

CUSTOMS MANAGEMENT BILL, 2011

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CUSTOMS MANAGEMENT BILL, 2011

A BILL FOR AN ACT TO REFORM THE LAW RELATING TO CUSTOMS; TO PROVIDE GENERAL RULES APPLICABLE TO THE ADMINISTRATION OF THE CUSTOMS BUSINESS IN THE CUSTOMS TERRITORY OF THE BAHAMAS; TO REPEAL THE CUSTOMS MANAGEMENT ACT, CHAPTER 293 AND FOR CONNECTED MATTERS

Enacted by the Parliament of The Bahamas

PART I – PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Customs Management Act, 2011.
- (2) This Act shall come into force on a date to be appointed by the Minister by notice published in the Gazette.

2. Interpretation.

In this Act unless the context otherwise requires —

“**administrative settlement of a Customs offence**” means the procedure laid down in sections 286 and 290 which the Customs authority is empowered to settle a Customs offence either by a ruling or by means of a compromise settlement;

“**airport**” means any area of land or water equipped, set apart or commonly used for the landing and departure of aircraft;

“**appeal**” means the act by which a person who is directly affected by a decision, act or omission of the Customs authority and who considers himself to be aggrieved seeks redress before a competent authority;

“approved place of loading” and **“approved place of unloading”** means any quay, jetty, wharf or other place within a port, or any part of a Customs airport, appointed by the Minister under section 13 to be a place where goods may be loaded or unloaded;

“Security Forces” means the Defence Force, the Police Force, Immigration, Customs and Border Control officers;

“arrival” means —

- (a) in relation to a means of transport, the entry whether lawfully or unlawfully into the Customs territory from a point outside the Customs territory whether or not the means of transport lands at, hovers above, berths, moors, anchors, stops or otherwise arrives at any place within the Customs territory; and
- (b) in relation to a person, the entry of the person by any means, whether lawfully or unlawfully, into the Customs territory from a point outside that territory;

“arrival hall” means a place designated under this Act for the processing of persons arriving in the Customs territory;

“attorney-at-law” means a counsel and attorney called to The Bahamas Bar in accordance with section 13 of the Legal Profession Act (*Ch. 64*);

“authorised economic operator” means a party involved in the international movement of goods in whatever function that has been approved by or on behalf of the Customs authority as complying with World Trade Organization or World Customs Organization supply chain security standards and includes *inter alia* manufacturers, importers, exporters, Customs brokers, carriers, consolidators, intermediaries, port operators, airport operators, terminal operators, integrated operators, warehouse operators and distributors;

“authorised person” means any person for the time being authorised under provisions of this Act;

“BOI, BTC and BVI rulings” means Binding Origin Information, Binding Tariff Classification and Binding Valuation Information rulings respectively, issued pursuant to section 221;

“bonded warehouse” means any warehouse licensed by the Comptroller under Part XII for the deposit of dutiable goods which have been entered to be warehoused and on which duty has not been paid;

“cargo” includes all goods imported, exported or carried coastwise in any aircraft or vessel other than such goods as are required as stores for the consumption or use by or for the aircraft or vessel, its crew and passengers, and the *bona fide* personal baggage of such passengers;

- “**certificate of origin**” means a specific form issued by a duly authorized entity that certifies expressly that the goods to which the certificate relates originate in a specific country and may include a declaration by the manufacturer, producer, supplier, exporter or other competent person;
- “**clearance**” means the accomplishment of the Customs formalities necessary to allow craft or goods to be released for free circulation, to be exported or to be placed under another Customs procedure;
- “**coasting cargo**” means, in relation to any vessel or aircraft, goods loaded on the vessel or aircraft at any port or airport in the Customs territory for carriage to and unloading at any other port or airport in the Customs territory;
- “**Code of Conduct**” means the Code of Conduct for Customs Officers promulgated by the Comptroller pursuant to section 8(3)(o);
- “**Commission**” means the Customs Appeal Commission;
- “**compensating products**” means products resulting from the manufacturing, processing or repair of goods for which the use of the inward processing procedure is authorised;
- “**compromise settlement**” means an agreement under which the Comptroller, being so empowered, consents to waive proceedings in respect of a Customs offence subject to compliance with certain conditions by the person(s) implicated in such offence;
- “**Comptroller**” means the Comptroller of Customs or any other public officer acting on his behalf or under his authority;
- “**contractor**” means a person who does work for valuable consideration on or in respect of any goods at the request of any other person, otherwise than as an employee of that other person, in circumstances where that other person supplies, but retains ownership of, some or all of the material used in the work;
- “**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;
- “**craft**” includes any aircraft, ship, boat, or other machine, vessel or device, used or capable of being used for the carriage or transportation of persons or goods, or both, by air, water or over or under water;
- “**customs airport**” means an aerodrome designated as a Customs place under this Act;
- “**Customs Appeal Commission**” means the body established pursuant to section 320;

“**Customs area**” means any place appointed by the Comptroller for the deposit of goods subject to Customs control;

“**Customs authority**” or “**the Customs**” means the Customs Department of the Commonwealth of The Bahamas;

“**Customs-approved secure exports scheme**” means a scheme, in relation to goods that are to be exported, whether under drawback or not, approved by the Comptroller under section 125 for —

- (a) the packing of the goods, in a Customs-approved secure package, by approved persons, in approved conditions, and subject to approved requirements including, without limitation, a requirement that a seal or markings in an approved form be applied to the package as soon as it is secured;
- (b) the immediate conveyance, on the completion of the packing of the goods in accordance with paragraph (a), of the Customs-approved secure package, by approved persons and in an approved manner, to the place of shipment for shipping, or, if it is not in that way immediately conveyed and shipped, to some approved place or places of security en route to the place of shipment;
- (c) for the goods, from the time when they are first secured in a Customs-approved secure package until the exportation of the goods to a point outside the Customs territory, to be goods subject to the control of the Customs authority;
- (d) for the powers of detention and search to be available in respect of a means of transport in the Customs territory if there are suspected to be in or on the means of transport goods that are, or are suspected to be —
 - (i) subject to the control of the Customs authority; and
 - (ii) in a Customs-approved secure package;
- (e) for a Customs officer to question any or all of the following persons about any cargo destined to be exported from the Customs territory —
 - (i) a person who is the owner or operator of a means of transport that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, goods subject to the control of the Customs authority and in a Customs-approved secure package;
 - (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours

had in or on them, goods subject to the control of the Customs authority and in a Customs-approved secure package: or

- (iii) a person employed by a person described in subparagraph (i) or (ii);

“Customs-approved secure package” means a package of a kind that is approved by the Customs authority for the purposes of a Customs-approved secure exports scheme;

“Customs controls” means specific acts performed by the Customs authority pursuant to this Act;

“Customs direction” means a request, order, command, or instruction, given by a Customs officer to any person to do or to refrain from doing an act or to submit to a procedure for the purposes of this Act and includes —

- (a) any notice, poster, or sign displayed in a Customs place or Customs controlled area; and
- (b) a direction contained in a form prescribed under this Act or any other relevant Customs legislation;

“Customs enactment” includes this Act and any subsidiary legislation made under it and any other enactment that relates to a Customs matter;

“Customs formalities” means all operations carried out by a person or entity concerned, and by the Customs authority, from the time goods are introduced into the Customs territory until the release of such goods;

“Customs laws” or **“Customs legislation”** means the body of Customs legislation of The Bahamas comprising —

- (a) this Act together with its Schedules, associated regulations and rules made under the authority of this Act; and
- (b) other national legislation, the administration of which, in whole or part, is vested in the Customs authority;

“Customs offence” means any breach, or attempted breach, of the provisions of this Act or any other relevant Customs legislation;

“Customs officer” or **“officer”** means a person appointed by the Public Service Commission as a Customs officer for the purpose of this Act or any other person employed by the Bahamas Customs Department who is designated by the Bahamas Customs Department to be a Customs officer for the purpose of this Act, whether at the time of appointment or otherwise;

“Customs places” means customs ports and customs airports designated under section 13;

“**Customs procedure**” means any of the following procedures under which goods may be placed in accordance with this Act —

- (a) release for free circulation;
- (b) special procedures, such as bonded warehouse, temporary admission and temporary exportation; or
- (c) export;

“**Customs revenue**” means any amounts collectible by the Customs authority in accordance with the Customs laws;

“**Customs seal**” means a seal approved by the Customs authority to be affixed by a Customs officer;

“**Customs territory**” means the entire territory of the Commonwealth of The Bahamas, including its territorial waters, airspace and its Exclusive Economic Zone;

“**Customs transit**” means the transport of goods from one Customs place to another Customs place under Customs control;

“**Customs value**”, in relation to goods, means the Customs value of such goods determined in accordance with the Third Schedule;

“**Customs warehouse**” means any place designated by the Customs authority for the deposit of unentered, abandoned, detained, or seized goods for the security of, or duties due on, such goods;

“**declarant**” means any person who makes a declaration or in whose name such a declaration is made;

“**declaration of arrival**” or “**declaration of departure**”, as the case may be, means any declaration required to be made or produced to the Customs authority upon arrival or departure of the means of transport by the person responsible for the means of transport and containing the necessary particulars relating to the means of transport and to the journey, cargo, stores, crew or passengers;

“**declaration of origin**” means an appropriate statement as to the origin of the goods, made in connection with their exportation, by the manufacturer, producer, supplier, exporter or other competent person on the commercial invoice or any other document relating to the goods;

“**Defence area**” means an area under the control of the Defence Force or any authorised foreign armed services within The Bahamas;

“**Disciplinary Board**” means the Committee established within The Bahamas Customs Department in accordance with Public Service Commission Regulations;

“**documentary evidence of origin**” means a certificate of origin, a certified declaration of origin or a declaration of origin;

“**dollars**” means Bahamian Dollars;

“**domestic goods**” means goods which fall into any of the following categories —

- (a) goods wholly obtained in the Customs territory and not incorporating goods imported from countries or territories outside of that territory;
- (b) goods imported from countries or territories outside the Customs territory and released for free circulation; or
- (c) goods obtained or produced in the Customs territory, either solely from goods referred to in paragraph (b) or from goods referred to in paragraphs (a) and (b);

“**drawback**” means the refund of import duties on goods released for free circulation if such goods are exported from the Customs territory in an unaltered state or in the form of processed products;

“**dual-channel system**” means a simplified Customs control system allowing travelers on arrival to make a declaration by choosing between two types of channels —

- (a) one type, identified by green symbols, being for the use of travelers carrying goods in quantities or values not exceeding those admissible duty-free allowances and which are not subject to import prohibitions or restrictions; and
- (b) the other type, identified by red symbols, being for other travelers;

“**dutiable goods**” means goods of a kind subject to duty within the meaning of this Act;

“**duty**” means a duty, additional duty, excise duty, additional excise duty, value added tax, or other tax, fee, charge, or levy, imposed on goods under this Act or other Customs legislation and the terms “import duties” and “export duties” have corresponding meanings;

“**economic operator**” means a person who is commercially involved in the import or export of goods to or from the Customs territory;

“**equivalent goods**” means domestic or international goods identical in description, quality and technical characteristics to those goods which they replace under the drawback procedure;

“**exportation**”, with its grammatical variations and cognate expressions except where otherwise expressly provided, —

- (a) means any shipment in any means of transport for transportation to a point outside the Customs territory; and
- (b) in relation to an electronic publication, includes the sending of the electronic publication from the Customs territory by any means, other than by broadcasting, to a point outside the Customs territory;

- “**exporter**” means a person by or for whom goods are exported and includes a person who is or becomes the owner of or entitled to the possession of or beneficially interested in goods on or any time after entry for export and before they are exported;
- “**foreign**” means any place beyond the limits of the Customs territory;
- “**forfeited goods**” means goods that are forfeited to the Crown under the Act;
- “**Free Zone**” has the meaning set out in section 202(1);
- “**goods**” means all kinds of articles, documents, wares, merchandise, means of transport, animals and electrical energy; and includes, where goods are sold under the provisions of this Act, the proceeds of sale;
- “**Government**” means the Government of The Bahamas;
- “**Harmonised System**” means the Harmonised Commodity Description and Coding System;
- “**holder of the goods**” means the person who is the owner of the goods or who has a similar right of disposal over them or who has physical control over them;
- “**importation**” with its grammatical variations and cognate expressions —
- (a) in relation to goods, means the arrival of the goods in the Customs territory in any manner whatever, whether lawfully or unlawfully, from a point outside the Customs territory;
 - (b) in relation to electronic publications, includes the arrival of the electronic publication into the Customs territory by transmission by any means, other than by broadcasting, from a point outside the Customs territory;
- “**importer**” means a person by or for whom goods are imported and includes the consignee of goods and 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;
- “**intellectual property**” means any intellectual property rights as defined under the laws of The Bahamas including copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout-designs (topographies) of integrated circuits and protection of undisclosed information;
- “**international crew**” means the crew or any member of the crew of a means of transport that is on a journey that —
- (a) began outside the Customs territory; or
 - (b) began in the Customs territory and is to continue outside the Customs territory;

“**internationally ticketed passenger**” means a person who has an entitlement to travel for a domestic sector, being a sector included in tickets for an international journey that —

- (a) began outside the Customs territory; or
- (b) began within the Customs territory and is to continue outside the Customs territory;

“**international passenger**” means a person who has an entitlement to travel on or in a means of transport within the Customs territory where that travel is part of an international journey that —

- (a) began outside the Customs territory; or
- (b) began in the Customs territory and is to continue outside the Customs territory;

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

“**master**” includes any person for the time being having or taking charge or command of any vessel or aircraft;

“**means of transport**” means any craft, vehicle or animal used for the transportation of passengers or goods and including containers and other transport equipment;

“**means of transport for private use**” means vehicles and craft, together with their spare parts and normal accessories and equipment, imported or exported exclusively for personal use by the person concerned and not for the transport of persons for remuneration or the industrial or commercial transport of goods, whether or not for remuneration;

“**Minister**” means the Minister responsible for Finance;

“**occupier**”, in relation to land, means the owner; and includes a lessee or tenant, a licensee, or a person who has the right to occupy land under other authority;

“**Old Act**” means the Customs Management Act (*Ch. 293*);

“**operator**”, in relation to a business, means the person actively engaged, whether alone or with others, in the carrying on of the business, and whether registered as such and, in the case of a body corporate, includes every director, manager, secretary, or other similar officer engaged in the direct control or management of its business, and a person who purports to act in any of such capacities;

“**outward processing**” means the Customs procedure under which goods which are in free circulation in a Customs territory may be

temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from import duties and taxes;

“owner” —

- (a) in relation to a means of transport, includes the master or other responsible officer of a ship or aircraft, or the driver or other responsible person in relation to a means of transport, or the owner or charterer of the means of transport, and a person acting as agent or representative for the owner or charterer;
- (b) in relation to goods, includes any person being or holding themselves out to be the owner, importer, exporter, consignee, or any person having possession of or beneficially interested in or having control or power of disposal over the goods; and
- (c) in relation to land, means the person entitled to receive the rent or who would be so entitled if the land were let to a tenant;

“package” includes any means used or capable of being used to pack, cover, enclose, contain, or encase goods for carriage, a bulk cargo container, a pallet, or a similar device;

“person” means natural persons, legal persons and any association of persons which is not a legal person but which is recognized under the laws of The Bahamas as having the capacity to perform legal acts;

“person established in the Customs territory” means —

- (a) in the case of a natural person, any person who has their habitual residence in the Customs territory; and
- (b) in the case of a legal person or an association of persons, any person who has their registered office, central headquarters or a permanent business establishment in the Customs territory;

“personal effects” means all new or used articles which a traveler may reasonably require for his personal use during the journey, taking into account all the circumstances of the journey but excluding any goods imported or exported for commercial purposes;

“prescribed” means prescribed by laws, regulations, orders, rules or other measures made under authority of this Act or other relevant Customs legislation and, in relation to forms, includes those prescribed by the Minister or the Comptroller;

“presentation of goods to Customs” means the notification to the Customs authority of the arrival of the goods at a place designated

for inspection and the availability of such goods for Customs controls;

“**prime lending rate**” means the rate of interest as published by the commercial banks;

“**processed products**” means goods which have undergone processing operations;

“**processing operations**” means any of the following —

- (a) working of goods, including erecting or assembling them or fitting them to other goods;
- (b) processing of goods;
- (c) destruction of goods;
- (d) repair of goods, including restoring them and putting them in order; or
- (e) use of production accessories;

“**production accessories**” means 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;

“**prohibited goods**” means the goods the importation of which is prohibited by or under this Act and any other law of the Commonwealth of The Bahamas;

“**prohibited exports**” means the goods the exportation of which is prohibited by or under this Act;

“**prohibited imports**” means the goods the importation of which is prohibited by or under this Act;

“**prohibited or restricted goods**” means goods of a class or description of which the importation, exportation or carriage coastwise is prohibited by or restricted under this Act;

“**proper officer**” in relation to any power or duty under this Act means a Customs officer who, by instruction, or with the concurrence, of the Comptroller exercises or performs such power or duty;

“**rate of yield**” means the quantity or percentage of processed products obtained from the processing of a given quantity of goods placed under a processing procedure;

“**refund**” means the repayment by the Customs authority of any amount paid as a duty —

- (a) where such an amount is found by the Customs authority to be in excess of the duty due or payable;
- (b) where goods are of faulty manufacture; or

- (c) where goods have been abandoned to the Crown for destruction or other form of disposal prior to their release from the control of the Customs authority;

“remission” means the waiver of payment, in whole or in part, of import duties and taxes where payment has not been made;

“re-importation in the same state” means the Customs procedure under which goods which were exported may be taken into home use free of Customs duties and taxes provided —

- (a) they have not undergone any manufacturing, processing or repairs abroad;
- (b) any sums chargeable as a result of repayment or remission of or conditional relief from duties and taxes or of any subsidies or other amounts granted in connection with exportation shall be paid; and
- (c) such goods eligible for re-importation in the same state may be goods that were in free circulation or were compensating products;

“release of goods” means the act whereby the Customs authority authorises the removal of goods from a Customs place or other place designated for Customs procedures, including free warehouses, for free circulation within the Customs territory;

“restricted goods” means any goods the importation, exportation or carriage coastwise of which —

- (a) is prohibited, save in accordance with any conditions regulating such importation, exportation or carriage coastwise;
- (b) is in any way regulated by or under the Customs laws or any other law of The Bahamas;

“risk” means the likelihood of an event that may occur, with regard to the entry, exit, transit, transfer or end-use, of goods moved between the Customs territory of The Bahamas and countries or territories outside that territory as well as to the presence of goods which do not have domestic status, which could —

- (a) prevent or impede the correct application of national laws or other measures;
- (b) compromise the financial interests of The Bahamas;
- (c) pose a threat to the security and safety of The Bahamas and its citizens; to human, animal or plant life or health and to the environment or consumers;

