorisation from customs supervision or control;

(2) Where a Customs declaration is drawn up on information which leads to all or part of the duties, taxes or levies legally owed not being collected, the persons who provided the information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

Customs debt arising out of non-fulfilment of an obligation or non compliance with conditions relating to imported goods

210.(1) A custom debt on importation shall be incurred through—

(a) non fulfilment of one of the obligations arising in respect of goods liable to import duties, taxes or levies for the temporary

storage or use of the customs procedure under which they are placed; or

(b) non-compliance with a condition governing the placing of the goods under the procedure or the granting of reduced zero rate of import duties, taxes or levies by virtue of the end- use of the goods.

(2) The customs debt shall be incurred when non fulfilment of the customs debt ceases to be met or when the goods were placed under a customs procedure where the condition or the granting of a reduced or zero rate of import duties, taxes or levies of the end use of the goods are not fulfilled.

(3) The debtor shall be required to fulfil the obligations arsing in respect of goods liable to import duties, taxes or levies from the temporary storage or from the customs procedure under which they have been placed or to comply with conditions governing the goods under the procedure or use.

Dutiable derogations

211.(1) A customs debt shall not be incurred where —

(a) a person proves that the non fulfilment of the obligations under sections 64 and 75

(b) keeping the goods in temporary storage; or

(c) the use of the Customs procedure under which the goods have been placed,

give rise to the total destruction or irretrievable loss of the goods as a result of the inherent nature of the goods, unforeseeable circumstances, force majeure, or as a consequence of authorisation by the Assistant Commissioner of Customs.

(2) For the purposes of subsection (1), goods shall be irretrievably lost when they are rendered unusable by any person.

(3) A Customs debt shall not be incurred in respect of goods on importation released for home use at a reduced or zero rate of import duties, taxes or levies by virtue of their end-use where such goods are exported or re-exported with the permission of the Assistant Commissioner of Customs.

Customs debt on scrap and waste

212. A custom debt shall not be incurred in respect of goods released for home use at a reduced or zero rate of import duties or taxes on account of their end-use, and any scrap or waste resulting from such destruction shall be liable to any duties or taxes chargeable on the scrap or waste.

Joint and several liability for a debt

213. Where several persons are liable for payment of Customs debt, they shall be jointly and severally liable for such debt.

Time and place when Customs debt is incurred

214.(1) (a) Except as, otherwise expressly provided in this Act, the amount of import and export duties and taxes chargeable on goods, shall be determined on the basis of rules of assessment appropriate to the goods at the time the customs debt is incurred.

(b) Where it is not possible to determine when the Customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the time when the Assistant Commissioner of Customs concludes that a Customs debt is incurred.

(c) Where information shows that the Customs debt was incurred prior to the time concluded under subsection (2), the amount of the import or export duties, taxes or levies payable shall be determined on the basis on the rules of assessment of the goods at the time when customs debt arise from the information available.

(d) Compensatory interest shall be applied, by the Assistant Commissioner of Customs, at a rate to be determined under the Revenue Administration Act.

(2) A customs debt shall be incurred in a place —

(a) where the goods were placed under a procedure or where it was introduced into Seychelles under that procedure;

(b) where goods were in another place at an earlier date which may be established as the location of the goods at the earlier time when the customs debt was established;

(c) where it is not possible to establish the place, it shall be at the place where customs conclude that an event arising to the debt occurred.

Deduction of duties, taxes or levies already paid

215.(1) Where a Customs debt is incurred pursuant to section 209 in respect of goods released for home use at a reduced rate of duties , taxes or levies on account of their end-use the amount of duty ,tax or levy paid on goods released for home use shall be deducted from the amount of the Customs debt.

(2) Subsection (1) shall apply where a secondary Customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

(3) Where a Customs debt is incurred, pursuant to section 209 in respect of goods placed under temporary admission with partial relief from import duties, taxes or levies the amount paid under partial relief shall be deducted *pro rata* from the amount of the Customs debt.

II. Incurrence of a Customs Debt on Exportation or Importation

Customs debt incurred through non-compliance and failure to fulfil obligations

216.(1) A Customs debt on exportation shall be incurred through non compliance—

(a) of the obligations laid in customs law, exit movement or disposal of the goods ; or

(b) of the conditions under which the goods were allowed to leave Seychelles with total or partial relief from export duties, taxes or levies.