“risk management” means the systematic identification of risk and the implementation of all measures necessary for limiting exposure to risk;

- “**right holder**” means a natural or legal person regarded under the laws of The Bahamas as the owner of protected intellectual or industrial property rights together with a successor in title, or duly authorised exclusive licensee, as well as an individual, a corporation or an association authorised by any of the aforementioned persons to protect its rights;
- “**rules of origin**” means the specific provisions applied by the Customs authority to determine the origin of goods for Customs purposes;
- “**search warrant**” means a Customs search warrant or a Magistrate’s search warrant, as the case may be, issued pursuant to this Act;
- “**shipment**” includes loading into or onto a means of transport and “to ship” and cognate expressions have corresponding meanings;
- “**small craft**” means a vessel less than fifty tons burden;
- “**stores**” means stores for consumption, and stores to be taken away;
- “**stores for consumption**” means goods which are either on board a means of transport upon arrival or are taken on board during the stay in the Customs territory which are —
- (a) intended for consumption by the passengers and or crew on board such means of transport , whether or not sold;
 - (b) are necessary for the operation and maintenance of such means of transport, including fuel and lubricants, but excluding spare parts and equipment;
- “**stores to be taken away**” means goods for sale to passengers and crew of a means of transport with a view to being landed which are either on board upon arrival or are taken on board during the stay in the Customs territory and are used or intended to be used in international travel of the means of transport;
- “**substantial transformation criterion**” means the criterion according to which origin is determined by regarding as the country of origin the country in which the last substantial manufacturing or processing, deemed sufficient to give the commodity its essential character, has been carried out;
- “**sufferance wharf**” means any place other than an approved place of loading or unloading at which the Comptroller may, subject to such conditions as he may either generally or in any particular case impose, allow any goods to be loaded or unloaded;
- “**summary declaration**” means a declaration to be made before goods are brought into or out of the Customs territory;
- “**temporary admission**” means the Customs procedure under which goods that are imported for a specific purpose, intended for re-exportation within a specified period and that have not undergone

any change except normal depreciation due to their use, may be brought into the Customs territory conditionally relieved from payment of duties and taxes;

“**temporary storage of goods**” means the storage of goods under Customs control in premises and enclosed or unenclosed spaces approved by the Customs authority pending presentation of an entry to Customs;

“**The Universal Postal Union**” means the inter-governmental organization created in 1874 under the Treaty of Bern and now a specialised agency of the United Nations;

“**transshipment**” with its grammatical variations and cognate expressions means the transfer of goods under Customs control from a means of transport arriving in the Customs territory to a means of transport departing from the Customs territory within the area of one Customs place that is the place of both importation and exportation;

“**transit shed**” means locked premises in or comprising a building or an open area, enclosed or unenclosed, approved as such by the Comptroller for the temporary deposit and storage of goods that are imported or are to be exported pending clearance;

“**traveller**” means any person who temporarily enters the Customs territory of another country in which he or she does not normally reside (“non-resident”); and any person who leaves the Customs territory of a country in which he or she normally resides (“departing resident”) or who returns to that Customs territory (“returning resident”);

“**uncustomed goods**” means goods, whether dutiable or not, which are imported or in any way dealt with contrary to the Customs laws, including non-payment of duty owing;

“**unlawfully exported**” means exported in breach of this Act or any other Customs legislation;

“**unlawfully imported**” means imported in breach of this Act or any other Customs legislation.

- (2) Words importing male persons include female persons and corporations and words importing female persons include male persons and corporations.

3. Application.

- (1) This Act shall apply, without prejudice to the provisions of other laws, in relation to —
- (a) the importation of goods into The Bahamas;
 - (b) the exportation of goods from The Bahamas;

- (c) the arrival of persons from outside the territory of The Bahamas and the departure of persons to a destination outside the territory of The Bahamas; and
 - (d) the control of coasting trade.
- (2) This Act shall apply without prejudice to the position, capacity and status of a person.
 - (3) This Act shall apply to goods imported or exported by the Crown.
 - (4) Subject to section 4, this Act binds the Crown and shall apply uniformly throughout the Customs territory without prejudice to other Customs legislation.

4. Application restricted in certain cases.

- (1) The Minister shall, by regulation made pursuant to section 348, prescribe the circumstances and the conditions under which the powers conferred by Part IV of this Act may be exercised in relation to —
 - (a) a member of the Police and Defence Force;
 - (b) access to a Defence area; or
 - (c) a means of transport *or* a conveyance under the control of the Defence Force.
- (2) Subject to subsection (5), sections 104 to 108 shall not apply to a member of the Security Forces or a means of transport under the control of the Defence Force during such time as such person or means of transport is required to respond to an emergency.
- (3) For purposes of this section, “emergency” means —
 - (a) a national emergency as defined in the Disaster Preparedness and Response Act (*Ch. 34A*);
 - (b) a search and rescue event at a point outside the Customs territory involving a serious and imminent threat to the safety of persons or means of transports;
 - (c) a state of war or other like emergency in a place outside the Customs territory; or
 - (d) such other circumstances as are agreed after consultation with the Minister responsible for National Security.
- (4) Subject to subsection (5), sections 89 to 93 shall not apply to a member of the Security Forces or a means of transport or conveyance under the control of the Defence Force during the time as such person or means of transport is involved in an emergency described in paragraph (a) or (d) of subsection (3).

- (5) The Defence Force shall, where a means of transport under its control which is involved in or required to respond to an emergency departs from or returns to the Customs territory —
 - (a) notify the Customs authority within a period of forty eight hours or such longer period as the Minister may reasonably determine that the means of transport has departed from or arrived in the Customs territory, as the case may be; and
 - (b) provide to the Customs authority such details relating to goods and persons on or in the means of transport as the Minister specifies.
- (6) The power of the Minister under subsection (5) to determine a time or specify details required may be exercised generally or in respect of any particular case.
- (7) Nothing in this Act or in any regulations made under this Act shall be interpreted as limiting the immunities of —
 - (a) a foreign warship or other foreign governmental ship operated for non-commercial purposes;
 - (b) a foreign military aircraft; or
 - (c) members of the crew of a ship or aircraft to which paragraph (a) or paragraph (b) applies.

5. Application outside Customs territory.

- (1) For the purposes of this Act, territories of Free Zones and free warehouses shall, insofar as duties and taxes are concerned, be regarded as existing outside the Customs territory.
- (2) Subject to subsection (3), this Act shall in all respects, except insofar as duties and taxes are concerned, apply to —
 - (a) Free Zones and free warehouses; and
 - (b) all goods and materials entering, existing or being processed within, and or exiting from, Free Zones and free warehouses;
- (3) The Minister may by regulation prescribe areas outside the Customs territory, or regarded as existing outside the Customs territory, where this Act shall, including insofar as duties and taxes are concerned, apply.

PART II – ADMINISTRATION

6. The Bahamas Customs Department.

- (1) The Customs authority of The Bahamas shall be the Bahamas Customs Department.

- (2) The mission of the Customs authority shall be to enhance and protect the economic welfare and security of the people of The Bahamas through provision of appropriate Customs services in accordance with best international practices consistent with the requirements of international agreements relating to Customs activities to which The Bahamas is party.
- (3) The Customs authority shall —
 - (a) assess, levy and collect all duties and taxes on imports and exports; and
 - (b) undertake any other relevant functions as may be assigned to the Customs by the Government.
- (4) All duties and taxes collected by the Customs shall be deposited into the Consolidated Fund.
- (5) The Customs authority shall be responsible for facilitating international trade at the external borders, coast and territorial waters of The Bahamas and such responsibilities shall include —
 - (a) co-operating closely with other competent authorities of The Bahamas which have responsibilities in relation to border security so as to provide effective and efficient integrated border management services while achieving positive and standard results at every Customs place in the Customs territory;
 - (b) ensuring the security and safety of citizens and the environment in close co-operation with other authorities;
 - (c) protecting the economic interests of the nation;
 - (d) acting in partnership with economic operators to facilitate legitimate international trade, thereby contributing towards the ability of The Bahamas business community to compete in the global market place.
- (6) The Minister shall have responsibility for the administration of this Act.
- (7) All persons who immediately before the commencement of this Act held office or were otherwise employed in the Customs authority shall be deemed to be employed under this Act and continue to hold office in the Customs authority.

7. Appointment and Removal of Comptroller.

- (1) There shall be appointed, upon recommendation of the Minister, a Comptroller of Customs.
- (2) The Comptroller shall report to the Financial Secretary.
- (3) The Comptroller shall occupy office for a term of five years from the date of appointment and the initial term of appointment may be extended for an additional term of two years by order published in the Gazette.

- (4) The Minister may delegate all or part of his responsibilities under this Act, on such terms and conditions as he may determine, to the Comptroller.

8. General authority and powers of the Comptroller.

- (1) The Comptroller shall, under the control and direction of the Minister, exercise the powers and perform the duties of the Minister under this Act.
- (2) The Comptroller shall, in addition to his duties and powers under subsection (1), be responsible for —
- (a) the general management and administration of the Customs authority;
 - (b) the efficient working of the Customs authority; and
 - (c) any other matter in respect of which a duty is conferred on the Comptroller by or under this Act or other Customs legislation.
- (3) The Comptroller may from time to time prescribe rules for the purposes of this Act and for administering the Customs in relation to any or all of the following matters —
- (a) designating Customs controlled areas;
 - (b) prescribing the working hours of the Customs Department and providing for the fixing of particular working hours in respect of any particular location, including Customs places;
 - (c) prescribing the charges to be paid to the Customs authority for the attendance of Customs officers outside the normal working hours of the Customs authority;
 - (d) prescribing the time within which goods to which section 104 of this Act applies shall be entered;
 - (e) prescribing the time within which goods to which section 113 of this Act applies shall be entered;
 - (f) prescribing the form and content of, and the particulars to be verified by declaration in inward reports required to be delivered under this Act and the manner in which such reports shall be delivered to the Customs authority;
 - (g) prescribing the form and content of, and the particulars to be verified by declaration in outward reports required to be delivered under this Act and the manner in which such reports shall be delivered to the Customs authority;
 - (h) prescribing the form, or forms, of certificates of clearance to be issued under this Act;
 - (i) prescribing the form and manner in which goods to which section 104 of this Act applies shall be entered, and the particulars to be

- provided in the entry, and the form of any declaration to be made in the entry;
- (j) prescribing the form and manner in which goods to which section 113 of this Act applies shall be entered, and the particulars to be provided in the entry, and the form of any declaration to be made in the entry;
 - (k) prescribing procedures for permitting the entry, unloading, removal and loading of goods, and the report and clearance of conveyances in such form and manner as the Comptroller may direct to meet the exigencies of any case to which Customs legislation cannot be conveniently applied;
 - (l) prescribing the forms and the contents for applications to be lodged with the Customs authority by the owner of an intellectual property right to obtain the assistance of the Customs authority in the detection and suspension of release of goods suspected of infringing intellectual property rights;
 - (m) establishing a unit within the Customs authority authorised to receive applications lodged with the Customs authority by holders of intellectual property rights;
 - (n) prescribing the conditions for the implementation of a formal system for the issuance of advance BTC, BOI and BVI rulings prescribing the form of application for such advance binding rulings;
 - (o) promulgating a Code of Conduct for Customs Officers and related disciplinary procedures that shall set out the standards, principles, norms of conduct and rules of behavior to be observed by all Customs officers in the course of their duties;
 - (p) establishing an Internal Inspection Unit within the Customs Authority;
 - (q) establishing a Professional Standards Unit to enforce provisions contained in the Code of Conduct for Customs officers; and
 - (r) prescribing rules in relation to any matter related to the administration of this Act as may be required by the Minister.
- (4) A rule made by the Comptroller under subsection (3) shall be signed by the Comptroller.
 - (5) A rule made under paragraphs (a) to (n) of subsection (3) shall be published in the *Gazette*.
 - (6) The Comptroller shall make copies of rules prescribed under paragraphs (a) to (n) of subsection (3) available for public inspection in the Central Customs Office in Nassau.

- (7) The Comptroller may, from time to time, amend or revoke any rules made under this section and the provisions of this section, with all necessary modifications, shall apply in respect of any such amendment or revocation.
- (8) The Comptroller may, in addition to the passage of rules prescribed under subsection (3), —
- (a) with the approval of the Minister, recruit Customs officers and support employees in such numbers as may be appropriate for the Customs authority through open competition in accordance with the Public Service Act (*Ch. 39*);
 - (b) nominate heads of units based on the recommendations of an internal committee established for this purpose within the Customs Department and through an internal recruitment process as appropriate;
 - (c) recommend to the Public Service Commission the promotion of any Customs officer in accordance with recommendations issued by an internal committee established for this purpose within the Customs Department and through an internal recruitment process and open competition;
 - (d) recommend disciplinary action in cases of breach of the Code of Conduct by Customs officers or by other persons appointed or employed to serve in the Customs Department;
 - (e) take disciplinary decisions in accordance with recommendations issued by the Disciplinary Board;
 - (f) with the approval of the Minister, reward or give an award to a Customs officer or any other person for any service in relation to an assigned matter that appears to Comptroller to merit such reward or award; and
 - (g) after consulting with the Minister, procure such equipment as is in his judgement appropriate.
- (9) The Comptroller in accordance with section 290 may, where satisfied that a person has committed an offence under this Act in respect of which a fine is provided or anything is liable to forfeiture —
- (a) compound the offence; and
 - (b) order the person to pay such sum of money, not exceeding the amount of the fine to which the person would be liable if he were convicted of the offence, as the Comptroller may think fit.
- (10) Subject to section 53, the Comptroller may issue a Customs search warrant.

9. Powers of the Comptroller to delegate functions.

- (1) The Comptroller, where in this Act he is under any duty or has any power to do any act —
 - (a) may delegate such duty or power to any named person, any rank of Customs officer, or any rank of officer of the Armed Services, at any particular place; and
 - (b) shall make a delegation under paragraph (a) in writing, including writing in electronic form, stating —
 - (i) the functions or powers that may be performed or exercised by the person delegated to perform them together with the terms and conditions under which such functions or powers are to be exercised; and
 - (ii) the term of the delegation, which shall be such period, not exceeding three years, as the Comptroller thinks fit.
- (2) The Comptroller may, from time to time, renew any delegation given under this section for such further period, not exceeding three years, as the Comptroller thinks fit.
- (3) A person to whom a power or duty is delegated under this section shall be deemed to be a Customs officer or authorised person for the purposes of this Act for the duration of the term of such person's delegation.
- (4) The Comptroller may revoke a delegation given under this section —
 - (a) for incapacity, neglect of duty, or misconduct by the delegatee;
 - (b) where the delegatee gives written notice to the Comptroller that he or she wishes the delegation to be revoked; or
 - (c) in any other circumstance where, in the opinion of the Comptroller, the delegation is no longer necessary.
- (5) Where a person ceases to be a delegatee under this section such person shall surrender to the Comptroller all articles and documents received by him or her in relation to the delegation.

10. Protection, independence and obligations of Customs officers.

- (1) No person shall —
 - (a) manhandle or disturb a Customs officer during the performance of, or in relation to any work done in the exercise of that officer's duties; or
 - (b) obstruct Customs officers in the execution of their Customs duties.
- (2) Officers of the Security Services shall assist Customs officers in the performance of their duties when required.

- (3) Neither the Crown, the Customs authority, an employee of the Customs authority, nor a person lawfully assisting any such person, unless they have not acted in good faith or have acted without reasonable care, shall be liable for the loss of or damage to any document, goods or means of transport occasioned by anything done, omitted to be done or purporting to have been done by —
- (a) an employee of the Customs authority; or
 - (b) a person lawfully assisting in the exercise of any power conferred on the Crown, the Customs authority, or an employee of the Customs authority, by this Act or other Customs legislation.
- (4) Neither the Crown, the Customs authority, nor any employee of the Customs authority, shall be liable for —
- (a) any loss or damages arising from the lawful execution of authority conferred by this Act and other Customs legislation; and
 - (b) any losses or damages that may be caused by reasonable delays or inactivity on behalf of the Customs authority, or its personnel, in executing lawful decisions or actions.
- (5) Neither the Crown, the Customs authority, nor any employee of the Customs authority, shall when acting in good faith and having followed the approved procedures be liable for —
- (a) a failure to detect goods infringing intellectual property rights;
 - (b) the inadvertent release of goods infringing intellectual property rights; or
 - (c) any other action in respect of goods infringing intellectual property rights.
- (6) Customs officers and other employees of the Customs authority shall bear disciplinary, administrative, criminal and other responsibility in compliance with the laws of The Bahamas for any inappropriate or unlawful activity initiated, undertaken or facilitated by use of their position as an employee of the Customs authority.
- (7) No person shall give or attempt to give persons acting under the authority of this Act or other Customs legislation assignments, obligations or instructions that would interfere with the effective and lawful performance of Customs activities.
- (8) A person having an official duty or being employed in the Customs Department shall —
- (a) treat as confidential all documents and information acquired in the exercise of any power under this Act; and

- (b) not communicate to any unauthorised person, directly or indirectly, any information or document obtained in the exercise of any power under this Act or in relation to an assigned matter.
- (9) Nothing shall prevent the disclosure of any document or information where such disclosure is authorised by the Comptroller in accordance with subsection (10) and sections 348 and 350.
- (10) The Comptroller may disclose or authorise the disclosure of any document or information pursuant to any law, treaty, agreement or arrangement concluded by The Bahamas.

11. Identity cards and oaths.

- (1) The Comptroller shall issue an identity card, or other means of identification, to each Customs officer and any authorised person other than a member of the Armed Services.
- (2) A person who is appointed to any permanent office or employment in the Customs Department shall, on his appointment to such office, make and subscribe before a magistrate, justice of peace or commissioner for oaths, a declaration in such form as may be prescribed.
- (3) Customs officers shall always, when on duty, carry their identity card or other means of identification issued pursuant to subsection (1) upon which shall be transcribed the declaration referred to in subsection (2).
- (4) The oath of the Comptroller shall be taken by the Minister.
- (5) A Customs officer or authorised person shall, when exercising any power under this Act, produce on request his identity card and any other means of identification.
- (6) A person who ceases to be a Customs officer or authorised person shall, forthwith, surrender to the Comptroller his identity card or other means of identification or authority.

12. Customs flag and symbol.

- (1) The Customs authority shall have a Customs flag to be flown at Customs locations and on Customs vessels in accordance with procedures as may be approved by the Comptroller.
- (2) Customs vehicles, aircraft, ships and boats shall display approved Government or Customs symbols in prominent positions.
- (3) The description and design of the Customs flag or Customs symbol shall be approved by the Minister.
- (4) The Customs symbol —
 - (a) shall be borne on Customs officers' uniform, identity cards and other means of identification; and

- (b) may be displayed on awards granted to Customs officers and reference materials issued by the Customs authority.
- (4) The Customs flag shall be gold in colour with the Customs crest in the top left corner with seven blue stripes extending to the outer limits of the flag.

PART III – CUSTOMS PLACES AND CUSTOMS CONTROLLED AREAS

DIVISION ONE – CUSTOMS PLACES

13. Customs places.

- (1) For the purposes of this Act, the Minister may upon recommendation from the Comptroller, by order published in the Gazette and subject to such conditions or restrictions as the Minister may determine, designate as Customs places —
 - (a) customs ports; and
 - (b) customs airports.
- (2) All Customs ports and Customs airports in use at the commencement of this Act shall be deemed to have been designated under this section.
- (3) The Minister may, upon recommendation of the Comptroller, by order published in the Gazette and subject to such conditions or restrictions as the Minister may determine, —
 - (a) vary or revoke a designation under this section; or
 - (b) vary, revoke or replace any or all conditions or restrictions to which a designation was previously subject.
- (4) The Comptroller shall, pursuant to section 8(3)(b) of this Act, prescribe the opening and closing hours of Customs places and provide for the fixing of particular working hours in respect of any particular Customs place.

DIVISION TWO – CUSTOMS CONTROLLED AREAS

14. Customs controlled areas.

- (1) Subject to such exemptions as may be prescribed under this Act, no area shall, unless that area is appointed as a Customs controlled area, be used for —
 - (a) processing of means of transport arriving in or departing from the Customs territory;

- (b) unloading or loading of any goods from or onto means of transport arriving in or departing from the Customs territory;
 - (c) disembarkation, embarkation, or processing of persons arriving in or departing from the Customs territory;
 - (d) temporary deposit and storage of goods in locked premises and enclosed or unenclosed spaces, called “transit sheds”, in which goods may be stored pending clearance;
 - (e) temporary storage of goods cleared for export, temporarily or otherwise, which cannot be immediately loaded on a vessel or an aircraft departing the Customs territory;
 - (f) temporary holding of imported or exported goods for the purposes of the examination of those goods, including the holding of the goods while they are awaiting examination;
 - (g) deposit, keeping or securing of imported goods, or excisable goods, without payment of duty on the goods; or
 - (h) any other proscribed purpose.
- (2) The Comptroller may, in such manner as the Comptroller thinks fit, license any place —
- (a) as a boarding station for the processing of means of transport arriving in or departing from the Customs territory;
 - (b) for loading and unloading of goods within ports and airports;
 - (c) for disembarkation and embarkation of persons;
 - (d) for examination of goods, including baggage;
 - (e) as a transit shed for the temporary deposit and storage of goods imported or to be exported;
 - (f) as a Customs-approved area for storing exports.
- (3) The places described in paragraphs (a) to (e) in use at the commencement of this Act shall be deemed to have been duly licensed under this section —
- (a) all places of loading and unloading;
 - (b) boarding stations;
 - (c) transit sheds;
 - (d) places for disembarkation or embarkation or processing of persons arriving in or departing from the Customs territory; and
 - (e) places for the examination of goods.

15. Application for licence.

- (1) An application for an area to be licensed as a Customs controlled area —

- (a) may be made by the owner or occupier of, or person operating in, the area; and
 - (b) shall be made in such form and contain such particulars as may be prescribed by the Comptroller.
- (2) The Customs authority may, at any time, request further information from an applicant if the Customs authority considers that such information is relevant to the application.
- (3) An applicant may, at any time before the Comptroller makes a decision on the application, advise the Customs authority of any variations that the applicant wishes to make to the application.

16. Grant or refusal of licence.

- (1) The Comptroller may grant or refuse an application for an area to be licensed as a Customs controlled area on receipt of —
- (a) an application for a licence;
 - (b) any further information requested by the Comptroller under section 15(2); and
 - (c) any variations to the application made under section 15(3).
- (2) A licence granted under subsection (1) may be granted subject to —
- (a) such terms, conditions, or restrictions as the Comptroller thinks fit; and
 - (b) the payment by the licensee of the prescribed annual licence fee, if any.
- (3) A licence granted under this section shall specify —
- (a) the area in respect of which it is granted;
 - (b) the applicant as the licensee; and
 - (c) the purpose or purposes described in paragraphs (a) to (g) of section 14 for which the area is licensed.
- (4) The Comptroller may in his discretion and under such conditions as the Comptroller thinks fit direct that an area shall not be licensed as a Customs controlled area where, on an application under section 15, the Comptroller is of the opinion that —
- (a) it is not in the public interest that the area should be licensed as a Customs controlled area; or
 - (b) it is impracticable or unnecessary that the area should be licensed as a Customs controlled area.
- (5) A direction given under subsection (4) —
- (a) may be given in respect of the whole or any specified part of the business carried on in the area; and

- (b) shall exempt the area from such provisions of this Act as may be specified in the direction.
- (6) An applicant shall be advised by notice in writing of any decision of the Comptroller under this section.
- (7) An applicant who is dissatisfied with a decision of the Comptroller under this section may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

17. Variation or revocation of conditions and revocation or suspension of licence.

- (1) The Comptroller may, by notice in writing, vary or revoke the terms, conditions, or restrictions imposed on a licence and impose new terms, conditions, or restrictions.
- (2) A licensee who is dissatisfied with a decision of the Comptroller under this section may, within fifteen working days after the date on which notice of the decision of the Comptroller is given to the licensee, appeal to the Customs Appeal Commission under Division Three of Part XXIV.
- (3) A licence issued under section 16 may, at any time, be revoked or suspended by the Comptroller where —
 - (a) a term, condition, or restriction specified in the licence has been contravened;
 - (b) the area in respect of which the licence was granted ceases to be used for any of the purposes described in paragraphs (a) to (h) of section 14(1) for which the area is licensed;
 - (c) the licensee ceases to be the owner or occupier of, or operator in, the area in respect of which the licence was granted; or
 - (d) the Comptroller considers that the licensee is no longer a fit and proper person to hold a licence.
- (4) Notice in writing of the Comptroller's intention to revoke or suspend a licence shall be given to the licensee unless the Comptroller considers that there is good reason not to give such notice.
- (5) The Comptroller shall, where the Comptroller revokes or suspends a licence under subsection (3), notify the licensee in writing of the revocation or suspension.
- (6) A person who is dissatisfied with the decision of the Comptroller under this section may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

18. Surrender of licence.

A licence for a Customs controlled area may be surrendered at any time by the licensee by the giving of twenty working days notice in writing to the Comptroller.

19. Closing of Customs controlled area.

- (1) Duty shall, where any licence issued under section 16 is suspended, revoked, or surrendered, become due and payable on all goods within the area that are or were subject to the control of Customs immediately prior to the suspension, revocation, or surrender unless the Comptroller permits the goods to be removed to another Customs controlled area or to be exported.
- (2) The obligations and liabilities of a licensee under this Act in respect of anything done or omitted to be done by the licensee while licensed shall not be affected by the fact that —
 - (a) the licensee ceases to act as such; or
 - (b) the licence is surrendered or suspended or revoked.

20. Customs facilities.

- (1) The licensee of any Customs controlled area licensed under this Act shall provide, equip, and maintain such operating areas, accommodation, facilities, buildings, equipment, and storage as the Comptroller shall determine are reasonably necessary and suitable for the carrying out of the functions and responsibilities of the Customs authority.
- (2) Notwithstanding anything that may be stated in other legislation, no charge shall be levied on the Customs authority in respect of any operating area in a Customs controlled area where such operating area is used for —
 - (a) processing of persons arriving in or departing from the Customs territory;
 - (b) processing of means of transport arriving in or departing from the Customs territory or
 - (c) processing of postal articles arriving in or departing from the Customs territory.
- (3) The licensee of every Customs controlled area shall store goods subject to the control of the Customs authority in such manner and in such location as the Comptroller may direct.
- (4) A licensee shall be advised by notice in writing of —
 - (a) a determination of the Comptroller under subsection (1); or
 - (b) a direction of the Comptroller under subsection (4).

- (5) A licensee may, if dissatisfied with a determination by the Comptroller under subsection (1) or a direction under subsection (4), appeal within fifteen working days after the date on which notice of the determination or direction is given to the licensee to the Customs Appeal Commission under Division Three of Part XXIV.

21. Storage charges.

No charges shall, in such circumstances and for such period of time as may be prescribed by the Comptroller, be made to the Customs authority by a licensee of a Customs controlled area for the reception or storage in that area of any —

- (a) imported goods;
- (b) goods awaiting export processing; or
- (c) goods awaiting export.

PART IV – POWERS OF CUSTOMS OFFICERS

22. Patrols and surveillance.

- (1) A Customs officer or authorised person assisting the officer may, for the purposes of the detection of offences against this Act or other Customs legislation, at any time and in such manner as the officer considers appropriate —
- (a) patrol on or over any part of the foreshore or the shore of any body of water and any structure extending therefrom, or any part of the adjacent land, or any customs place or Customs controlled area;
 - (b) enter and inspect any aircraft landing strip and any building thereon, and may remain in any such area for the purposes of carrying out investigations or surveillance;
 - (c) patrol upon and pass freely along and over any other part of The Bahamas whether or not that part is private property and remain in any such part for the purpose of carrying out search, investigations or surveillance when there are reasonable grounds to suspect that a Customs offence has taken place, is being taking place or is about to take place.
- (2) This section shall not authorise the entry into a private dwelling-house without a search warrant except with the permission of the occupant.
- (3) Pursuant to section 10, any officer proceeding as authorised by subsection (1) shall not be liable to any criminal or civil proceeding for so doing.

23. Landing or mooring of Customs craft.

A Customs officer or other person in charge of any craft employed in the service of the Customs authority may anchor, moor, berth or land the craft, or haul the craft ashore, at any place within the Customs territory and, in any such case —

- (a) no charge shall be levied against the Customs authority; and
- (b) the proper officer shall, pursuant to section 10, not be liable to any criminal or civil proceedings for so doing.

24. Boarding of means of transport.

(1) A Customs officer and any authorised person assisting the officer may at any time stop and board any means of transport that is within the Customs territory if —

- (a) the means of transport has arrived in the Customs territory from a point outside the Customs territory;
- (b) the means of transport is departing from the Customs territory to a point outside the Customs territory including while the means of transport is travelling within the Customs territory, en route to a point outside the Customs territory;
- (c) the means of transport is carrying any domestic cargo or international cargo while the means of transport remains within the Customs territory; or
- (d) the Customs officer has reasonable cause to suspect that the means of transport —
 - (i) is carrying any dutiable, uncustomed, prohibited, or forfeited goods; or
 - (ii) has been, is being, or is about to be, involved in the commission of an offence under this Act or other Customs legislation.

(2) The Comptroller may station Customs officers on board any means of transport that has arrived in the Customs territory from a point outside the Customs territory for the purposes of performing any function or exercising any power that such officers may be required, authorised, or empowered to perform or exercise under this Act.

(3) The person in charge of the means of transport shall, where a Customs officer is stationed on board a means of transport pursuant to subsection. (2), ensure that the officer is provided with —

- (a) suitable accommodation and board in accordance with the reasonable requirements of that officer;
- (b) safe access to any part of the means of transport; and
- (c) safe means of boarding and leaving the means of transport.

- (4) No charge shall be levied against the Customs authority for the carriage of a Customs officer who is stationed on board a means of transport or for their accommodation and board.

25. Search of means of transport.

- (1) A Customs officer may search a means of transport —
- (a) which has arrived into the Customs territory from a point outside the Customs territory;
 - (b) which is departing from the Customs territory to a place outside the Customs territory and at all times while the conveyance is travelling within the Customs territory en route to a point outside the Customs territory;
 - (c) which is not a means of transport to which subsection (1)(a) or (b) of this section applies, and is carrying any international cargo, passengers or crew, while the conveyance remains within the Customs territory;
 - (d) which is not a conveyance to which subsection (1)(a) (b) or (c) of this section applies, and is within the Customs territory, and which such officer has reasonable cause to suspect —
 - (i) is carrying dutiable, uncustomed, prohibited, restricted or forfeited goods; or
 - (ii) has been, is being, or is about to be involved in the commission of an offence against this Act.
- (2) A Customs officer in the exercise of the powers conferred by subsection (1) may, using such force as in the circumstances is reasonable —
- (a) enter every part of a conveyance;
 - (b) open any package, locker or other place; and
 - (c) examine all goods found in the means of transport.

26. Securing goods in means of transport.

A Customs officer and an authorised person assisting the officer may, for the purpose of performing any function or exercising any power that the Customs authority is required, authorised, or empowered to perform or exercise under this Act, at any time while boarding or searching a means of transport under sections 24 or 25 —

- (a) secure, by appropriate means, goods on board the means of transport; or
- (b) remove goods on board from the means of transport to a secure place.

27. Firing on a vessel.

The officer commanding or in charge of any Customs craft, or any marine craft in government service, having hoisted and carrying or displaying the Customs flag —

- (a) shall, at the specific request of the Customs authority and whilst within the Customs territory, chase any vessel where —
 - (i) the vessel does not immediately bring-to when signalled or required to do so; or
 - (ii) the master refuses to permit the ship to be boarded; and
- (b) may as a last resort, after having fired a warning, fire at or into the vessel to compel it to bring-to.

28. Detention of means of transport.

- (1) A means of transport may be detained by the Customs authority where —
 - (a) a Customs officer has reasonable cause to believe that an offence under this Act or other Customs legislation has been, is being or is about to be committed on or in respect of such means of transport while it was or is within the Customs territory; or
 - (b) the means of transport is within the Customs territory, and the Customs officer has reasonable cause to believe that —
 - (i) there is on or in the means of transport a person who was carried into the Customs territory on it; or
 - (ii) the carriage of the person into the Customs territory on or in the means of transport constituted an offence under this Act or other Customs legislation.
- (2) A Customs officer may, if the conditions set out in subsection (1) exist, —
 - (a) direct the means of transport to proceed to the nearest Customs place, or such other place as the officer considers appropriate;
 - (b) direct that the means of transport remain where it is; or
 - (c) in addition to (a) or (b), detain the means of transport for such time and for such purposes as are reasonably necessary to carry out an investigation into the commission of the suspected offence.
- (3) A Customs officer may seize and detain a means of transport until a certificate of clearance has been obtained where the person in charge of the means of transport, without a certificate of clearance, —
 - (a) attempts or threatens to cause the means of transport to depart from a place to which it has been directed to proceed pursuant to subsection (2); or

- (b) attempts or threatens to cause the means of transport to depart from a place in which it has been directed to remain pursuant to subsection (2).

29. Searching vehicles.

- (1) A Customs officer may stop and search, and detain for such period as may be reasonably necessary to conduct the search, a vehicle where he has reasonable cause to suspect that —
 - (a) there is in or on such vehicle which is within a Customs place or a Customs controlled area any dutiable, uncustomed, prohibited, or forfeited goods;
 - (b) there is evidence relating to goods referred to in paragraph (a);
 - (c) there is in or on such vehicle any dangerous goods; or
 - (d) there is evidence relating to an offence under this Act or other Customs legislation.
- (2) A Customs officer may stop and search, and detain for such period as may be reasonably necessary to conduct the search, a vehicle where he has reasonable grounds to believe that —
 - (a) there is in or on such vehicle goods that have been unlawfully imported or are in the process of being unlawfully exported; or
 - (b) there is evidence relating to the unlawful importation of goods or an attempt to unlawfully export goods.
- (3) A Customs officer who has reasonable cause to suspect that there are in or on a vehicle goods subject to the control of the Customs Authority because they are goods to be exported that have been brought to a Customs-approved secure export area may —
 - (a) stop the vehicle and search it; and
 - (b) detain the vehicle for such period as may be reasonably necessary to conduct the search and to exercise powers conferred under this Act or other Customs legislation in relation to goods of that kind.
- (4) A Customs officer who has reasonable cause to suspect that there are in or on a vehicle goods subject to the control of the Customs authority and in a Customs-approved secure package or in a package to which a Customs seal has been applied may —
 - (a) stop the vehicle and search it; and
 - (b) detain the vehicle for such period as may be reasonably necessary to conduct the search and to exercise other powers conferred on the officer under this Act or other Customs legislation.

- (5) The driver of any vehicle who fails to stop or to permit a search whenever required by any Customs officer under this section shall be guilty of an offence punishable on summary conviction.

30. Questioning persons.

- (1) This section applies to —
- (a) a person who —
 - (i) has within the proceeding seventy two hours arrived in the Customs territory; or
 - (ii) is departing from the Customs territory;
 - (b) a person, not being a person to whom paragraph (a) applies, who is within a Customs controlled area licensed for —
 - (i) temporary holding of international goods for the purposes of the examination of those goods, including the holding of the goods while they are awaiting examination,;
 - (ii) disembarkation, embarkation, or processing of persons arriving in or departing from the Customs territory;
 - (iii) processing of means of transport arriving in or departing from the Customs territory or the loading or unloading of goods on to or from such means of transport; or
 - (c) a person, not being a person to whom paragraph (a) applies, who is on board or is in the process of embarking onto or disembarking from a means of transport which has arrived from, or is departing to, a point outside the Customs territory, while the means of transport is within the Customs territory.
- (2) A Customs officer may question a person to whom this section applies as to any one or more of the following matters —
- (a) whether or not such person has or has had in their possession any dutiable, prohibited, restricted, uncustomed, or forfeited goods;
 - (b) the nature, origin, value, ownership, or intended destination of any goods of the kind described in paragraph (a);
 - (c) whether, under this Act or other Customs legislation, any Customs debt, such as a debt in respect of any duty, duty refunded in error, recovery of the drawback of any duty, or penalty —
 - (i) is due to the Crown; and
 - (ii) payable by such person or a corporate body, trust, partnership, or other enterprise, of which such person is or was a director, manager, secretary, officer, or agent;
 - (d) the nature and extent of the Customs debt, if any, of that kind; and
 - (e) any other questions as are relevant to the issue.

31. Questions about identity, address, travel movements, entitlement etc.

- (1) This section applies to —
 - (a) a person who —
 - (i) has, or is suspected of having, disembarked from a means of transport that has arrived in the Customs territory; and
 - (ii) has not, or is suspected of having not, reported to a Customs officer or a police station on their arrival, as required under this Act;
 - (b) a person who is, or is suspected of, attempting to depart from the Customs territory from a place other than from a Customs place, contrary to provisions of this Act.
- (2) A Customs officer may question a person to whom this section applies as to any one or more of the following matters —
 - (a) the person's identity;
 - (b) the person's residential address;
 - (c) the person's travel movements;
 - (d) the person's entitlement to travel;
 - (e) the means of transport —
 - (i) from which the person disembarked or is suspected of disembarking; or
 - (ii) on which the person attempted to depart, or is suspected of attempting to depart, from the Customs territory;
 - (f) any other person who is, or was, involved in the person's arrival, suspected arrival, departure, attempted departure, or suspected departure, whether or not the other person was on or in the means of transport —
 - (i) from which the person disembarked or is suspected of disembarking; or
 - (ii) on which the person attempted to depart, or is suspected of attempting to depart, from the Customs territory.
- (3) A question under paragraph (e) of subsection (2) may, but need not, relate to —
 - (a) the means of transport's voyage or journey; and
 - (b) any persons or goods carried by the means of transport.