(2) The time at which a customs debt on exportation is incurred shall be when—

(a) the goods leave Seychelles without customs declaration;

(b) the goods reach the destination other than that for which they were allowed to leave Seychelles with total or partial relief from export duties, taxes or levies;

(c) the Assistant Commissioner of Customs is unable to determine the date of expiry of the time limit for the production of evidence that the that relief has been fulfilled.

(3) Where goods liable for export duties, taxes or levies leave Seychelles without customs declaration a debtor shall be—

(a) a person who was required to lodge a customs declaration;

(b) a person who caused the act which led to the non-fulfilment of the obligation of lodging a Customs declaration;

(c) the declarant or his or her representative;

(d) where a Customs declaration is drawn up on the basis of information which leads to all or part of the export duties, taxes or levies not being collected, the person who provided the information knew, or who should reasonably have known, that such information was false.

217. The Customs debt on importation or exportation shall be incurred if it is related to goods which are subject to prohibition or restrictions on importation and exportation of any kind.

Customs debt in relation to prohibited or restricted goods

218. Where costs for storage or usual manner of handling have been incurred in Seychelles for goods placed under a Customs procedure the cost or the increase in value shall not be taken into account for the calculation of the amount of import duties, taxes or levies except the customs value, nature and origin of any imported goods used in the operations.

Storage charges ad costs for usual forms of handling

219.(1) Where the tariff classification of goods placed under a Customs procedure changes as a result of usual forms of handling in Seychelles, the original tariff classification for the goods placed under the procedure shall apply at the request from the declarant.

Tariff heading

(2) In the absence of a request from the declarant, the tariff classification applicable to the goods at the time of their release from the procedure shall apply.

220.(1) Where a Customs debt is incurred for processed products resulting from the inward processing procedure and the goods are diverted to home use, the amount of such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, nature and origin of the goods when placed under the processing procedure and at the time of acceptance of the declaration relating to goods.

Duties, taxes or levies criteria for inward processing goods

(2) In the absence of a request from the declarant, the amount of the Customs debt shall be determined on the basis of the taxation elements appropriate to the processed products on their release from the inward processing procedure for home use.

(3) The value of the processed product shall be determined, where applicable, in the following manner—

(a) the Customs value of identical or similar goods produced in any country and imported into Seychelles at or about the same time as the goods being valued; or

(b) the value based on the unit price at which the identical or similar goods are sold in Seychelles in the greatest aggregate quantity to persons not related to the sellers; or

(c) the Customs value of the import goods plus the processing costs.

Duties, taxes or levies criteria for outward processing goods

221.(1) Where a Customs debt is incurred for processed products resulting from the outward processing procedure other than in circumstances referred for in section 179, and where only ad valorum duties are involved, the amount of import duties, taxes or levies shall be calculated on the basis of the cost of the processing operation undertaken outside Seychelles.

(2) The rate of duties, taxes or levies shall apply to the processed products at the time of acceptance of the declaration for release for home use and the valuation applicable under this Act.

III. Guarantee for Debt

Guarantee for a Customs debt

222.(1) Where a guarantee is required to secure payment of all duties, taxes or levies the Assistant Commissioner of Customs may require the debtor or the person liable to provide a guarantee.

(2) The Assistant Commissioner of Customs shall require only one guarantee to be provided in respect of the goods or declaration for the Customs debt in respect of all goods covered by or relevant in that declaration.

(3) At the request of the debtor or the person liable to provide a guarantee the Assistant Commissioner of Customs

may, in accordance with section 227 authorise a comprehensive guarantee to cover the Customs debt.

Compulsory guarantee

223.(1) Where a guarantee is required under this Act, the Assistant Commissioner of Customs shall fix the amount of the guarantee at a level equal to the amount of the Customs debt.

(2) Where it is not possible to establish the amount of the Customs debt, the amount of the guarantee shall be fixed at the maximum amount as estimated by the Assistant Commissioner of Customs of the Customs debt which has been or may be incurred.

Comprehensive guarantee

224. Where a comprehensive guarantee is provided for Customs debts the amount of the guarantee shall be set at a level enabling the maximum Customs debts to be covered at all times.

Type of guarantee

225.(1) A guarantee may be —

(a) a cash deposit or any other means of payment accepted by the Assistant Commissioner of Customs as being equivalent to a cash deposit;

(b) an undertaking given by a guarantor;

(c) another form of guarantee which provides equivalent assurance that the Customs debt will be paid.

(2) The Assistant Commissioner of Customs may refuse to accept the type of guarantee where it is incompatible with the proper functions of a Customs procedure.

(3) The Assistant Commissioner of Customs may require that the guarantee be maintained for a specific period.