32. Questioning employees of owners or operators of certain means of transport.

- (1) A Customs officer may question any or all of the persons described in paragraphs (a) to (c) about any means of transport, passenger, crew member or cargo —
 - (a) a person who, as an employee of an airline, shipping company, or other commercial transport operator, manages or carries out the receipt, handling, custody, or dispatch of international or domestic passengers or cargo by that airline, shipping company, or other commercial transport operator;
 - (b) a person employed by the licensee of a Customs controlled area licensed for —
 - (i) the temporary holding of international goods or persons for the purposes of the examination of those goods or persons under provisions of this Act or other Customs legislation, including the holding of the goods or persons while they are awaiting examination; or
 - (ii) the processing of craft or vehicles arriving in or departing from the Customs territory or the loading or unloading of goods, passengers or crew onto or from such craft or vehicles;
 - (c) a person who is in a Customs controlled area licensed for a purpose described in subsection (1)(b)(i) or (ii).
- (2) A Customs officer may question any or all of the persons described in paragraphs (a) to (c) about any passengers, crew or goods destined to be imported or exported from the Customs territory —
 - (a) a person who is the owner or operator of a means of transport or vehicle that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous seventy two hours had in or on it —
 - (i) goods, or persons subject to the control of the Customs authority;
 - (ii) goods in a Customs-approved secure package; or
 - (iii) goods in a package to which a Customs seal or approved mark has been applied;
 - (b) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous seventy two hours had in or on them —
 - (i) goods or persons subject to the control of the Customs authority;
 - (ii) goods in a Customs-approved secure package; or

- (iii) goods in a package to which a Customs seal or approved mark has been applied;
 - (c) a person employed by a person described in paragraphs (a) or (b).
- (3) A question under subsection (2) about cargo destined to be exported from the Customs territory may relate to any or all of the following —
 - (a) whether, and if so how, goods that are or were some or all of the cargo are or were —
 - (i) packed in a package to which a Customs seal or approved mark was applied; or
 - (ii) in a Customs-approved secure package to which a Customs seal or approved mark was applied;
 - (b) the transportation or storage of packages of the kind referred to in paragraph (a) at any time before they are or were exported;
 - (c) the tampering or interference with a package of the kind referred to in paragraph (a) or with a Customs seal or approved mark..

33. Evidence of identity and entitlement to travel.

- (1) This section applies to a natural person who is —
 - (a) an internationally ticketed passenger or crew member using a means of transport for travel for a domestic sector;
 - (b) a domestic passenger or crew member using a means of transport for travel for a domestic sector; or
 - (c) within a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from the Customs territory.
- (2) A person to whom this section applies, on demand by a Customs officer, shall —
 - (a) state his full name and residential address;
 - (b) if required, produce for inspection such prescribed document as the Customs officer may specify; and
 - (c) if the person is unable to produce the prescribed document specified, complete a declaration in the prescribed form.
- (3) A document produced by a person to a Customs officer under paragraph (b) of subsection (2) shall be —
 - (a) either inspected immediately and returned to the person as soon as the inspection has concluded; or
 - (b) retained by the Customs officer for as long as is necessary to ascertain whether or not the Customs authority wishes to exercise its power under this Act or other Customs legislation to retain, copy or scan the document.

34. Preliminary search of persons by use of aids.

- (1) A Customs officer, or a member of the Bahamas Police Force —
 - (a) may conduct a preliminary search of a person to whom this section applies; and
 - (b) may detain a person to whom this section applies for the purpose of conducting a preliminary search.
- (2) A preliminary search is a search that —
 - (a) involves little or no physical contact between the person conducting the search and the person being searched; and
 - (b) is conducted by using an aid or aids such as an animal; a chemical substance; an x-ray; imaging equipment, or some other mechanical, electrical, or electronic device or other similar aid, but not by any more invasive means.
- (3) Section 35 shall apply if, after a preliminary search under subsection (1), a Customs officer or a member of the Bahamas Police Force has reasonable cause to suspect that a person has hidden on or about their person —
 - (a) any dutiable, uncustomed, prohibited, or forfeited goods;
 - (b) evidence relating to any such goods;
 - (c) a dangerous item; or
 - (d) anything that is or might be evidence of the contravention or possible contravention of this Act or other Customs legislation.

35. Detention and search of suspected persons.

- (1) Subject to subsection (8), a Customs officer may cause to be detained and searched any person whom he has reasonable cause to suspect is carrying, or has hidden on or about his person —
 - (a) any dutiable, uncustomed, prohibited, or forfeited goods;
 - (b) evidence relating to any such goods;
 - (c) a dangerous item; or
 - (d) anything that is or might be evidence of the contravention or possible contravention of this Act or other Customs legislation.
- (2) Force, which in the circumstances is deemed to be reasonable, may be used if it is necessary to detain and search a person pursuant to subsection (1), and —
 - (a) such force includes the lawful use of approved technical aids to subdue persons when used in accordance with approved procedures and guidelines issued by the Customs authority; and
 - (b) approved technical aids referred to in paragraph (b) may include but are not limited to the use of immobilizing sprays such as pepper

spray, the use of batons, hand-cuffs, and as a last resort the deployment of official fire arms.

- (3) A Customs officer who searches a person under this section may —
 - (a) be assisted by a member of the Bahamas Police Force; and
 - (b) require such other persons as the officer or member of the Bahamas Police Force thinks necessary to assist them.
- (4) A detained person shall only be searched by Customs officers, or Police officers assisting the Customs officer, who are of the same sex as the detained person and no persons of the opposite sex shall be present during such a search.
- (5) A person who proves to be a minor shall not be searched except with the presence of his parent or guardian.
- (6) All intimate searches shall be conducted by a medical practitioner.
- (7) A person detained under this Act to be searched may, where there is no suitable Customs officer, Police officer or medical practitioner to conduct the search available at the place where the search is to take place, be taken to another place to be searched.
- (8) A person who is to be searched may require to be taken forthwith before a Justice of the Peace, or a Customs officer of no lesser rank than that of supervisor, who shall consider the grounds for suspicion and direct whether or not the search is to take place.
- (9) Any Customs officer, or person assisting such Customs officer, who searches a person under this section may seize any thing found in carrying out the search that the Customs officer has reasonable cause to suspect is a thing described in subsection (1).
- (10) Reasonable force may be used to seize a thing pursuant to subsection (9).
- (11) Pursuant to section 10(3), a proper officer shall not be liable to any prosecution or action at law based on any search made in accordance with this section.
- (12) A person shall only be detained under this section for the period of the search or for a period not exceeding twenty four hours.

36. Access of Customs officers to Customs controlled areas.

Subject to section 60 and without prejudice to any other power contained in this Act, the Customs authority at any time of the day or night —

- (a) shall have a right of access to, and a power of search of, any part of a Customs controlled area including buildings and any vehicle;
- (b) may examine goods found in the Customs controlled area; and

- (c) may, for the purposes of paragraphs (a) and (b), enter any other area that it is necessary to pass through.

37. Search of premises.

- (1) Subject to section 60 and for the purpose of performing any function or exercising any power under this Act, where a Customs officer has reasonable grounds to believe that an article subject to forfeiture under any Customs enactment is kept at or concealed in any building or other place that is situated in a Customs controlled area, the Customs officer may —
 - (a) enter that building or place at any time, and search for, seize, detain or remove any article that appears to him to be liable to forfeiture;
 - (b) so far as is reasonably necessary for the purpose of the entry, search, detention or removal, break open any door, window or container and force and remove any other impediment or obstruction; and
 - (c) search for and remove any invoice, bill of lading, Customs declaration, correspondence and or any other documents relating to the importation and or exportation of goods.
- (2) A Customs officer shall not enter any private dwelling being an independent building or a part of the searched premises except with the consent of an occupier or owner of that dwelling or pursuant to a search warrant issued under this Act.
- (3) Where in the case of any entry, search, seizure, detention or removal, damage is caused and no goods liable to forfeiture are found, the owner of the damaged building or damaged goods shall be entitled to recover from the Comptroller the costs of repairing that damage.
- (4) A Customs officer shall not enter any building situated outside of a Customs controlled area except with the consent of an occupier or owner of that building or pursuant to a search warrant issued under this Act.

38. Examination of goods subject to control of Customs.

- (1) A Customs officer may examine, weigh, measure, count, analyse, or test, or cause to be examined, weighed, measured, counted, analysed, or tested goods subject to the control of the Customs authority or goods that the officer has reasonable cause to suspect are subject to the control of the Customs authority and may, for that purpose, open or cause to be opened any packages in which the goods are contained or suspected to be contained and cause such goods and packages to be brought to a pre-designated place for examination.

- (2) All reasonable expenses incurred by the Customs authority under subsection (1) shall be a debt due to the Crown by the importer or exporter or the owner of the goods, as the case may be, and shall be recoverable in the same manner as duty under this Act.
- (3) The powers conferred by subsection (1) extend to the examination, weighing, measuring, analysing, or testing of a bag, suitcase, pallet, bulk cargo container, or any other container or package.
- (4) The examination under this section may include physical, chemical, or technology-based examination, weighing, measuring, analysis, or testing, and may be facilitated by any means whatever, including the use of detector dogs, chemical substances, X-ray or imaging equipment, or some other mechanical, electrical, or electronic device, or the drilling into, or the dismantling of, the goods and their packaging.
- (5) Samples of goods subject to the control of the Customs authority or suspected to be subject to the control of the Customs authority may, for the purposes of this section, be taken, used, and disposed of by a Customs officer in the prescribed manner.
- (6) Any sample taken in accordance with subsection (5) shall be as small as possible for the purpose for which it is taken.
- (7) A Customs officer shall be allowed free access to all lands, buildings, and places, and to all goods in or on any lands, buildings, or places, for the purpose of exercising powers under this section in respect of goods that are, or are suspected to be —
 - (a) subject to the control of the Customs authority; or
 - (b) in a Customs-approved secure package or in a package to which a Customs seal has been applied.
- (8) Notwithstanding subsection (7), a Customs officer shall not enter a private dwelling except with the consent of an occupier or owner of that dwelling or pursuant to a search warrant issued under this Act.

39. Examination of goods no longer subject to control of Customs.

- (1) The Customs authority may, if it has reasonable cause to suspect that any offence has been committed against this Act or other Customs legislation in respect of goods that have ceased to be subject to the control of the Customs authority, require any person who has, or who the Customs authority believes has, possession or control of those goods to produce them for inspection by a Customs officer.
- (2) A Customs officer may exercise in respect of such goods all the powers conferred by section 38.
- (3) A Customs officer may take and retain possession of goods produced under clause (1) for the purposes of exercising the powers conferred by

clause (2), and may retain possession of the goods until completion of the investigation into the commission of the offence.

40. Accounting for goods.

The Customs Authority may, at any time, by notice in writing or otherwise, require the licensee of a Customs controlled area to —

- (a) account forthwith for goods that the Customs authority believes have been entered into that Customs controlled area; and
- (b) produce any documents relating to the movement of goods into or out of that Customs controlled area.

41. Production of goods.

A Customs officer may require the licensee of a Customs controlled area to produce to such officer goods that are shown in any record as being within that area.

42. Verification of goods declarations.

- (1) The Customs authority may require from a person making entry of goods proof by declaration or the production of documents, in addition to any declaration or documents otherwise required by this Act or by other Customs legislation, of the correctness of the goods declaration and may refuse to deliver the goods or to pass the goods declaration before such proof is provided.
- (2) Where the Customs authority is not satisfied with the correctness of any goods declaration in relation to any goods, or with any other aspect of the importation or exportation of those goods, as the case may be, the Customs authority may detain the goods for a period that is reasonably necessary to enable the goods to be examined and, if necessary, to cause an investigation or an audit to be made, whether in the Customs territory or elsewhere, into the importation or exportation, as the case may be, of those goods.
- (3) The Customs authority may, pursuant to section 215(1), on its own initiative, —
 - (a) suspend the clearance of goods in respect of which it has acquired *prima facie* evidence that an intellectual property right has been infringed or is about to be infringed; and
 - (b) suspend the clearance of goods whenever there are reasonable grounds to suspect that the goods are infringing intellectual property rights.
- (4) The Customs authority may, where on its own initiative it has suspended the clearance of goods in accordance with subsection (3), seek from the

right holder of the intellectual property right the provision of any information or assistance, including technical expertise and facilities, for the purpose of determining whether suspect goods are counterfeit or pirated or otherwise infringe an intellectual property right.

- (5) The Customs authority shall pursuant to section 215(3) immediately inform the right holder or their representative and the Customs broker, importer or exporter of the place and the date of the suspension of Customs clearance.

43. Securities for payment of duty.

- (1) The Customs authority may require and take securities of such kinds as may be prescribed for payment of duty in sections 339 to 342.
- (2) The Customs authority may, pending the giving of the required security, refuse to pass a goods declaration or to do any other act in relation to any matter in respect of which the security is required.
- (3) A security may be required in relation to a particular transaction, or in relation to transactions generally or to a class of transactions, and for such period and amount, and subject to such conditions as to penalty or otherwise, as the Customs authority may direct.
- (4) A security may be in such other form as the Customs authority approves.
- (5) If the Customs authority is satisfied that the obligations for which any security given in accordance with this section have been fulfilled, the person who gave the security shall be released from the conditions of the security within five working days.
- (6) Any security given under this Act may be forfeited under such conditions as the Customs authority may direct.
- (7) A person who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

44. Requiring new securities.

- (1) The Customs authority may, if at any time the Customs authority is dissatisfied with the sufficiency of any security, require a new security in place of or in addition to the existing security.
- (2) The Customs authority may, if a new security required is not given, refuse to pass a goods declaration or to do any other act in relation to any matter in respect of which the new security is required.

- (3) A person who is dissatisfied with a decision of the Customs authority under this section may, within fourteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

45. Requisition to produce written authority of Customs agents or representatives.

A Customs officer may require a person acting or holding themselves out as the agent or representative of another person in any matter relating to this Act or other Customs legislation to produce a written authority from their principal and if such an authority is not produced the officer may refuse to recognise the agency or representation.

46. Audit or examination of business records.

- (1) A Customs officer of a rank designated by the Comptroller by rule may, at all reasonable times, enter any premises or place where business records are kept and audit or examine those records either in relation to specific transactions or to the adequacy and integrity of the manual or electronic system or systems by which such records are created and stored.
- (2) Subject to section 60, a Customs officer shall for the purposes of subsection (1) have full and free access to all lands, buildings, and places and to all books, records, and documents, whether in the custody or under the control of the importer, exporter, licensee or any other person, for the purpose of inspecting any books, records, and documents and any property, process, or matter that the officer considers —
 - (a) necessary or relevant for the purpose of collecting any duty under this Act or other Customs legislation or for the purpose of carrying out any other function lawfully conferred on the officer; or
 - (b) likely to provide any information otherwise required for the purposes of this Act or other Customs legislation or any function lawfully conferred on the officer.
- (3) The Customs officer may, without fee or reward, make or cause to be made, extracts from or copies of any books, records or documents accessed under this section.
- (4) Notwithstanding subsections (2) and (3), a Customs officer shall not enter any private dwelling except with the consent of an occupier or owner thereof or pursuant to a search warrant issued under this Act.

47. Powers in relation to documents.

- (1) Where —
 - (a) a Customs officer has reasonable cause to suspect that goods have been unlawfully imported, exported, manufactured, undervalued, entered, removed, or otherwise unlawfully dealt with by any person contrary to this Act or other Customs legislation, or that any person intends to so import, export, manufacture, undervalue, enter, remove, or otherwise deal with any goods; or
 - (b) goods have been seized under this Act,

the Customs authority may, by notice in writing, require that person or any person whom the officer suspects to be or to have been the owner, importer, exporter or manufacturer of those goods, or agent or representative thereof, as the case may be, as and when required, to produce and deliver to that officer or any other specified Customs officer all books of account, invoice books, or other books, records, or documents in which any entry or memorandum appears or may be supposed to appear in respect of the purchase, importation, exportation, manufacture, cost, or value of, or payment for, the goods and any other goods so imported or exported or manufactured or otherwise dealt with within a period of three years preceding the date of the notice.
- (2) In addition to the requirements of subsection (1), the Customs authority may require the owner, importer, exporter or manufacturer of those goods, or agent or representative thereof, as the case may be, to —
 - (a) produce for the inspection of the officer or any specified Customs officer, and allow the officer to make copies or extracts, or cause copies or extracts to be made of or from, any of the books, records, or documents referred to in subsection (1); and
 - (b) answer, or cause to be answered, any question concerning those books, records, or documents.
- (3) The Customs authority may, by notice in writing, require any person, including any officer employed in or in connection with any government agency or corporation, as and when required, to —
 - (a) produce for inspection by a specified Customs officer any documents or records that the Customs authority considers necessary or relevant to an investigation or audit under this Act or other Customs legislation, or to the recovery of a debt due and payable to the Crown under this Act or other Customs legislation;
 - (b) allow the specified Customs officer to make copies of or take extracts from any such documents or records;
 - (c) appear before a specified Customs officer and answer all questions put to them concerning any goods or any transactions relating to

those goods that are the subject of any such investigation, or audit, or that are relevant to the recovery of the debt referred to in paragraph (a) or to documents or records that are relevant to any such investigation or audit.

48. Legal privilege in respect of confidential communications.

- (1) Subject to subsection 2, any information or document is, for the purposes of sections 46 and 47, privileged from disclosure if it is a confidential communication, whether oral or written, passing between —
 - (a) a legal practitioner in their professional capacity and another legal practitioner in that capacity; or
 - (b) a legal practitioner in their professional capacity and their client.
- (2) Except as provided in subsection (1), no information or document shall, for the purposes of sections 46 and 47, be privileged from disclosure on the grounds that it is a communication passing between one legal practitioner and another legal practitioner or between a legal practitioner and their client.
- (3) For the purposes of this section, the term ‘legal practitioner’ means an attorney-at-law

49. Translation of documents in foreign language.

Where a document in a foreign language is presented to a Customs officer in relation to the carrying out of any duty or the exercise of any power of the Customs authority under this Act, or other Customs legislation, the officer may require the person who presented the document to supply to the officer a translation of the document in English, prepared by such person as the Customs authority may approve and at the expense of the person who presented it.