Guarantor

226.(1) The guarantor shall be approved by the Assistant

Commissioner of Customs, unless —

(a) the guarantor is a bank or a financial institution in Seychelles.

(b) a person established in Seychelles and have not commit a serious offence against customs or revenue laws.

(2) The guarantor shall undertake in writing to pay the secured amount of a Customs debt and secured amount of import or export duties, taxes or levies payable following post-release verification.

(3) The Assistant Commissioner of Customs may refuse to approve the guarantor or type of guarantee proposed where either does not appear certain to ensure payment of the customs debt within the prescribed period.

Additional or replacement guarantee

227.(1) Comprehensive guarantees may be replaced with a specific guarantee where the Assistant Commissioner of Customs is satisfied that the goods are subject to fraud and that a comprehensive guarantee would not adequately secure the revenue risk involved in the procedure of operation.

(2) Where the Assistant Commissioner of Customs establishes that the guarantee provided does not ensure or is no longer sufficient to ensure payment of the Customs debt within the prescribed period the Assistant Commissioner of Customs shall require an additional guarantee or a new guarantee.

Release of the guarantee

228.(1) The Assistant Commissioner of Customs shall release the guarantee when the Customs debt has been settled.

(2) Where the Customs debt has been settled in part or may arise in respect of part of the amount which has been secured the settled part of the guarantee shall be released at the request of the person concerned, unless the amount involved does not justify the release.

IV. Recovery and Payment of Duties, taxes or levies

Notification of the Customs debt to the debtor

229.(1) The Assistant Commissioner of Customs shall notify the debtor of the amount of duties, taxes or levies payable.

(2) The debtor shall be notified where the amount of duties, taxes or levies payable declared in the bill of entry if different from the amount of duty tax or levy payable as determined by customs.

Time limit for notification of customs debt

230.(1) Notification of a decision determining the amount of duty tax or levy may not be issued to the debtor after the expiry of a period of 4 years from the date on which the customs debt had incurred.

(2) Where the Customs debt is the result of an act which at the time it was committed was liable to give rise to criminal proceedings the 4 year period laid down in subsection (1) shall not apply.

(3) Where an appeal is lodged with the Revenue Tribunal the periods laid down in subsection (1) shall be suspended from the date on which the appeal is lodged.

(4) Where liability for a Customs debt is reinstated the liability shall be considered as suspended from the date on which the repayment or remission application was submitted in accordance with section 237 (3).until a decision on the repayment or remission is taken.

Entry of accounts

231.(1) Customs shall enter in the accounts the duties, taxes or levies payable.

(2) Customs shall not enter in the accounts the duties, taxes or levies which cannot be notified to the debtor.

(3) The Assistant Commissioner of Customs shall determine the procedure for entry of the amount of duties, taxes or levies and deferment of payment.

Time limit for payment

232.(1) The amount of duties, taxes or levies notified shall be paid by the debtor within 3 working days following the receipt of the notification.

(2) An extension of that period shall be granted automatically where it is established that the person concerned received the notification too late to enable the person to make payment within the prescribed period.

(3) An extension of that period may be granted by the Assistant Commissioner of Customs at the request of the debtor where the amount of duty or tax payable has been determined in the course of post-release verification referred to in section 117 and such extensions shall not exceed the time for the debtor to discharge the obligation.

Payment facilities

233. Payment shall be made in cash or by any other means with similar discharging effect including an adjustment of credit balance as agreed by the Assistant Commissioner of Customs.

Deferred payment

234.(1) The Assistant Commissioner of Customs may grant the debtor payment facilities other than deferred payment on condition that an approved guarantee is provided.

(2) Where such facilities are granted pursuant to subsection (1), the credit interest may be charged on the amount of duties, taxes or levies which shall be prescribed by regulation.

(3) A customs debt is not affected where—

(a) the goods have ceased to be subject to Customs control or supervision;

(b) a guarantee or other security has been given

for the payment of the duties, taxes or levies; or

(c) the proper officer has accepted the declarant's self-assessment of the amount of duty ,tax or levy payable and released the goods for home use.

(4) Where the amount of duties, taxes or levies payable has not been paid within the prescribed period the Assistant Commissioner of Customs shall secure payment by making an application to the Revenue Tribunal.

(5) Interest on arrears may be charged on the amount of duties, taxes or levies from the date of expiry of the period until the date of payment.

(6) The duties, taxes or levies chargeable on goods —

(a) shall be subject to paragraph (c) constitute a charge on those goods until fully paid;

(b) as to whether or not the goods passed to a third party be liable or seized as goods being liable for forfeiture and dealt with in accordance with condition prescribed in regulations;

(c) shall not apply against a purchaser for value who purchased in the ordinary course of business without knowledge, either actual or constructive that the duties, taxes or levies owing on the goods had not been paid or secured by an approved guarantee or security.

(7) Where a person claims as the purchaser at or before the taking of possession of the goods, the Assistant Commissioner of Customs, may —

(a) where the goods are in possession or control

of the importer, take possession of the goods and subject to subsection (9) retain possession of them; or

(b) where the goods are in the possession or control of the purchaser, by notice in writing, direct the purchaser, subject to subsection (9) retain possession or control of the goods.

(8) Where —

(a) possession of the goods has been taken by the Assistant Commissioner of Customs but the goods have not been sold; and

(b) a person notifies the Assistant Commissioner of Customs is a purchaser to whom subsection (6) (a) applies;

(9) The Assistant Commissioner of Customs shall, subject to subsection (10) , retain possession of the goods pending the resolution of the dispute and subsection (10) to (12)shall apply.

(10) Where any goods that the Assistant Commissioner of Customs has taken possession of or has directed a purchaser to retain under this section consist wholly or partly of any living creature or anything which, in the opinion of the Assistant Commissioner of Customs, is of a perishable nature or which may otherwise lose its value if not sold as soon as possible, the Assistant Commissioner of Customs may, or the purchaser in possession or control of the goods may with the prior consent of the Assistant Commissioner of Customs, sell the goods, and the net proceeds of such sale shall be substituted for the goods sold.

(11) The Assistant Commissioner of Customs or the purchaser of the goods may apply to the court for a ruling as to whether the goods were acquired by a bona fide purchaser for

value who purchased the goods for full value in the ordinary course of business without knowledge, either actual or constructive and the duty ,tax or levy owing on the goods had not been paid.

(12) In any proceeding under subsection (10), where the purchaser and the person liable to pay the duties, taxes or levies are related, the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty or tax was owing but unpaid, shall be on the purchaser.

Conditions for settlement of Customs debts

235.(1) A Customs debt on importation or exportation shall cease—

(a) by payment of the amount of the duties, taxes or levies;

(b) subject to subsection (3), by remission of the amount of duty , tax or levy;

(c) where goods declared for a Customs procedure and the Customs declaration is invalidated;

(d) where goods liable for import or export duties, taxes or levies are seized, forfeited , destroyed or abandoned;

(e) where goods in respect of which a debt has been incurred pursuant to section 209 are seized on the unlawful introduction and confiscated;

(f) where goods released for home use, duty or tax-free, or at a reduced rate of import duty or tax have been exported with the permission of an officer;

(g) where the formalities carried out in order to

enable the preferential tariff treatment has been cancelled or has not been granted; or

(h) where, the goods have been exported from Seychelles.

(2) Where a Customs debt is extinguished in respect of goods released for home use duty or tax-free or at a reduced rate of import duty or tax on account of their end-use, any scrap or waste resulting from such destruction shall be deemed to be foreign goods and liable to duties, taxes or levies.

(3) Where several persons are liable for payment of the Customs debt and remission is granted the obligation to pay the amount of duties, taxes or levies shall be extinguished only in respect of the person or persons to whom the remission is granted.

(4) The obligation to pay the amount of duties, taxes or levies shall not be extinguished in respect of any person or persons who attempts deception.

V. Repayment and Remission of Duties, taxes or levies

Definitions

236. For the purposes of sections 237 to 243, the following definitions shall apply—

(a) "repayment" means the refunding of import or export duty , tax or levy which have been paid;

(b) "remission" means the waiving of the obligation to pay an amount of import or export duties, taxes or levies which have not been paid.

Repayments, remissions and time limits

237.(1) Import and export duty, levy or tax shall be repaid or remitted where they were paid and the amount was not

legally owed or that the amount has been entered in the accounts contrary to section 231(2).

(2) A repayment or remission shall be granted where the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person concerned.

(3) Import or export duties, taxes or levies shall be repaid or remitted upon submission of an application to the Customs within a period of 4 years from the date on which the amount of duties, taxes or levies was declared to and accepted by Customs.

(4) The period referred to in subsection (4) shall be extended if the person concerned provides evidence that the person was prevented from submitting an application within the said period as a result of unforeseeable circumstances or force majeure.

(5) Where Customs has discovered within the period set out in subsection (3) of a situation described in subsections (1) customs shall repay or remit on their own initiative.