50. Customs authority may take possession of and retain documents and records.

- (1) The Customs authority may take possession of and retain any document or record presented in connection with any entry or required to be produced under this Act or other Customs legislation.
- (2) The Customs authority shall, where the Customs authority takes possession of a document or record under subsection (1), provide on request to the person otherwise entitled to the document or record —
 - (a) a copy of the document or record certified under seal by or on behalf of the Customs authority as a true copy; or
 - (b) a receipt of the document or record taken.
- (3) Every copy of a document or record certified pursuant to subsection (2) shall be admissible as evidence in all courts as if it were the original.

51. Copying documents during search.

- (1) A Customs officer or other authorised person may remove documents for the purpose of making copies and give a receipt for what has been taken where such officer or other authorised person —
 - (a) carries out any lawful search, inspection, audit, or examination under this Act or other Customs legislation; and
 - (b) has reasonable cause to believe that documents coming into their possession during such search, inspection, audit, or examination are evidence of the commission of an offence under this Act or other Customs legislation.
- (2) Documents taken pursuant to subsection (1) shall, as soon as practicable after copies of the documents have been taken, be returned to the person otherwise entitled to them.
- (3) A copy of any document certified by or on behalf of the Customs authority under the seal or approved mark of the Customs authority shall be admissible in evidence in all courts as if it were the original.

52. Retention of records, documents and goods obtained during search.

- (1) Subject to subsection (4), a Customs officer or authorised person may take possession of and retain records, documents or goods where such officer or authorised person —
 - (a) carries out any lawful search, inspection, audit, or examination under this Act or other Customs legislation; and
 - (b) has reasonable cause to believe that any records, documents or goods coming into his possession during such search, inspection, audit, or examination are evidence of the commission of an offence or are intended to be used for the purpose of committing any offence.
- (2) A Customs officer or authorised person shall, where he takes possession of a document under subsection (1), provide on request to the person otherwise entitled to the document a copy of the document certified by or on behalf and under the seal or mark of the Customs authority as a true copy.
- (3) Every copy certified pursuant to subsection (2) shall be admissible in evidence in all courts as if it were the original.
- (4) Where a Customs officer or authorised person takes possession of and retains records, documents or goods under this section —
 - (a) in any proceedings for an offence relating to the documents or goods, the court may order, either at the hearing or on a subsequent

- application, that the records, documents or goods be delivered to the person appearing to the court to be entitled to them or that they be otherwise disposed of in such manner and under such conditions as the court thinks fit;
- (b) he may at any time, unless an order has been made under paragraph (a), return the records, documents or goods to the person from whom they were taken or apply to a Magistrate for an order as to their disposal and, on any such application, the Magistrate may make any order that a court may make under paragraph (a);
 - (c) if proceedings for an offence relating to the goods or documents are not brought within a period of three months from the date on which possession of the records, documents or goods was taken, any person claiming to be entitled to the records, documents or goods may, after the expiration of that period, apply to a Magistrate for an order that they be delivered to that person and, on any such application, the Magistrate may adjourn the application on such terms as he thinks fit for proceedings to be brought or may make any order that a court may make under paragraph (a).
- (5) Where a person is convicted in proceedings for an offence relating to records, documents or goods to which this section applies, and an order is made under this section, the operation of the order shall be suspended —
- (a) until the expiration of the time prescribed by the appropriate legislation or procedure, as the case may be, for the filing of notice of appeal or of an application for leave to appeal;
 - (b) where notice of appeal is filed within the prescribed time, until the determination of the appeal; or
 - (c) where application for leave to appeal is filed within the time so prescribed, until the application is determined and, where leave to appeal is granted, until the determination of the appeal.
- (6) Where the operation of an order is suspended until the determination of the appeal, the court determining the appeal may by order annul or vary the order made under this section and such order, if annulled, shall not take effect, and, if varied, shall take effect as so varied.

53. Customs search warrants.

- (1) The Comptroller may issue a Customs warrant in the form set out in the Fifth Schedule, and under the seal of the Customs authority, to any Customs officer not being below the rank of first grade.
- (2) The Comptroller may issue a Customs warrant if satisfied, on an application by a Customs officer made on oath, that there are reasonable grounds to believe that there is in or on any place or thing any —

- (a) uncustomed goods;
 - (b) goods relating to uncustomed goods; or
 - (c) documents relating to uncustomed goods.
- (3) The Comptroller shall, before issuing a Customs warrant, be satisfied that reasonable enquiries in relation to the alleged offence have been made.
- (4) A Customs warrant issued pursuant to subsection (1) shall, unless sooner revoked by the Comptroller, remain in force as long as the person to whom it has been issued remains a Customs officer whether in the same capacity or not.
- (5) A Customs officer shall, whenever he proposes to use his Customs warrant, first obtain the permission of his superior officer who shall not grant permission unless satisfied that reasonable grounds exist for such use.
- (6) A Customs warrant issued by the Comptroller shall —
- (a) be directed to and executed by the designated Customs officer;
 - (b) be recorded and a receipt for the warrant given by the designated Customs Officer; and
 - (c) be returned immediately —
 - (i) after revocation of the search warrant by the Comptroller; or
 - (ii) after the person to whom the search warrant has been issued ceases to be a Customs officer.
- (7) A Customs officer in possession of a Customs warrant issued pursuant to subsection (1) may —
- (a) at any time enter into and search any house, shop, cellar, warehouse, room, or any other place, if he has reasonable grounds to believe that in such premises there are —
 - (i) any uncustomed or prohibited goods; or
 - (ii) any goods or documents relating to uncustomed or prohibited goods;
 - (b) for purposes of paragraph (a), use all reasonable force and require the assistance of, and take with him, other Customs officers or Police officers.
- (8) A Customs officer acting under this section who is unable to obtain free access to any part of the premises he proposes to enter or to any container therein —
- (a) may, if necessary, enter such part by force;
 - (b) may break open doors, chests, trunks, or open such container and other packages, for the purpose of seizing and taking away any

uncustomed or prohibited goods or any books or documents relating to such goods; and

- (c) shall keep securely in a Customs warehouse any goods, books or documents seized.

54. Magistrates' search warrants.

- (1) Without prejudice to any other power under this Act, where a Customs officer declares on oath before a Magistrate that there are reasonable grounds to believe that there is in any premises —
- (a) uncustomed goods;
 - (b) goods relating to uncustomed goods;
 - (c) documents relating to uncustomed goods;
 - (d) anything that may be evidence of the commission of an offence under this Act or other Customs legislation; or
 - (e) anything that there are reasonable grounds to believe is intended to be used for the purpose of —
 - (i) committing any offence under this Act or other Customs legislation;
 - (ii) unlawfully importing or exporting goods; or
 - (f) anything that is liable to forfeiture under this Act or other Customs legislation,

the Magistrate may by warrant authorise the Customs officer to enter upon and search, with such force as may be necessary and at any time, the premises and to seize and carry away any goods, books, documents or any other thing relating thereto that may be found in the premises.

- (2) A Customs officer in possession of a Magistrate's search warrant may require a Police officer to assist him in the execution of the warrant and a Police officer so required shall render assistance accordingly.
- (3) A Magistrate's search warrant shall be —
- (a) directed to and executed by a designated Customs officer; or
 - (b) directed to Customs officers generally and be executed by a Customs officer or Customs officers.
- (4) A warrant may be issued subject to such reasonable conditions as the Magistrate specifies in the warrant.

55. Entry and search under search warrant.

- (1) A Customs officer may, where he enters upon any premises acting under a search warrant issued pursuant to sections 53 and 54 —

- (a) require the owner or the occupier of the premises to produce, either forthwith or at a time and place to be fixed by the Customs officer, any book, document, or thing, which the owner or the occupier is required to keep pursuant to this Act or other Customs legislation;
 - (b) examine and take copies of any such book or document;
 - (c) require the owner or the occupier to answer any questions relating to any such book, document, or thing, or to any entry in any such book or document;
 - (d) seize and detain any such book, document, or thing, if, in his opinion, it may afford evidence of the commission of any offence under this Act or other Customs legislation; or
 - (e) seize and carry away any uncustomed goods, or any books or documents relating to any such goods found in the premises.
- (2) A Customs officer executing a search warrant may —
- (a) detain, and if the officer reasonably believes that the thing may be on the person's body, search a person who is at the place when the officer arrives at that place; or
 - (b) detain and search any person who arrives at that place when the officer is executing the warrant, until the officer is satisfied that the person is not connected with the search warrant.
- (3) A person detained under subsection (2) shall only be detained for the period of the search or for a period not exceeding twenty four hours.
- (4) For purposes of greater certainty, the powers granted in this section are in addition to powers granted to Customs officers pursuant to section 35.
- (5) A Customs officer, or a Police officer, may seize any thing found in carrying out the search of the person and reasonable force may be used to seize the thing.

56. Search warrant to be produced.

- (1) A Customs officer acting under a Customs warrant or a Magistrate's warrant shall show his warrant on demand to the occupier of the premises that the Customs officer enters or proposes to enter.
- (2) Subject to subsection (3), the Customs officer executing a search warrant shall, if the owner or occupier of the place being searched or the owner of the thing being searched, as the case may be, is not present at the time of the search, leave in a prominent position at the place being searched or attached to the thing searched a written notice —
 - (a) stating the date and time of the execution of the warrant; and
 - (b) the name of the officer in charge of the search.

- (3) An officer executing a warrant may, if he believes that a notice under subsection (2) would unduly prejudice subsequent investigations, refrain from leaving such notice and, in such event, shall apply to the Comptroller in case of the execution of a Customs search warrant or to a Magistrate in case of the execution of a Magistrate's search warrant for confirmation of his decision not to leave such notice.
- (4) The officer who executed the warrant shall, where the Comptroller or the Magistrate refuses to confirm his decision not to leave a notice, notify forthwith or cause to be notified the owner or occupier of the place searched or the owner of the thing searched of the particulars referred to in subsection (2).

57. Obligation to inform owner or occupier when thing seized.

- (1) Subject to section 56(3), the person executing a search warrant shall inform the owner or occupier of the place searched or the owner of the thing searched of the fact that any thing has been seized and of the place from where it was seized.
- (2) The person executing the search warrant shall inform the owner or occupier by —
 - (a) delivering to them a written notice containing such information;
 - (b) leaving such notice in a prominent position at the place searched or attached to the thing searched, as the case may be;
 - (c) sending such notice to the owner or occupier by registered mail; or
 - (d) such other method as a Magistrate may direct in any particular case.
- (3) A person affected by the execution of a search warrant may apply to a Magistrate for an order for the disclosure of the application for a search warrant, and any documents submitted in support of such application, and the Magistrate may, if satisfied that the disclosure of the information will not prejudice the prevention, investigation, or detection of offences, or endanger the safety of any person, order the disclosure in whole or in part of the application and supporting documents.

58. Emergency warrants.

- (1) A Magistrate may orally or in writing grant an emergency warrant to a Customs officer making an application for an emergency warrant to search for and seize a thing that is believed to be in or on a particular premises in any case where the Magistrate is satisfied —
 - (a) that circumstances exist that would justify the granting of a search warrant under a provision of this Act; and

- (b) the urgency of the situation requires that the search should begin before a warrant under such provision could with all practicable diligence be obtained.
- (2) An application for an emergency warrant may be made orally but otherwise shall comply with the requirements of section 54.
- (3) A Customs officer making an application under this section shall, at the time of making the application, make a note in writing of the particulars of the application.
- (4) A Customs officer executing an emergency warrant shall —
 - (a) produce the note made in accordance with subsection (3) —
 - (i) for inspection upon initial entry;
 - (ii) in response to any reasonable request made after initial entry; and
 - (b) when requested, provide a copy of the note no later than seven working days after the making of the request.
- (5) The provisions of sections 55, 56 and 57, insofar as applicable and with the necessary modifications, shall apply to emergency warrants in the same manner as they apply to search warrants.
- (6) An emergency warrant shall remain valid for twenty four hours from the time when the authorisation is given and shall thereafter expire.
- (7) The applicant Customs officer or, if that officer is not able to do so, another Customs officer shall as soon as practicable after an emergency warrant has expired provide a written report in the prescribed form to the Magistrate who granted the warrant advising —
 - (a) that the warrant has been executed; and
 - (b) of the results obtained through execution of the warrant.

59. Use of approved aids by Customs officer.

- (1) A Customs officer or any member of the Bahamas Police Force may, in exercising any power of boarding, entry, or search conferred by this Act or other Customs legislation, have with them and use for the purposes of searching —
 - (a) an approved —
 - (i) animal,
 - (ii) chemical substance,
 - (iii) x-ray or imaging equipment; or
 - (b) any other approved mechanical, electrical, or electronic device.

- (2) Nothing in this section applies to a search carried out on residential premises except pursuant to a search warrant issued under sections 53, 54 or 58.

60. Conditions applying to entry of building.

Notwithstanding anything in this Act, every provision of this Act or other Customs legislation that confers on a Customs officer the power to enter any building, whether under the authority of a search warrant or otherwise, shall be subject to the following conditions —

- (a) reasonable notice of the intention to enter shall be given except where it would frustrate the purpose of the entry;
- (b) entry shall be made at a time that is reasonable in the particular circumstances except where it would frustrate the purpose of the entry;
- (c) identification shall be produced on initial entry and, if requested, at any subsequent time; and
- (d) the authority for the entry and the purpose of the entry shall be clearly stated to the owner or occupier of the building if they are present.

61. Arrest of offenders.

- (1) A Customs officer or member of the Bahamas Police Force who on reasonable grounds suspects that a person has committed an offence under this Act, other Customs legislation or the Penal Code (*Ch. 84*) may, at any time within fourteen working days after the date on which such reasonable suspicion arises, arrest that person without warrant where such offence comprises —
- (a) threatening or resisting a Customs officer;
 - (b) failing to remain in a designated location as so directed by a Customs officer; or
 - (c) being involved in the importation, exportation or transit of prohibited and restricted goods.
- (2) Notwithstanding subsection (1), a Customs officer may arrest without warrant any person found on or in a means of transport if the officer believes on reasonable grounds that —
- (a) the person has committed, is committing, is attempting to commit, or is otherwise concerned in the commission of, an offence under this Act or other Customs legislation being an offence that is punishable by a term of imprisonment; or
 - (b) the person carried into the Customs territory some other person who is on or in the means of transport and the carriage of such other

person into the Customs territory on or in the means of transport constituted an offence under this Act or other Customs legislation.

- (3) Reasonable force may be used if necessary to arrest a person including the use of —
 - (a) approved technical aids to subdue persons when used in accordance with approved procedures and guidelines issued by the Customs authority; and
 - (b) approved technical aids including but not limited to the use of —
 - (i) an animal,
 - (ii) immobilizing sprays such as pepper spray,
 - (iii) batons,
 - (iv) hand-cuffs; and
 - (v) as a means of last resort, the deployment of official fire arms.
- (4) A Customs officer shall prior to arresting a person advise the person about to be arrested of their legal rights in accordance with the provisions of the appropriate legislation or procedures as the case may be.
- (5) A Customs officer shall, where he arrests a person under a power conferred by this section and unless the person is sooner released, call as soon as practicable a member of the Bahamas Police Force to assist and deliver the arrested person into the custody of such member of the Bahamas Police Force.
- (6) The duties relating to the laying and filing of information shall, where a person delivered into custody is released by a member of the Bahamas Police Force without bail, be the duties of a Customs officer and not of a member of the Bahamas Police Force.

62. Arrest of offenders after escape from officer.

Where a person subject to arrest under section 61 or any other Customs legislation escapes from a proper officer attempting to arrest him or if a proper officer is for any reason unable or fails to arrest him, such person may —

- (a) afterwards be arrested and detained by a Customs officer at any place in The Bahamas within ten years from the time the offence was committed; and
- (b) be dealt with as if he had been arrested at the time of committing the offence.

63. Power to require attendance.

Where under this Act or other Customs legislation the master, commander or driver of a conveyance is required to answer any question put to him by the

Comptroller or a proper officer, the Comptroller or the officer may at any time while the conveyance is within the Customs territory of The Bahamas require —

- (a) the master, commander, driver or agent; or
- (b) with the consent of the Comptroller or the officer, a senior officer of the means of transport,

to appear in the office of the Comptroller or the officer.

64. Power to require information and the production of evidence.

- (1) A Customs officer may, at any time within three years of the importation, exportation or carriage coastwise of any goods, require any person to furnish to him in such form and manner as the officer may require any information relating to the goods, and to produce and permit the officer to inspect, take extracts from, make copies of or remove for a reasonable period, any invoice, bill of lading or other book or document relating to the goods in that person's control or possession if that person is concerned —
 - (a) in such importation, exportation or carriage coastwise; or
 - (b) in the carriage, unloading, landing or loading of the goods.
- (2) The Comptroller may require evidence to be produced to his satisfaction in support of any information provided in respect of goods imported, exported or carried coastwise, or in respect of which drawback, allowance, rebate, remission or repayment of duty is claimed.

65. Detention of dangerous goods.

- (1) A Customs officer may detain goods he finds in the course of exercising any power of search or examination under this Act or other Customs legislation if he believes on reasonable grounds that the goods are —
 - (a) dangerous goods that may not be lawfully carried on public transport; and
 - (b) proposed to be carried by an operator of a public means of transport.
- (2) A Customs officer shall, if he detains goods under subsection (1), as soon as practicable deliver such goods into the custody of the appropriate authority or of the transport operator.
- (3) Responsibility for goods which have been delivered pursuant to subsection (2) shall pass upon such delivery from the Customs authority to the appropriate authority or to the transport operator, as the case may be.

66. Use of reasonable force and firearms.

- (1) For the purpose of this section, reasonable force may include the use of physical force, approved technical aids and, as a means of last resort, the deployment and use of approved official firearms.
- (2) Customs officers duly authorised by the Comptroller may apply reasonable force when necessary —
 - (a) to ensure lawful execution of their responsibilities;
 - (b) to ensure compliance with the provisions of this Act and other Customs legislation; and
 - (c) to prevent interference with or hindrance of Customs officers in the lawful execution of their responsibilities under this Act and other Customs legislation.
- (3) Customs officers may apply reasonable force, approved technical aids and approved firearms in —
 - (a) self defence;
 - (b) the protection or the safety of other persons;
 - (c) the defence, protection and recovery of Crown property; or
 - (d) the defence, protection and recovery of goods and means of transportation which are temporarily under Customs control.
- (4) Authority conferred under subsections (1), (2) and (3) shall only be executed in accordance with approved guidelines and procedures issued by the Comptroller in accordance with subsection (10).
- (5) A Customs officer who authorizes the firing of any fire arm shall immediately notify the Comptroller and thereafter provide the Comptroller with a written report, within twenty-four hours unless prevented from doing so by circumstances beyond his control, covering the —
 - (a) use of such fire arms;
 - (b) extent of casualties or damage if any incurred; and
 - (c) circumstances in which such fire arms were used.
- (6) The Comptroller shall —
 - (a) within twelve hours after receipt of a notification under subsection (5), notify the Commissioner of Police of the firing of official weapons; and
 - (b) within six hours after receipt of a written report under subsection (5), notify the Commissioner of Police of the relevant details pertaining to the incident.
- (7) A Customs officer shall, within forty-eight hours of using reasonable force other than the use of official fire arms under any provision of this Act or

other Customs legislation, give the Comptroller a written report covering the —

- (a) use of such reasonable force; and
 - (b) circumstances under which it was used.
- (8) Unlawful or inappropriate use of force, approved technical aids, or deployment and use of official fire arms, by a Customs officer shall result in appropriate disciplinary action and may deprive such officer of the protections granted under section 10.
- (9) It shall be a defence in any prosecution of a Customs officer charged with unlawful use of force under this Act to show that such officer had reasonable cause to fear for his personal safety or for the safety of others and accordingly acted in self defence or in the defence of others or the perpetrator.
- (10) The Comptroller shall issue guidelines, rules of engagement and procedures covering the use by Customs personnel of reasonable force, approved technical aids, and the deployment and use of official fire arms.