(6) Where an appeal has been lodged against the notification of the Customs debt the relevant period specified in subsection (4) shall be suspended from the date on which the appeal is lodged, for the duration of the appeal proceedings.

Repayments, remissions when declaration is invalid

238. Import and export duties, taxes or levies shall be repaid or remitted where a Customs declaration is invalidated and the duties, taxes or levies have been paid on submission of an application by the person concerned within the periods laid down for submission of the application for invalidation of the Customs declaration

Repayment or remission of duties, taxes or levies on rejected goods

239.(1) Import duties, taxes or levies shall be repaid or remitted where the amount entered in the accounts relates to

goods released for home use which have been rejected by the importer because they are defective or do not comply with the terms of the contract on the basis of which they were imported.

(2) Repayment or remission of import duties, taxes or levies shall be granted on condition that —

(a) the goods have not been used, except for initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract;

(b) the goods are exported from Seychelles.

(3) At the request of the importer Customs shall permit the goods to be destroyed or to be placed, for re-exportation, under the external transit procedure or the Customs warehousing procedure or in a trade zone, instead of being exported.

(4) For the purposes of being assigned one or more of the approved Customs procedures referred to in subsection (3), the goods shall be deemed to be non- Seychelles goods.

(5) Import duties, taxes or levies shall not be repaid or remitted in respect of goods which, before being declared to Customs declaration, were imported temporarily for testing, unless goods are defective or did not comply with the terms of the contract and could not normally have been detected in the course of the tests.

(6) Import duties or taxes shall be repaid or remitted under subsection (1) upon submission of an application to the appropriate Customs office within 12 months from the date on which the amount was accepted by the Assistant Commissioner of Customs and the Assistant Commissioner of Customs may permit this period to be extended.

Equitable repayment or remissions

240.(1) Import and export duties, taxes or levies may be repaid or remitted in situations other than those referred to in sections 237 and 239, where —

(a) it is determined in accordance with the Customs procedure;

(b) no deception or obvious negligence may be attributed to the person concerned.;

(c) repayment or remission may be made subject to conditions.

(2) Duty , tax or levy shall be repaid or remitted under subsection (1) upon submission of an application to the Customs office within 12 months from the date on which the amount was entered in the accounts. The Assistant Commissioner of Customs may permit this period to be extended.

Circumstances for repayment or remission of a minimum amount

241.(1) Import and export duty , tax, levy shall be repaid or remitted only if the amount to be repaid or remitted exceeds an amount fixed in accordance with the Customs procedure.

(2) The Assistant Commissioner of Customs may grant an application for repayment or remission in respect of a lower amount where the claim is of good faith and there are extenuating circumstances .

Circumstances for payment of interest charges

242.(1) Repayment by Customs on amounts of import or export duties, taxes or levies on credit interests or interest on arrears collected on the payment shall not give rise to the payment of interests by customs.

(2) The amount of such interests shall be prescribed by regulations.

Repayments and remissions made in error

243.(1) Where a Customs debt has been remitted or the corresponding amount of duty or tax has been repaid in error, the original debt shall become payable, and any interests paid under section 242 shall be reimbursed.

(2) Where a certificate is issued by an authority outside

of Seychelles and is proved to be incorrect the owner of the goods shall not benefit from the preferential tax.

(3) A debtor shall be considered to be in good faith if the debtor can demonstrate that, during the period of the trading operations, the debtor has taken due care to ensure that the conditions for the preferential treatment have been fulfilled.

Drawback of duty

244.(1) The Assistant Commissioner of Customs may within 12 months from the date of exportation or performance of the conditions allow duties, taxes or levies on drawback subject to limitations and conditions as may be prescribed by regulations.

(2) The Assistant Commissioner of Customs may upon request, extend the periods referred to in subsection (1).

(3) Drawbacks on any duties, taxes or levies to be paid on goods or on material used in the manufacture or processing of goods may be prescribed by regulations.

Rebates

245. The Minister may prescribe by regulations for the grant of rebates or exemptions from duties, taxes or levies.

PART XIII - OFFENCES

I. Provisions relating to forfeiture

Forfeiture of uncustomed, prohibited or restricted goods

246. (1) Where —

(a) except as provided by or under this Act, any imported goods, being goods chargeable on their importation with any import duties, taxes or levies are without payment of or security for the payment of the duties, taxes or levies —

(i) unshipped at any point, port or place in Seychelles ;

(ii) unloaded from any *vessel* or aircraft in Seychelles;

(iii) removed from the point or place of importation or from any approved port, wharf, examination station, temporary storage area Customs warehouse, trade zone or other approved premises;

(b) any goods imported, landed or unloaded contrary to any prohibition or restriction in force with accordance with this act or any other law;

(c) any goods being chargeable with any import duties, taxes or levies or the importation of which is prohibited or restricted under this Act or any other law are found whether before or after unloading to have been undeclared or concealed in any manner on board any vessel or aircraft;

(d) any goods are imported or concealed in a container holding goods of a different description;

(e) any imported goods are found, whether before or after release or clearance for home use does not correspond with the entry made; or

(f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

shall be liable to forfeiture and may be seized

(2) Where the importation of any goods which is prohibited or restricted under this Act or any other law, are—

(a) reported as intended for re-exportation in the same vessel or aircraft;

(b) entered for transhipment; or

(c) entered to be warehoused for exportation or for use as ships stores,

the Assistant Commissioner of Customs may, permit the goods to be dealt with as it deems fit.

Power to detain goods pending investigation

247.(1) Where an officer reasonably suspects that any goods were—

(a) imported without payment of the duties, taxes or levies;

(b) imported in contravention of any prohibition or restriction in force under this Act and any other law;

(c) intended for or in the course of exportation without payment of any duties, taxes or levies; or

(d) intended for or in the course of exportation in contravention of any prohibition or restriction in force under this Act or any other law,

the officer may detain the goods for the purposes of conducting any examination and make all enquiries necessary to determine the Customs status of the goods. The officer may call on other officers and any other assistance for the purposes of conducting examinations and enquiries.

(2) When a determination referred to in subsection (1) has been made in respect of any goods, or on the expiry of a period of 30 days from the date on which the goods were

detained, whichever is the earlier, the goods, shall be seized liable for forfeiture under this Act or released from official custody.

Forfeiture of aircraft, vehicle or vessel

248. Where —

(a) a vessel is or has been in territorial or inland waters of Seychelles;

(b) a vessel or aircraft is or has been at any place, whether on land or water in Seychelles; or

(c) a vehicle is or has been within the limits of any port or at any airport or within prescribed area,

while constructed, adapted, altered or fitted in any manner for the purposes of concealing goods that aircraft, vehicle, vessel shall be liable for forfeiture.

Forfeiture of vessels when goods liable for forfeiture

249. If any part of the cargo of a vessel or other goods are thrown overboard or staved or destroyed to prevent seizure —

(a) while the vessel is in territorial waters or inland waters Seychelles; or

(b) where the vessel having been properly summoned to bring to by any vessel in the service of the Assistant commissioner of Customs fails to do so at any given time during the chase,

the vessel shall be liable for forfeiture.

Liability for missing cargo

250. Where a vessel has been within the limits of any port in Seychelles or an aircraft is in Seychelles with a cargo on board and a substantial part of that cargo is found to be missing and the commander of the aircraft or master of the vessel fails to account for the missing goods to the satisfaction of the

Assistant Commissioner of Customs the commander of the aircraft or the master of vessel shall be liable to a penalty not exceeding SCR100,000.

II. Offences

Threatening or resisting Customs officer

251. A person who —

(a) threatens or assaults;

(b) by force resists hinders, obstructs or intimidates any officer in the execution of the officer's duties or a person acting in the officer's aid;

(c) interferes with any equipment used by Customs; or

(d) does any act with the intention of impairing the effectiveness of any equipment used by the Customs.

commits an offence and is liable on conviction to a fine not exceeding SCR50,000, or imprisonment for a term not exceeding 3 years, or both.

Bribery and collusion

252. (1) Where the Assistant Commissioner of Customs, officer or any other person appointed or authorised by the Assistant Commissioner of Customs to discharge any duty —

(a) directly or indirectly asks for or takes in connection with his or her duties, , any payment or other reward, or any promise or security for any payment, not being a payment which the person is entitled to claim or receive; or

(b) proposes or enters into in any agreement to conceal an act whereby the Government of Seychelles is or may be defrauded or which is unlawful,

commits an offence and is liable on conviction to a fine not exceeding SCR 100,000. Or imprisonment for a term not exceeding 5 years, or both.

(2) A person who —

(a) directly or indirectly offers or gives to the Assistant Commissioner of Customs, officer or other person appointed or authorised by the Assistant Commissioner of Customs any payment or other reward, or any promise or security for any payment or reward; or

(b) proposes or enters into any agreement with the Assistant Commissioner of Customs, officer or other person appointed or authorised by the Assistant Commissioner of Customs, to induce him conceal an act whereby the Government of Seychelles may be defrauded or which is otherwise unlawful,

commits an offence and is liable on conviction to a fine not exceeding SCR 100,000 or imprisonment for a term not exceeding 5 years, or both.