PART V – CUSTOMS CONTROLS

67. Goods subject to Customs controls.

Goods shall be subject to the control of the Customs authority —

- (a) where the goods have been imported including goods imported through the Post Office, from the time of importation until the time —
 - (i) the goods are lawfully removed from a Customs controlled area;
 - (ii) the goods are exported to a point outside the Customs territory; or
 - (iii) where the goods are removed under a conditional permit granted pursuant to section 111(1)(c), the Customs authority is satisfied that the conditions of the permit have been met;
- (b) where the goods are to be exported otherwise than under drawback, from the time when the goods are brought to a Customs controlled area until their exportation to a point outside the Customs territory;
- (c) where the goods are to be exported whether under drawback or not under a Customs-approved secure exports scheme whether or not any other provision of this section applies to the goods, from the time when the goods are first secured in a Customs-approved secure package or in a package to which a Customs seal has been applied

- until the exportation of the goods to a point outside the Customs territory;
- (d) where the goods are to be exported under drawback, from the time of the claim for drawback until the exportation of the goods to a point outside the Customs territory;
 - (e) where the goods are in or on board any means of transport, at all times during which the means of transport is within the Customs territory;
 - (f) where the goods are manufactured in a Customs controlled area, from the time of manufacture until the first to occur of the following —
 - (i) the goods are lawfully removed for home consumption from a Customs controlled area; or
 - (ii) the goods are exported to a point outside the Customs territory;
 - (g) where the goods are owned by or in the possession of an internationally ticketed passenger, or a domestic passenger, who is using air, road, rail or sea travel for a domestic sector, from the time when at the commencement of the domestic sector the goods are —
 - (i) brought into a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from the Customs territory; or
 - (ii) accepted for carriage by an airline, coach operator, railroad operator or shipping company,until the time when at the end of the domestic sector the goods are lawfully removed from a Customs controlled area licensed for the disembarkation, embarkation, or processing of persons arriving in or departing from the Customs territory; or
 - (h) in the case of domestic cargo not being goods to which paragraph (f) applies, from the time when the goods are brought within a Customs controlled area that is in a Customs place until the time when the goods are lawfully removed from that or any other Customs controlled area.
- (2) For the purposes of subsection (1), goods that are removed from a Customs controlled area to another Customs controlled area are not removed for home consumption.
 - (3) No person shall, except in accordance with this Act, interfere in any way with goods subject to Customs control.
 - (4) The Minister may, by Order published in the Gazette, prescribe other circumstances where goods shall be deemed to be subject to the control of the Customs authority.

68. Principles of Customs controls.

- (1) The Customs authority may carry out all the controls it deems necessary to ensure the correct application of this Act and other Customs legislation governing the entry, exit, transit, transfer and end-use of goods moved between the Customs territory and other countries or territories outside the Customs territory.
- (2) Customs controls under subsection (1) may consist of —
 - (a) examining goods,
 - (b) verifying declaration data;
 - (c) verifying the existence and authenticity of electronic or written documents;
 - (d) examining the accounts of undertakings and other records;
 - (e) inspecting means of transport, luggage and other goods carried by or on persons.
- (3) Customs controls, other than random checks, shall be based on —
 - (a) sound risk management practices and risk analysis which may be supported by electronic data processing techniques for identifying and evaluating risks and developing the necessary measures to counter such risks; and
 - (b) criteria developed at national and, where available, international levels.

69. Post-release verification or audit.

- (1) The Customs authority may, after releasing the goods and in order to satisfy itself as to the accuracy of the particulars associated with the importation, exportation, warehousing, manufacture, or processing of such goods, inspect or audit commercial documents and data relating to —
 - (a) the operations of the importer, exporter, consignee, declarant, or their representatives, in respect of such goods; or
 - (b) other commercial operations involving all international trade transactions.
- (2) Inspections or audits pursuant to subsection (1) may be carried out by Customs officers designated by the Comptroller by rule at the premises of —
 - (a) the importer, exporter, consignee, declarant, or their representatives;
 - (b) any other person directly or indirectly involved in the operations in a business capacity; or
 - (c) any other person in possession of documents or information for business purposes associated with, or relating to, the goods.

- (3) The Customs authority may, where a Memorandum of Understanding satisfactory to the Customs authority has been concluded with an economic operator, exchange information, initiate or participate in combined revenue audits of the economic operator's operations relating to trade in goods.
- (4) The Customs authority may examine or re-examine international goods where it remains possible for them to be presented for examination.

70. Keeping of records.

- (1) Records, of such nature, in such manner and for such period of time as may be prescribed by the Comptroller under this Act and other Customs legislation, shall be kept, or cause to be kept, in the Customs territory by economic operators including —
 - (a) licensees, importers, exporters;
 - (b) representatives or agents of licensees, importers exporters;
 - (c) persons involved in the carriage, handling, or transportation of goods imported to, or exported from, the Customs territory; and
 - (d) other persons or organizations reasonably expected to be in possession of any information relating to goods subject to the control of the Customs authority.
- (2) A person referred to in subsection (1) shall, on the request of a Customs officer —
 - (a) make the records available to the Customs authority;
 - (b) provide copies of the records as required; and
 - (c) answer any questions asked by any Customs officer in respect of such records.
- (3) A person referred to in subsection (1) shall, where for the purposes of complying with subsection (2) information is recorded or stored by means of an electronic or other device, at the request of a Customs officer operate the device, or cause it to be operated, to make such information available to the Customs officer.
- (4) Subject to subsection (5) and (6), economic operators involved in the importation and exportation of goods shall retain Customs documentation for a minimum period of three years.
- (5) Documentation shall be retained for three years beyond the minimum period provided for in subsection (4) where —
 - (a) Customs controls carried out by the Customs authority in respect of a Customs debt shows that the relevant entry in the accounts has to be corrected; and
 - (b) the person concerned has been notified of this.

- (6) Documents or information shall, where an appeal has been lodged, be kept until the appeal procedure is terminated.

71. Access to business records.

- (1) Economic operators pursuant to section 70 shall, where the Customs authority requests access to records required to be kept, provide such access at a date to be specified by notice in writing from the Customs authority.
- (2) Access to records pursuant to subsection (1) shall be provided in the form and manner prescribed, either electronically or otherwise, and the economic operator shall ensure that the Customs authority has such access at all reasonable times.
- (3) The Customs authority may, by notice in writing, exempt a person to whom this section applies from complying with some or all of the obligations under this section in all or any specified circumstances.
- (4) For the avoidance of doubt, nothing in this section affects any obligation under section 70 to keep or cause to be kept, make available, provide copies of, or answer questions in respect of, records.

**PART VI – ARRIVAL AND DEPARTURE OF GOODS,
PERSONS AND MEANS OF TRANSPORT**

**DIVISION ONE – ARRIVAL OF MEANS OF TRANSPORT IN THE CUSTOMS
TERRITORY**

72. Notification of arrival.

- (1) The person in charge of a means of transport en route to the Customs territory from a point outside that Customs territory shall, unless otherwise approved by the Customs authority —
- (a) give to the Customs authority, in such form and manner, either electronically or otherwise, as may be approved in writing by the Comptroller, either generally or for a particular case or class of case, such advance notice as may be prescribed in respect of any or all of the following —
- (i) impending arrival of the means of transport;
 - (ii) route followed;
 - (iii) crew;
 - (iv) passengers,

- (v) cargo for discharge within the Customs territory, whether commercial or non-commercial;
 - (vi) commercial cargo not intended for discharge within the Customs territory, if any;
 - (vii) the Customs place at which the means of transport will arrive; and
 - (b) on arrival in the Customs territory, proceed directly to such Customs place, unless directed elsewhere by a Customs officer.
- (2) The owner or operator of the means of transport referred to in sub-section (1), or an agent or duly authorised representative of the owner or operator, may provide the information referred to in paragraph (a) of subsection (1) to the Customs authority on behalf of the person in charge of the means of transport.

73. Requirement to answer questions.

- (1) The person in charge of, the owner of, any member of the crew of, and any passenger on or in, a means of transport shall —
- (a) answer any question asked by a Customs officer under this Act relating to the means of transport, its voyage or journey and any persons or goods that are or have been carried by the means of transport; and
 - (b) forthwith at the request of any Customs officer produce any documents within that person's possession or control relating to any of the matters described in paragraph (a).
- (2) The obligations in subsection (1) shall apply in respect of —
- (a) a means of transport that is within the Customs territory and is carrying international cargo or international crew or any international passenger, whether or not the means of transport is also carrying domestic cargo; and
 - (b) any other means of transport that is within the Customs territory that a Customs officer has reasonable cause to suspect has been, or is about to be, involved in the commission of an offence under this Act or the importation or exportation of any dutiable, uncustomed, prohibited, restricted or forfeited goods.

74. Bringing-to a ship.

- (1) The master of a ship arriving within the Customs territory shall, on being directed by a Customs officer to do so —
- (a) stop and bring the ship to for boarding; and
 - (b) ensure that the ship remains stopped until a Customs officer directs that the ship may proceed.

- (2) The means of transport carrying the Customs officer or officers or other authorised persons shall identify itself as being a means of transport in the service of the Crown.
- (3) The master of the ship shall by all reasonable means facilitate the boarding of the ship by Customs officers or authorised persons.
- (4) The master of a ship within the Customs territory shall, if so directed by a Customs officer, cause that ship to leave the Customs territory forthwith.
- (5) A Customs officer who proposes to give a direction under sub-section (4) shall consult with the Comptroller or a person authorised by the Comptroller and obtain his approval before issuing a direction to leave the Customs territory.

75. Means of transportation to arrive at designated Customs place only.

- (1) Subject to sections 72 and 76, the person in charge of a means of transport —
 - (a) that arrives within the Customs territory on a journey from a point outside the Customs territory; or
 - (b) that is carrying —
 - (i) persons; or
 - (ii) goods subject to the control of the Customs Authority brought in that means of transport or any other means of transport from a point outside the Customs territory,

shall ensure that the means of transport, lands, anchors, berths or otherwise arrives only at the Customs place which, in the case of a means of transport to which section 72 applies, shall be the Customs place nominated by that person in accordance with that section.
- (2) No person shall, on arrival at the nominated Customs place or Customs controlled area within that place and until an inward report in accordance with section 78 has been made, leave or board the means of transport unless authorised to do so by a Customs officer.

76. Means of transportation arriving at place other than designated Customs place.

- (1) Nothing in section 75 applies to a means of transport that is required or compelled to berth, land, anchor, or otherwise arrive at a place other than the Customs place designated in accordance with section 72(1)(b), if the arrival —
 - (a) is required by any statutory or other requirement relating to navigation; or
 - (b) is compelled by accident, stress of weather, or other necessity; or

- (c) is otherwise authorized by the Customs authority.
- (2) The person in charge of the means of transport —
 - (a) shall forthwith report to a Customs officer, to a Police officer or to any other person designated for this purpose pursuant to this Act;
 - (b) shall not, without the consent of a Customs officer, permit any goods carried in or on the means of transport to be unloaded from it or any of the crew or passengers to depart from its vicinity; and
 - (c) shall comply with any directions given by a Customs officer in respect of any goods, crew, or passengers carried in or on the means of transport.
- (3) Subject to section 83, no member of the crew and no passenger on or in the means of transport shall without the consent of a Customs officer —
 - (a) unload goods from the means of transport; or
 - (b) depart from the vicinity of the means of transport,and all such persons shall comply with any directions given by a Customs officer.
- (4) No person shall, where a means of transport is directed by a Customs officer pursuant to section 72(1)(b) to arrive at a place other than the Customs place so designated, depart from or board the means of transport unless authorised to do so by a Customs officer.

77. Control of pleasure and small craft.

- (1) The Comptroller may make rules with respect to the arrival, report and departure of pleasure and small craft.
- (2) In this section, “pleasure craft” means —
 - (a) a vessel that at the time of its arrival at a place in The Bahamas is being used for private recreational purposes only; or
 - (b) a vessel that the proper officer, after application made to him in writing, permits to be treated as a pleasure craft.
- (3) The Comptroller may make rules concerning small craft in respect of vessels not exceeding fifty tons burden by prescribing, with reference to the tonnage, build or general description of such vessels —
 - (a) the limits and manner within which the vessel may be used or employed;
 - (b) the mode of navigation;
 - (c) the number and description of arms and the quantity of ammunition that such vessels may carry; and
 - (d) such other terms, particulars, conditions and restrictions as the Comptroller may think fit

- (4) A vessel that is used or employed contrary to rules made under subsections (1) and (3) shall be forfeited unless it was specially licensed by the Comptroller to be so used or employed in accordance with subsection (5).
- (5) Notwithstanding any rules made under subsections (1) and (3), the Comptroller may grant, upon such terms and conditions and subject to such restrictions and stipulations as he thinks fit, licences in respect of any vessel not exceeding fifty tons burden.

78. Inward report.

- (1) This section applies, unless otherwise approved by the Customs authority, to a means of transport that —
 - (a) arrives within the Customs territory on a journey from a point outside the Customs territory; or
 - (b) is carrying persons or goods subject to the control of the Customs authority brought in or on that means of transport or any other means of transport from a point outside the Customs territory.
- (2) The person in charge, or the owner, of a means of transport to which this section applies shall, on the arrival at a Customs place of the means of transport —
 - (a) deliver to the Customs authority, within such time or times as may be prescribed, an inward report, in such form and manner and containing such particulars verified by declaration as may be prescribed, accompanied by such supporting documents as the Customs authority may require; and
 - (b) comply with any Customs direction as to the movement of the means of transport within the Customs place and as to the unloading of goods or the disembarkation of crew or passengers from the means of transport.
- (3) The maker of a report may, when a report made under this section is inaccurate, amend such report within forty-eight hours of its making or such longer period as the Comptroller may permit.
- (4) The person in charge, or the owner, of a means of transport shall, unless the report is amended under sub-section (3), pay the applicable duty on goods which —
 - (a) appear on any clearance or manifest required to be produced; and
 - (b) do not appear in the report filed under this section.
- (5) Notwithstanding any provision of any Customs enactment, when a report made under this section is inaccurate and the maker of such inaccurate report satisfies the Comptroller that the error was not made knowingly or recklessly —

- (a) the maker of such report shall not be guilty of an offence; and
 - (b) where the error consisted of the omission or incorrect reporting of any goods, such goods shall not be liable to forfeiture.
- (6) A person making a report under this section shall —
- (a) answer all questions relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as may be put to him by the proper officer; and
 - (b) produce all books and documents in his custody or control relating to the vessel or aircraft, its cargo, stores, baggage, crew, passengers, voyage or flight as the proper officer may require.
- (7) The Comptroller may require goods reported as stores on board any vessel or aircraft, or any portion of such goods, to be entered for warehousing and, for the purposes of this subsection, the person in charge or the owner of the means of transport, as the case may be, shall be deemed to be the importer of those goods.

79. Vessel or aircraft commissioned by the Crown.

- (1) Notwithstanding any other provisions of this Act, the master of a vessel or his agent or the commander of an aircraft or his agent —
- (a) where such vessel or aircraft —
 - (i) has a commission from the Crown or from any foreign state;
 - (ii) has on board any goods other than stores; and
 - (iii) was laden at any port or place outside the Customs territory;
 - (b) shall, on arrival in the Customs territory, or when called upon to do so by a Customs officer, and before any of the goods are unloaded —
 - (i) provide to the best of his knowledge and to the satisfaction of the Customs officer a written account of the goods including an account of the quality and quantity of every package or parcel, of the marks and numbers thereon, and of the names of the respective consignors and consignees;
 - (ii) make a declaration at the foot of the account that the information provided is accurate to the best of his knowledge; and
 - (iii) truthfully answer questions concerning the goods asked by the Customs officer.
- (2) Vessels and aircraft referred to in subsection (1) are subject to search in the same manner as non-commissioned vessels and aircraft.

- (3) For the avoidance of doubt, proper officers may freely enter and go on board vessels and aircraft and bring from them into a warehouse any goods found on board.
- (4) Sub-sections (2) and (3) are subject to such regulations in respect of vessels or aircraft of war belonging to the Crown as may be prescribed by the Minister.
- (5) Subsections (3)(4)(5)(6) and (7) of section 78 apply to this section.

DIVISION TWO – ARRIVAL OF PERSONS IN THE CUSTOMS TERRITORY

80. Persons arriving in the Customs territory to report to a Customs officer.

- (1) A person arriving in the Customs territory shall on arrival, unless otherwise required under any provision of this Act, report to a Customs officer or other authorised person.
- (2) A person who reports to a Customs officer or other authorised person in accordance with subsection (1) shall remain at the place where the person reported for such reasonable time as the Customs authority may require for the purposes of enabling any Customs officer or other authorised person to exercise in relation to such person any power conferred on him under this Act.

81. Disembarkation.

- (1) Subject to such exemptions as may be prescribed, a person who is on board or in a means of transport that has arrived in the Customs territory from a point outside the Customs territory shall comply with any Customs direction concerning disembarkation.
- (2) For the purposes of this section, a Customs direction includes a direction given by the person in charge of the means of transport or by a crew member at the direction of a Customs officer.
- (3) Subject to such exemptions as may be prescribed, every person who has disembarked from a means of transport to which this section applies shall, unless otherwise directed by the Customs authority —
 - (a) go to a Customs controlled area; and
 - (b) remain there for such reasonable time as the Customs authority may require for the purposes of enabling any Customs officer to exercise in relation to that person any power conferred on him under this Act.

82. Baggage to be presented.

- (1) Subject to such exemptions as may be prescribed, every person who disembarks from a means of transport that has arrived in the Customs territory from a point outside the Customs territory or a means of transport that is at the end of a domestic sector shall —
 - (a) make their accompanying baggage available for examination by a Customs officer; and
 - (b) comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any means of transport to a Customs controlled area.
- (2) Any person who is moving or handling the baggage referred to in subsection (1) shall comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from any means of transport to a Customs controlled area.