Counterfeit seals or marks

253.(1) A person who, without lawful authority or excuse, has in his possession, or makes or uses, any counterfeit seal, stamp, or mark in imitation of or closely resembling any seal, stamp, signature or other initials or mark used by the Customs, commits an offence and is liable on conviction, —

(a) in the case of an individual, to a fine not exceeding SCR 50,000 or imprisonment for seven years ,or both; and

(b) in the case of a body corporate to a fine not exceeding SCR100,00.

Unauthorised access to or improper use of customs computerized entry processing system

254. Any person who —

(a) knowingly and without lawful authority by any means gains access to or attempts to gain access to any Customs' computerised system; or

(b) having lawful access to any Customs computerised system, knowingly uses or discloses information obtained for any unauthorised purpose; or

(c) receives information obtained from any Customs computerised system, and uses, discloses, publishes, or otherwise disseminates such information;

(d) falsifies any record or information stored in a Customs' computerised system;

(e) damages or impairs a Customs computerised system; or

(f) damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs' computerised system is stored,

commits an offence and is liable on conviction to a fine not exceeding SCR 50,000 or imprisonment for a term not exceeding 5 years or both.

Aiding abetting counselling or procuring

255. A person who aids, abets, counsels or procures the commission of an offence under this Act or who solicits or incites any other person to commit an offence under this Act shall on conviction shall be liable to a fine not exceeding SCR50,000 or imprisonment for a term not exceeding 5 years, or both.

256. (1) A person commits an offence if that person fails or refuses to comply with a requirement of Customs under section 36 and is liable on conviction —

Failure to produce books, records or other documents and data

(a) in the case of an individual, to a fine not exceeding SCR 20,000;

(b) in the case of a body corporate, to a fine not exceeding SCR 50,000.

257. Where any fastening, lock, mark, sign, stamp, or seal that has been placed by an officer on any goods or container is, without the authority of an officer, opened, altered, broken, or erased by any person while the vessel or aircraft is in Seychelles the person so acting and the person in charge of the vessel or aircraft commit an offence and are liable on conviction to a fine not exceeding SCR 20,000.

Interference with seals and fastenings

258.(1) where after an aircraft or vessel arrives in Seychelles, and before a report is made in accordance with section 57—

Interference with cargo

(a) the cargo is interfered with; or

(b) alteration is made in the storage of goods;

the person so acting and the person in charge of the vessel or aircraft commits an offence and liable on conviction to a fine not exceeding SCR50,000.

259. Where a person without lawful justification or without the permission of the proper officer —

Interference with goods

(a) makes any alteration in the condition of goods subject to Customs control;

(b) interferes with including by way of addition to or taking away the goods;

(c) removes the goods from a place which an

officer has directed that the goods are to be stored,

commits an offence and is liable on conviction to a fine not exceeding, —

(a) in the case of an individual, SCR 50,000;

(b) in the case of a body corporate, SCR 100,000.

Offence in relation to entries and other declarations

260. If a person —

(a) fails to make an entry or declaration, required under this Act;

(b) makes a false entry or declaration required under this Act ;

(c) makes or delivers to a Customs officer a false document;

(d) fails to take all reasonable steps to ensure that an entry or declaration in a document made is genuine;

commits an offence and is liable on conviction —

(a) in the case of an individual, to a fine not exceeding SCR 50,000;

(b) in the case of a body corporate, to a fine not exceeding SCR 100,000.

Fine for fraudulent evasion of duties, etc.

261. Where under any provision of this Act or the Customs tariff Act goods are, declared for a particular purpose or entered under any condition and are exempt from duties, taxes or levies or tax or liable to a lower rate of duty tax or levy, a person —

(a) uses or deals with those goods for a purpose other than that for which they have been declared; or

(b) fails to comply with any condition imposed when the goods where entered,

commits an offence and is liable on conviction to a fine not exceeding an amount equal to 3 times the amount of the duties, taxes or levies that would have been payable if the goods had been declared or entered under the proper customs procedure, or a fine not exceeding SCR 25,000, whichever sum is greater.

Offences relating to evasion of duties, taxes or levies

262. Where goods subject to examination are removed from customs supervision or control—

(a) without the authorisation of an officer goods may be seized and shall be liable to forfeiture.