DIVISION THREE – UNLOADING OF GOODS

AND TEMPORARY HOLDING OF IMPORTED GOODS

83. Unloading of goods from aircraft or vessels.

- (1) Goods shall only be unloaded from aircraft or vessels at a Customs place or at a sufferance wharf.
- (2) No person shall unload goods that are subject to the control of the Customs authority from a means of transport except —
 - (a) pursuant to a permit or other authorisation granted by the Customs authority, which permit or other authorisation shall be subject to such conditions as the Customs authority may determine; or
 - (b) where the safety of the means of transport, or the goods or persons in or on the means of transport, is threatened by collision, fire, the stress of weather, or similar circumstances, or such other circumstances as may be prescribed.

84. Approved transit sheds.

- (1) Goods arriving in the Customs territory and unloaded from the means of transport pursuant to a permit or other authorisation granted by the Customs authority may be deposited in an approved transit shed pending clearance.
- (2) Pursuant to section 14(2), the Comptroller may, subject to such terms and conditions as the Comptroller thinks fit, approve a transit shed at any place in any Customs controlled area.

- (3) Subject to section 17, the Comptroller may at any time, in such manner as the Comptroller thinks fit, and for reasonable cause, revoke or vary the terms of any approval given under this section.
- (4) Goods shall, where the proper officer considers them to be unsuitable for storage in a transit shed, be conveyed into such other place as the proper officer may direct which place shall, for the purpose of such deposit, be deemed to be an approved transit shed.

85. Conditions for entering and keeping goods in approved transit shed.

- (1) The licensee of an approved transit shed may take and enter into a book a particular account of the goods deposited into the transit shed.
- (2) Goods deposited in an approved transit shed are placed under the custody of the licensee.
- (3) Save as otherwise prescribed, the goods deposited in an approved transit shed shall be entered within five working days after the goods have been taken into account.
- (4) Goods deposited in an approved transit shed which have not been entered in accordance with subsection (3) —
 - (a) may be caused to be taken to a Customs warehouse; and
 - (b) when taken to a Customs warehouse, shall be dealt with in accordance with section 197.

DIVISION FOUR – DEPARTURE OF PERSONS

86. Persons departing from the Customs territory to depart from Customs place.

Subject to such exemptions as may be prescribed, or unless otherwise authorised by the Customs authority, a person or persons shall not depart from the Customs territory unless they depart from a Customs place.

87. Embarkation.

A person preparing to board a means of transport for departure from the Customs territory shall comply with any Customs direction given to him concerning embarkation.

88. Outgoing baggage to be presented.

- (1) Subject to such exemptions as may be prescribed, every person who arrives at a Customs place or a Customs controlled area for embarkation on to a means of transport that has, as its destination, a point outside the Customs territory shall —

- (a) make his accompanying baggage available for examination by a Customs officer; and
 - (b) comply with any Customs direction relating to the movement of such baggage within the Customs place or Customs controlled area or from a Customs controlled area to any means of transport.
- (2) Any person who is moving or handling the baggage referred to in subsection (1) shall comply with any Customs direction relating to the movement of the baggage within the Customs place or Customs controlled area or from a Customs controlled area to any means of transport.

DIVISION FIVE – DEPARTURE OF MEANS OF TRANSPORT

89. Clearance of means of transport.

- (1) Unless otherwise approved by the Customs authority, no person in charge of a means of transport that has, as its destination, a point outside the Customs territory shall cause that means of transport to depart from any Customs place unless that person has received a certificate of clearance in the prescribed form.
- (2) Subject to such exemptions as may be prescribed, no person in charge of a means of transport that has arrived in the Customs territory from a point outside the Customs territory shall cause that means of transport to depart from the place in the Customs territory that it first arrived at, or from any subsequent place of call within the Customs territory, without —
 - (a) the permission of the Customs authority;
 - (b) the production to the Customs authority of any documents that the Customs authority may require; and
 - (c) the fulfillment of any conditions imposed by the Customs authority.

90. Certificate of clearance.

- (1) Unless otherwise approved by the Customs authority, the person in charge of a means of transport to which section 89 applies shall prior to the grant to him of a certificate of clearance —
 - (a) deliver to the Customs authority within such time or times as may be prescribed an outward report, in such form and manner and containing such particulars verified by declaration as may be prescribed, together with such supporting documents as the Customs authority may require;
 - (b) answer any question asked by a Customs officer relating to the means of transport and its passengers, crew, cargo, stores, and intended voyage or journey;

- (c) produce such other documents as may be required by a Customs officer relating to the means of transport and its passengers, crew, cargo, stores, and intended voyage or journey; and
 - (d) comply with all requirements in this or any other law concerning the means of transport and its passengers, crew, cargo, stores, and intended voyage or journey.
- (2) A Customs officer, for the purpose of securing the detention of a conveyance in pursuance of any power or duty conferred or imposed by this or any other Customs enactment, or for the purpose of securing compliance with any provision of a Customs enactment, may —
- (a) at any time refuse clearance of any conveyance; or
 - (b) revoke any clearance previously granted at any time while —
 - (i) the vessel is within the waters of The Bahamas;
 - (ii) the aircraft is at a Customs airport; or
 - (iii) the vehicle is within the borders of the Customs territory.
- (3) Revocation of a clearance may be made either orally or in writing to the person in charge of any means of transport and, if made in writing, may be served —
- (a) by delivering it to the person in charge or command personally;
 - (b) by leaving it at the last known place of abode or business in the Customs territory of the person in charge or command of the means of transport; or
 - (c) by leaving it on board the conveyance with the person appearing to be in charge or command of it.
- (4) A clearance shall upon revocation under subsection (3) become void.

91. Boarding of outward means of transport by Customs officers.

The person in charge of a means of transport departing from a Custom place, whether or not the immediate destination of the means of transport is a point outside the Customs territory, shall, if required to do so by any Customs officer, facilitate by all reasonable means boarding by Customs officers.

92. Production of certificate of clearance.

The person in charge of a means of transport to whom a certificate of clearance has been granted shall, on demand by a Customs officer, produce the certificate of clearance for examination by the Customs officer and answer any question that the officer may put to him concerning the means of transport and its passengers, crew, cargo, stores, and intended voyage or journey.

93. Departure to be from Customs place only.

- (1) Subject to such exemptions as may be prescribed and to subsection (2), no person in charge of any means of transport shall, except with the prior permission of the Customs authority —
 - (a) cause that means of transport to depart for a point outside the Customs territory from a place within the Customs territory other than a Customs place; or
 - (b) having obtained a certificate of clearance from a Customs place within the Customs territory to depart for any point outside the Customs territory, cause that means of transport —
 - (i) to not depart immediately from that place; or
 - (ii) to go to any other place within the Customs territory.
- (2) Subsection (1) does not apply to a means of transport that is compelled by accident, stress of weather, or other necessity to return to a place within the Customs territory and, in any such case, the provisions of section 76 shall apply subject to such modifications as may be necessary.

94. Regulations relating to stores of means of transport.

The Minister may, without limiting the power to make regulations conferred by section 348, make regulations from time to time prescribing —

- (a) the classes of goods that are, or are not, deemed to be stores for the use of passengers and crew or the service of means of transports about to depart from any Customs place;
- (b) the conditions under which any such stores may be shipped free of duty or under drawback of duty; and
- (c) the conditions under which any such stores are subject to duty, and the form and manner in which those stores shall be entered.

PART VII – ENTRY AND ACCOUNTING FOR GOODS

DIVISION ONE – GENERAL PROVISIONS

95. Obligation to clear goods from Customs.

- (1) Subject to any regulations made under sections 104 and 105, goods that are imported or that are to be imported in the Customs territory shall be entered by the importer.
- (2) Subject to any regulations made under sections or 113 and 114, goods that are exported from the Customs territory shall be entered by the exporter.

- (3) Goods that are imported or exported in exemption of the payment of duties and taxes under this Act shall be entered in the same manner as goods not so exempted.
- (4) Goods shall be entered at Customs places.
- (5) Goods shall be entered within such time as may be prescribed or such further time as the Comptroller may allow.
- (6) An entry made by electronic means into a computer or other device shall be considered as entered at the time the entry is received by the Customs authority.

96. Pre-arrival declaration.

- (1) The Comptroller may, in his discretion, permit goods to be entered before the arrival of the means of transport.
- (2) Delays and conditions for presenting goods to Customs are subject to such conditions and restrictions as the Comptroller thinks fit.

97. Fees and charges relating to importation and exportation of goods.

- (1) Pursuant to section 354, the Minister may make regulations prescribing fees or charges, or both, that are payable to the Customs authority to meet or assist in meeting costs and expenses incurred by the Customs authority in exercising functions or powers, or performing duties, or providing services, under this Act that relate to the importation or exportation of goods.
- (2) The provisions of Part XI that relate to the collection and recovery of duty shall apply to fees and charges imposed pursuant to subsection (1) as if those fees and charges were a duty.
- (3) The Minister shall, before making any regulations under subsection (1), be satisfied that the persons that the Minister considers are representative of interests likely to be substantially affected by the proposed regulations have been consulted to the extent that is reasonably practicable having regard to the circumstances of the case.
- (4) The Minister may, for the purposes of subsection (3), take into account any relevant consultation undertaken by or on behalf of the Minister before this section comes into force.
- (5) A failure to comply with subsection (3) shall not affect the validity of any regulations made pursuant to subsection (1).

DIVISION TWO – PERSONS AUTHORISED TO MAKE ENTRIES

98. Owners of goods

The owner of goods imported into the Customs territory or exported from the Customs territory shall have authority to make entries.

99. Customs representation.

- (1) Any person may appoint an authorised agent.
- (2) Customs representation by an authorised agent may be either —
 - (a) direct, in which case the authorised agent shall act in the name of and on behalf of another person; or
 - (b) indirect, in which case the authorised agent shall act in his own name but on behalf of another person.
- (3) No natural or legal person may act on behalf of another natural or legal person in the clearance of goods under Customs procedures unless such person is an authorised agent with a clear legal mandate to act on behalf of such person.
- (4) Subject to subsection (12), authorised agents shall be established within the Customs territory.
- (5) No natural or legal person may act as a Customs broker unless such person has been granted a licence.
- (6) A licence shall be granted to a Customs broker by the Comptroller.
- (7) A licence granted under subsection (6) may at any time be revoked or suspended by the Comptroller where —
 - (a) a term, condition, or restriction specified in the licence has been contravened;
 - (b) the licensee ceases to act as a Customs broker; or
 - (c) the Comptroller considers that the licensee is no longer a fit and proper person to hold a licence and to operate as a Customs broker.
- (8) The Comptroller shall, where the Comptroller revokes or suspends a licence under subsection (7), notify the Customs broker in writing of the revocation or the suspension.
- (9) A Customs broker who is dissatisfied with the decision of the Comptroller under subsection (7) may, within fifteen working days after the date on which notice of the decision is given, appeal to the Customs Appeal Commission under Division Three of Part XXIV.
- (10) The Comptroller may make rules laying down the conditions under which a Customs broker must operate.

- (11) A person may, where he acts as a Customs broker on a regular and commercial basis, in addition be granted the status of authorised economic operator in accordance with section 101.
- (12) The Customs authority may adopt measures laying down the conditions under which the requirement referred to in subsection (4) may be waived.
- (13) The Customs authority may adopt measures laying down conditions under which they may decline to recognize a Customs representative or to transact business with a third party and, in cases where the Customs authority declines to transact business with a third party, the Customs authority shall give written notification to the third party of a decision not to transact business.
- (14) An authorised agent who performs any act on behalf of the owner of any goods shall for the purposes of this Act —
 - (a) be deemed to be the owner of the goods; and
 - (b) assume full responsibility and liability, jointly and severally, with the person or persons on whose behalf he is acting for —
 - (i) the payment of any duties to which the goods are liable; and
 - (ii) the performance of all acts in respect of the goods which the owner is required to perform.
- (15) For the purposes of this Act, an authorised agent is a representative or a Customs broker appointed by a person to act on his behalf in dealing with the Customs authority and performing the acts and formalities laid down in Customs legislation.

100. Empowerment of authorised agent.

- (1) When dealing with the Customs authority, authorised agents shall state that they are acting on behalf of the person represented and specify whether the Customs representation is direct or indirect.
- (2) A person who fails to state that they are acting in the name of or on behalf of another person, or who states that they are acting in the name of or on behalf of another person without being empowered to do so, shall be deemed to be acting in their own name and on their own behalf.
- (3) The Customs authority may require any person stating that they are acting in the name of or on behalf of another person to produce evidence of their powers to act as an authorised agent except where a person belongs to a category of persons entitled to act on behalf of another person.
- (4) The Customs authority may make rules identifying the categories of persons referred to in subsection (3).

101. Authorised economic operator.

- (1) A person who is established in the Customs territory and who meets the conditions set out in sections 102 and 103 may request the status of authorised economic operator and the Customs authority shall, if necessary following consultation with other competent authorities, grant such status subject to periodic review.
- (2) An authorised economic operator may benefit from facilitation with regard to Customs controls relating to security and safety or from simplifications provided for in accordance with this Act and other Customs legislation.
- (3) The status of an authorised economic operator granted by Customs authorities of other countries or territories outside the Customs territory of The Bahamas, may, subject to sections 102 and 103, be recognized by the Customs authority, without prejudice to Customs controls.
- (4) The Customs authority shall, on the basis of the recognition of the status of authorised economic operator and provided that the requirements relating to a specific type of simplification provided for under this Act and other Customs legislation are fulfilled, authorize the operator to benefit from such simplification.
- (5) The status of authorised economic operator may be suspended or withdrawn in accordance with conditions laid down pursuant to subsection (1)(h) of section 103.
- (6) An authorised economic operator shall notify the Customs authority of all factors arising after that status is granted which may influence its continuation or content.

102. Granting of status of authorised economic operator.

The minimum criteria for granting the status of authorised economic operator shall be —

- (a) an appropriate record of compliance with Customs requirements;
- (b) a satisfactory system of managing commercial and, where appropriate, transport records, which allows appropriate Customs control;
- (c) where appropriate, proven financial solvency;
- (d) where appropriate, practical standards of competence or professional qualifications directly related to the activity carried out; and
- (e) where applicable, appropriate security and safety standards.

103. Implementing provisions for establishing authorised economic operators.

Pursuant to section 354, the Minister shall make regulations to govern —

- (a) granting of the status of authorised economic operator;
- (b) frequency of review of the status of authorised economic operator;
- (c) granting of authorisations for use of simplifications;
- (d) identification of Customs officers competent for the granting of such status and authorisations;
- (e) type and extent of facilitations that may be granted in respect of Customs controls relating to security and safety, taking into account rules adopted by the Customs authority relating to Customs controls to be undertaken outside the Customs territory where an international agreement provides for this;
- (f) consultation with and provision of information to Customs authorities of other countries and territories outside the Customs territory of the Bahamas;
- (g) conditions under which a request made by the applicant for an authorisation may be limited to one or more countries;
- (h) conditions under which the status of authorised economic operator may be suspended or revoked; and
- (i) conditions under which the requirement of being established in the Customs territory may be waived for specific categories of authorised economic operators, taking into account, in particular, international agreements to which The Bahamas is party.

DIVISION THREE – IMPORTATION OF GOODS**104. Entry of imported goods.**

- (1) All imported goods shall be entered either for —
 - (a) home consumption;
 - (b) warehousing in a bonded warehouse;
 - (c) temporary admission, including inward processing; or
 - (d) transshipment.
- (2) Subject to any regulations made under section 105, goods that are imported or that are to be imported shall be entered in writing by the owners of the goods or an authorised agent —
 - (a) in such form and manner, including by electronic means into a computer or other device, as may be prescribed; and

- (b) within five days, exclusive of Sundays and public holidays, after the commencement of discharge, or within such further time as the Comptroller may allow.
- (3) The owner of the goods or the authorised agent shall provide the Customs authority with full particulars supported by documentary evidence of the goods referred to in the entry.
- (4) All entries shall be signed either by the owner of the goods or an authorised agent and the use of electronic signature is authorised for the purpose of making an entry under this Act.
- (5) For the purpose of this section, any reference in an entry that is not worded in accordance with this Act and that is in contradiction with a reference worded in accordance with this Act shall be void.
- (6) A person entering goods under this section shall —
 - (a) answer any question asked by a Customs officer with respect to the goods; and
 - (b) on the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package or container that the officer wishes to examine.
- (7) A person entering goods under this section may, in accordance with any conditions the Customs authority may impose —
 - (a) inspect the goods; or
 - (b) draw samples from the goods.
- (8) The importer shall, where for lack of sufficient documentary evidence or information he is unable to furnish full particulars of the imported goods to make a perfect entry, submit an entry by bill of sight and make and subscribe a declaration to that effect on the prescribed bill of sight entry and —
 - (a) where the information required to make perfect entry is obtainable by examination of the goods —
 - (i) the bill of sight shall be delivered to the proper Customs officer and upon being signed by him shall be the warrant for the examination of the goods by the importer in the presence of the proper Customs officer;
 - (ii) the importer shall endorse upon the bill of sight the details of his examination and shall, within three working days after the unloading of the goods from the means of transport or within such further period as the proper officer may permit, deliver to the proper officer a perfect entry of the goods together with the bill of sight and the goods shall be dealt with according to

- such perfect entry and may be delivered or warehoused as the case may be;
- (b) where the information required to make perfect entry is not obtainable by examination of the goods or any document necessary to make perfect entry is not immediately available, then —
- (i) the importer shall deliver the bill of sight to the proper Customs officer who may, in the case of goods entered for home consumption, require the owner to deposit, in addition to the amount estimated as the duty on such goods, such further sum as the proper officer may think fit and such estimated duty and further sum shall be held as a deposit;
 - (ii) the bill of sight shall be deemed to be a provisional entry and the goods relating thereto shall be dealt with according to such provisional entry and may be delivered or warehoused as the case may be;
 - (iii) where the goods are provisionally entered for home consumption, the deposit made in accordance with subparagraph (i) shall be forfeited unless the importer within 90 days of the date of the provisional entry, or within such further period as the Comptroller may allow, produces to the proper officer the information or the documents required to make a perfect entry in respect of the goods and makes such perfect entry;
 - (iv) where the importer makes perfect entry in accordance with the provisions of subparagraph (iii) —
 1. if the amount of the deposit is more than the full amount of the duty, the difference shall be refunded to the importer and the balance brought to account as duty;
 2. if the amount of the deposit is equal to or less than the full amount of the duty, the deposit shall be brought to account as duty and the difference, if any, shall thereupon be paid by the importer to the proper officer.
- (9) Notwithstanding subsection (2) —
- (a) goods which are the *bona fide* personal baggage of the passengers or the members of the crew of any aircraft or vessel may, subject to any regulations, be delivered to such person without entry;
 - (b) the Customs authority may permit the delivery to the importer of any bullion, currency, notes, coins or perishable or other goods imported without entry subject to such importer furnishing the necessary entry to the Customs authority within ten working days of the delivery;

- (c) and subject to section 338, mail bags containing postal articles and goods contained in postal articles in the course of transmission by post may be delivered to an officer of the Post Office without entry.
- (10) The surplus stores of any aircraft or vessel may, with the permission of the proper officer, be entered for home consumption or for warehousing provided that —
 - (a) if such stores are prohibited or restricted goods, they may only be entered for warehousing; and
 - (b) such stores shall not be further entered or removed from the warehouse otherwise than for exportation.
- (13) Duty shall become due and payable on goods and goods may be sold or otherwise disposed of by the Customs authority if —
 - (a) default is made in the entry of the goods pursuant to this section; or
 - (b) the goods are not claimed within such period as may be prescribed.