(b) by a person with intent to defraud the Customs of any duties, taxes or levies or to evade any prohibition or restriction in force commits an offence and upon conviction is a liable to a fine of SCR50,000.

Failure to pay duties, taxes or levies on stores not exempt from duties, taxes or levies

263. If any goods shipped or carried as duty free stores for use on a voyage to a destination outside Seychelles without payment of duty or tax, are landed or unloaded at any place within Seychelles without authorisation from an officer —

(a) the goods shall be liable to forfeiture; and

(b) the owner and commander or master of the aircraft or vessel shall each be liable to a penalty of SCR 100,000 or treble the value of the goods whichever is greater.

Compounding of offences

264.(1) The Revenue commissioner may—

(a) compound an offence under this Act; or

(b) restore, subject to such conditions as the Assistant Commissioner of Customs sees fit, anything forfeited or seized under this Act.

(2) Any prohibited or restricted goods not covered by a permit or authorisation shall not be restored.

(3) An admission of guilt by a person shall not be a condition for a compounded settlement of a Customs offence or the restoration of goods subjects to seizure or forfeiture.

(4) In deciding whether to offer a compounded settlement, the Revenue commissioner shall consider, among other things, the following—

(a) the need to deter other potential offenders;

(b) the legitimate interests of other importers or exporters;

(c) the gravity of the offence;

(d) the previous revenue record.

(5) Procedures relating to the compounding of offences shall be prescribed by regulations.

PART XIV - MISCELLANOUS PROVISIONS

Administrative penalties in relation to entry declarations

265. Administrative penalties in relation to entry declarations shall be prescribed by regulations.

Appeal against duties, taxes or levies

266. Where there is a dispute as to the amount of duties, taxes or levies payable in respect of any goods imported or as to the liability of the goods following checks on the declaration and accompanying documents the person responsible for the paying the duties, taxes or levies may appeal against the

decision of the Assistant Commissioner of Customs pursuant to section 32(2) and (3).

Payment for outstanding amount on duties, taxes or levies

267.(1) Where an underpayment of duties, taxes or levies arises as a result of the incorrect classification, undervaluation or a false claim to preferential tariff treatment, the persons responsible for payment of duties, taxes or levies shall pay the outstanding amounts.

(2) A person responsible for paying any duties, taxes or levies may pay under protest the sum demanded by the Assistant Commissioner of Customs and may appeal against the decision pursuant to section 32(2) and (3).

Provision for trade remedy measures

268. Dumping from a third country into Seychelles shall be prohibited and pursuant to this Act or any other law for the time being in force and an anti-dumping duty on any dumped products may be levied.

Importation and exportation of goods by post

269. Procedure for the importation and exportation of goods by post shall be prescribed by regulations.

Regulations

270. The Minister may make regulations for carrying into effect the provisions of this Act and may —

(a) prescribe forms and the means of electronic communication formats to be used for the electronic transmission of data;

(b) provide for specific services that customs may provide and the applicable fees;

(c) prescribe duty, tax , levy and other charges on goods imported into or exported from Seychelles;

(d) prescribe for grant of rebates or exemptions from duties, taxes or levies;

(e) prescribe for grant of rebates or exemptions from duties, taxes or levies;

(f) prescribe working hour, days and attendance charges and service rates ;

(g) prescribe all matters which by this Act required to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

PART XV - REPEAL

Repeal

271. The Customs Management Decree 1980 and Trade Tax Act (Cap 240) is hereby repealed.

Savings and Transitional

272. (1) The regulations made, certificates and directions issued under the repealed Acts shall continue in effect until they are repealed or amended under the provisions of this Act.

(2) Upon the commencement of this Act any appointments made under a provision of the repealed Acts shall continue to apply as if made under the provisions under this Act.

(3) The repeal of the Acts does not affect—

(a) proceedings commenced in any Court before the commencement of this Act;

(b) any information submitted by any officer in respect of an alleged offence committed before the commencement of this Act;

(c) any right or proceedings relating to a refund, remission, or drawback of duty or tax under any of the trades tax regulations before the commencement of this Act;

(d) any right to recover money under the trades tax regulations whether paid before or after the commencement of this Act;

(e) The condemnation of any goods in accordance with trade tax regulations.

(4) A person who, immediately before the commencement of this Act, was an officer appointed in accordance with the Trades Tax Act shall be deemed to be an officer appointed by the Revenue Commissioner.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 12th December, 2011.

Veronique Bresson
Clerk to the National Assembly