105. Regulations relating to the entry of goods for importation.

Pursuant to section 354, the Minister shall, for the purposes of this section, make regulations —

- (a) prescribing the conditions under which an entry is deemed to have been made;
- (b) prescribing the conditions under which an entry is deemed to have been passed;
- (b) exempting specified goods or goods of a specified class from the requirements of section 104(2), subject to such conditions as may be prescribed; and
- (c) prescribing goods or classes of goods that shall be deemed to have been entered under section 104(2) and the circumstances in which and the conditions subject to which those goods shall be so deemed.

106. Imported goods to be dealt with according to entry.

Goods in respect of which entry has been made and passed shall forthwith be dealt with in accordance with the entry and with the provisions of this Act in respect of the goods so entered.

107. Cancellation and amendments of goods declarations.

- (1) The Customs authority may allow the amendment of an entry received by the Customs authority for the purpose of correcting any entry or any part of an entry, as the case may be, unless —

- (a) the proper officer has informed the owner of the goods or its authorised agent of the decision of the Customs authority to examine the goods;
 - (b) a discrepancy existing in the terms of the declaration has been stated by the proper officer; or
 - (c) the delivery has been authorised by the proper officer.
- (2) The Customs authority may accept the cancellation of an entry for the purpose of preventing duplication of entries or if it is proven that the goods have been entered by mistake.
- (3) No cancellation or amendment of an entry by the Customs authority in accordance with subsections (1) and (2) shall affect any penalty, liability to seizure, or criminal liability, already accrued or incurred in respect of such entry by the person making it.
- (4) Subject to section 182, the Customs authority may make a refund of duty in accordance with any cancellation or amendment of an entry under this section.
- (5) A person who is dissatisfied with a decision of the Customs authority under subsection (4) may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

108. Means of transportation imported otherwise than as cargo.

- (1) Notwithstanding anything in this Act, such entries shall be made in respect of a means of transport imported into the Customs territory otherwise than as cargo as the Customs authority may from time to time determine in relation to any means of transport, or class of means of transport, by notice published in the *Gazette*.
- (2) A means of transport imported into the Customs territory otherwise than as cargo shall, for the purpose of making entries in respect of such import, be deemed to have been imported as cargo and unloaded as such on its arrival.

109. Samples and illustrations.

- (1) The importer of goods shall furnish free of charge such samples, illustrations, drawings, documents, or plans relating to the goods as may be required by a Customs officer for the purposes of analysis, classification, determination of origin, valuation or record.

- (2) Any sample required to be furnished in accordance with subsection (1) shall normally be as small as possible for the purpose for which it is taken.

DIVISION FOUR – TRANSPORTATION WITHIN THE CUSTOMS TERRITORY

110. Transportation of imported goods.

- (1) Except as otherwise permitted by the Customs authority, no goods subject to the control of the Customs authority shall be placed on or in a means of transport for transportation within the Customs territory until entry has been made in accordance with section 104 (2) and release has been granted by a proper officer.
- (2) The Comptroller may, pursuant to section 8, impose conditions and restrictions with respect to the movement of imported goods between the place of importation and a place, such as an inland clearance depot, designated by the Comptroller for the entry and clearance of such goods.
- (3) Any condition or restriction imposed under subsection (2) may —
 - (a) require the goods to be moved within such period and by such route as may be specified;
 - (b) require the goods to be carried in a vehicle or a container complying with regulations and secured in such a manner as may be specified; and
 - (c) prohibit, except in such circumstances as may be so specified, the unloading of the vehicle or the container or any interference with its security.

111. Removal of goods from Customs controlled area.

- (1) Goods that are subject to the control of the Customs authority shall not be delivered or removed from a Customs controlled area except —
 - (a) subject to subsection (3), with the permission of a Customs officer after entry has been made and passed in the prescribed form and manner;
 - (b) pursuant to a permit or other authorisation granted by the Customs authority in respect of those goods, subject to such conditions as the Customs authority may determine; or
 - (c) by a Customs officer in the performance of his duties under this Act.
- (2) The Customs authority may, in respect of a permit or other authorisation granted by the Customs authority under subsection (1)(b), by notice in writing —
 - (a) vary or revoke any conditions to which such permit is subject;
 - (b) revoke imposed conditions and impose new conditions; or

- (c) revoke the permit completely.
- (3) Notwithstanding subsection (1)(b), the Customs authority may revoke any notice of delivery given in respect of goods while such goods remain subject to the control of the Customs authority.
- (4) A person who is dissatisfied with a decision of the Customs authority under subsection (2) may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

112. Temporary removal of goods from Customs controlled area.

- (1) Subject to this Act, the Customs authority may permit goods to be temporarily removed from a Customs controlled area without payment of duty for such time and in such quantities as it may approve.
- (2) Goods removed pursuant to subsection (1) shall remain subject to the control of the Customs authority and shall be deemed to be within the Customs controlled area from which they were so removed and the provisions of this Act shall continue to apply to them accordingly.

DIVISION FIVE – EXPORTATION OF GOODS

113. Entry of goods for exportation.

- (1) Subject to any regulations made under section 114, goods that are exported or that are to be exported from the Customs territory shall be entered in writing by the owner of the goods or an authorised agent —
 - (a) in such form and manner including by electronic means into a computer or other device as may be prescribed; and
 - (b) within such time, as may be prescribed, or within such further time as the Comptroller may allow.
- (2) A person entering goods under this section shall —
 - (a) answer any question asked by a Customs officer with respect to the goods; and
 - (b) at the request of a Customs officer, present the goods to the officer, remove any covering from the goods, unload any conveyance or open any part of it, or open and unpack any package that the officer wishes to examine.
- (3) The making of an entry under this section, in the case of goods to be exported under drawback, shall be deemed to be the making of a claim for drawback.

- (4) No right to drawback shall exist, unless the Customs authority in any particular case otherwise determines, in the case of goods placed on or in a means of transport before entry has been made and passed.
- (5) Notwithstanding subsection (1), goods which are the *bona fide* personal baggage of the passengers or the members of the crew of an aircraft or vessel to be put on board the aircraft or the vessel may, subject to any regulations, be exported without entry.
- (6) Notwithstanding subsection (1) and subject to section 338, mail bags containing postal articles and goods contained in postal articles in the course of transmission by post may be put on board an aircraft or a vessel and exported without entry.
- (7) The Customs authority may allow the amendment of an entry it receives for the purpose of correcting any entry or any part of an entry, as the case may be, unless —
 - (a) the proper officer has informed the owner of the goods or its authorised agent of the decision of the Customs authority to examine the goods;
 - (b) a discrepancy existing in the terms of the declaration has been noted by the proper officer; or
 - (c) the goods have left the country.
- (8) The Customs authority may accept the cancellation of an entry for the purpose of preventing duplication of entries or if it is proven that the goods have been entered by mistake.
- (9) No cancellation or amendment of an entry by the Customs authority in accordance with subsections (7) and (8) shall affect any penalty, liability to seizure, or criminal liability, already accrued or incurred in respect of such entry by the person making it.
- (10) Subsections (3), (4) and (5) of section 104 shall apply to this section.

114. Regulations relating to the entry of goods for exportation.

Pursuant to section 354, the Minister shall, for the purposes of this section, make regulations —

- (a) prescribing the conditions under which an entry is deemed to have been made;
- (b) prescribing the conditions under which an entry is deemed to have been passed;
- (c) exempting specified goods or goods of a specified class from the requirements of section 113(1), subject to such conditions as may be prescribed;

- (d) prescribing goods or classes of goods that shall be deemed to have been entered under section 113(1) and the circumstances in which, and the conditions subject to which, those goods shall be so deemed.

115. Goods for exportation to be dealt with according to entry.

- (1) The person making the entry in the case of goods that have been entered for export shall forthwith export the goods to a point outside the Customs territory in accordance with the entry and the provisions of this Act.
- (2) Where goods entered for export are not exported according to the entry, the person making the entry shall immediately give notice to the Customs authority of the failure to export and the reasons for it and, in any such case, the Customs authority may —
 - (a) cancel or amend the entry; or
 - (b) allow the goods to be released from the control of the Customs authority.
- (3) Notwithstanding subsection (1), where the licence conditions of a Customs controlled area allow, an export entry may be made in the case of goods removed from that area for sales made for delivery to persons on their arrival in the Customs territory from a point outside the Customs territory.

116. Loading of goods for export.

- (1) Goods shall only be loaded on an aircraft or a vessel at a Customs place.
- (2) Except as otherwise permitted by the Customs authority, goods shall not be loaded for export until entry has been made and passed in the prescribed form and manner.
- (3) Subject to sections 89 and 90, no goods shall be put on board any vessel departing to a point outside of the Customs territory before entry outwards of such vessel.

117. Keeping goods in temporary storage facilities.

- (1) Goods that are to be exported may be deposited in an approved transit shed pending clearance.
- (2) Where goods deposited in an approved transit shed have not been entered within such time as may be prescribed, or within such further time as the Comptroller may allow, the goods may be taken to a Customs warehouse and shall be dealt with in accordance with section 200.

118. Goods for export not to be landed.

No goods loaded for export shall, without the permission of a Customs officer, be landed except at a point outside the Customs territory.

119. Time of exportation.

For the purposes of this Act, the time of exportation shall be the time when the exporting means of transport leaves the last Customs place at which that means of transport calls immediately before proceeding to a point outside the Customs territory.

DIVISION SIX – EXAMINATION AND VERIFICATION OF GOODS

120. Rules and conditions applying to the examination of goods.

- (1) The Customs authority may, for the purposes of this Act and any other legislation that it may apply, require, after goods have been entered, the examination of such goods or of any part of them.
- (2) An examination pursuant to subsection (1) shall take place at a Customs place during the working hours of the Customs Department or within such further time as may be allowed by the Comptroller.
- (3) The examination of goods may, in certain cases and subject to such conditions and restrictions as the proper officer may determine, take place at the premises of the importer or exporter, or at any other place the proper officer thinks fit.
- (4) The owner of the goods or his authorised agent shall be responsible for —
 - (a) the transportation of the goods to the place designated by the proper officer for the examination;
 - (b) the removal of any covering from the goods;
 - (c) the unloading of any conveyance or the opening of any part of it; and
 - (d) the opening and unpacking of any package that the officer wishes to examine.
- (5) All expenses and charges incurred for the operation of the examination shall be borne by the importer or the exporter, or the authorised agent, if any.
- (6) Goods shall be examined in the presence of the owner of the goods or the authorised agent, if any.
- (7) The Customs authority shall, where the owner of the goods or the authorised agent is not present to attend the examination of the goods, give notice in writing of the intention of the Customs authority to

commence the examination of the goods to the owner of the goods or the authorised agent.

- (8) The Customs authority may, where no response to a notice under subsection (7) is given to the Customs authority within seven hours, ask a Magistrate to designate a person to represent the defaulting owner of the goods and attend the examination.

121. Settlement of disputes arising from the examination of goods and concerning classification, origin and valuation.

- (1) The owner or authorised agent may, within fifteen working days after the proper officer's determination, refer the matter to the Comptroller for a redetermination under Division Two of Part XXIV where —
 - (a) the proper officer, at the time of the examination of the goods, revises the terms of the entry relating to the tariff classification, origin or valuation of the goods; and
 - (b) the owner of the goods or his authorised agent, as the case may be, disagrees with the proper officer's determination.
- (2) The Comptroller shall in the case of a referral under subsection (1) promptly review the matter and issue a redetermination.
- (3) The owner or his authorised agent may, if dissatisfied with the Comptroller's redetermination under subsection (2), appeal within fifteen working days of the redetermination to the Customs Appeal Commission under Division Three of Part XXIV.
- (4) No application for redetermination may be made to the Comptroller in respect of an advance binding ruling made pursuant to section 221.

122. Application of the results of the examination of goods.

- (1) Duties, taxes, or other Customs measures imposed under this Act or other Customs legislation shall be applied on the basis of —
 - (a) a determination of the proper officer following examination of goods; and
 - (b) any revision or other modification pursuant to an appeal of such determination by —
 - (i) the Comptroller,
 - (ii) the Customs Appeal Commission; or
 - (iii) the Court.
- (2) Customs measures under this Act shall, where the Customs authority does not require or waives its right to the examination of the goods entered, be applied to the goods on the basis of the terms of the entry as declared by the owner or its authorised representative.

DIVISION SEVEN – CUSTOMS SEALS

123. Customs seals to be applied to goods for exportation.

- (1) A Customs officer may, pursuant to this section, apply or reapply Customs seals to packages of goods to be exported.
- (2) The Customs seal shall be applied incidental to, and immediately after, the exercise by any officer of a power under this Act to examine or search for goods of any kind.

124. Conditions applying to sealed goods.

- (1) Sealed goods are, from the time when a Customs seal is applied to the package until the exportation of the goods to a point outside the Customs territory, subject to the control of the Customs authority.
- (2) No person, with the exception of a Customs officer, may alter, remove, damage, dispose of, or otherwise interfere with a Customs seal applied to a package of goods.

DIVISION EIGHT – CUSTOMS-APPROVED SECURE EXPORTS SCHEMES

125. Comptroller may approve secure exports scheme.

- (1) The Comptroller may, on an application in writing to the Comptroller by a person responsible for the carriage, handling, transportation, or exportation of goods for export, approve such person as a secure exporter under a Customs-approved secure exports scheme that conforms to section 127.
- (2) The Comptroller shall notify an applicant promptly in writing of his decision relative to an application made under subsection (1).
- (3) The Comptroller may grant an approval under subsection (1) subject to such conditions as the Comptroller may specify and such approval shall take effect either on the day after the date on which it is granted or on a later date specified in the approval.
- (4) The Comptroller may revoke or amend an approval granted under this section by notice in writing to the relevant exporter and such notice shall specify the date on or after which the revocation takes effect or any conditions to which the amendment of the approval is subject.
- (5) Subsections (1) to (4) shall apply, *mutatis mutandis*, to an application for an amendment to a secure exports scheme.
- (6) A secure exporter may apply to the Comptroller for revocation of an approval of a secure exports scheme provided that all goods already subject to the scheme shall have been exported before the revocation takes effect.

- (7) An applicant who is dissatisfied with a decision of the Comptroller under this section may, within fourteen working days after the date on which notice of the decision is given, appeal to the Customs Appeal Commission under Division Three of Part XXIV.

126. Purpose of secure exports scheme.

The purpose of a secure exports scheme shall be to help to ensure that goods to be exported under the scheme are —

- (a) packaged securely and with no other goods; and
- (b) conveyed securely and without interference to the place of shipment and shipped.

127. Matters to be specified in secure exports scheme.

- (1) A secure exports scheme shall specify how the goods to be exported under the scheme are to be packed, including —
- (a) the secure package to be used;
 - (b) the seal or markings to be applied to the package as soon as it is secured to —
 - (i) show that, when it was secured, the package solely contained such goods secured in an approved way; and
 - (ii) help identify tampering or interference with the package after it is secured.
- (2) A secure exports scheme shall specify any conditions required by the Comptroller as to —
- (a) the persons who are to pack the goods and the security checks to be applied to such persons;
 - (b) the conditions in which packing is to occur, including the area or areas in which packing is to occur, and the controls on the entry and exit of persons and goods to such area or areas;
 - (c) any other requirements relating to how the goods are to be packed.
- (3) A secure exports scheme shall further specify how, on completion of the packing of the goods, the goods are to be conveyed to the place of shipment and shipped, including any conditions required by the Customs authority as to —
- (a) persons who are to convey the goods and the security checks to be applied to those persons;
 - (b) the manner in which the goods are to be conveyed; or
 - (c) any place or places 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 and shipped.

128. Acknowledgements required in secure exports scheme.

A secure exports scheme shall include express acknowledgements by the secure exporter concerned that —

- (a) the goods to be exported under the scheme are, from the time when first secured in a Customs-approved secure package until exportation of the goods to a point outside the Customs territory, subject to the control of the Customs authority;
- (b) the powers of detention and search under section 29(4) may be exercised in respect of a means of transport in the Customs territory if there are suspected to be, in or on the means of transport, secure goods subject to this Division;
- (c) a Customs officer may, under section 32(2), question about any cargo destined to be exported from the Customs territory any or all of the following persons —
 - (i) a person who is the owner or operator of a means of transport that a Customs officer has reasonable cause to suspect has in or on it, or has within the previous 72 hours had in or on it, secure goods subject to this Division in a Customs-approved secure package;
 - (ii) a person who is the owner or occupier of premises that a Customs officer has reasonable cause to suspect have in or on them, or have within the previous 72 hours had in or on them, secure goods subject to this Division in a Customs-approved secure package; or
 - (iii) a person employed by a person described in sub-paragraph (i) or (ii) of paragraph (c); and
- (d) the powers in section 38(7) may be exercised in respect of goods that are, or are suspected to be, secure goods subject to this Division in a Customs-approved secure package.

129. Goods to be exported under secure exports scheme may be exported under drawback.

- (1) Goods to be exported under a secure exports scheme may be exported under drawback.
- (2) All conditions as may be prescribed for allowing drawback of duty shall, where goods to be exported under a secure exports scheme are exported under drawback, be satisfied even though satisfying such conditions may involve conveying or handling or storing the goods in a way not specified in the scheme.

130. Application of Customs seals to goods to be exported under secure exports scheme.

- (1) Nothing in this Act prevents a Customs seal from being applied to a Customs-approved secure package after an approved seal or markings of the kind referred to in section 127(1)(b) have been applied to the package in accordance with the relevant secure exports scheme.
- (2) The application of a Customs seal to a Customs-approved secure package shall not affect in any way the validity of obligations applying to goods to be exported under a secure exports scheme.

131. Review of secure exports scheme.

The Customs authority may, at any time, review the operation of any Customs-approved secure exports scheme.

DIVISION NINE – GOODS FOR TRANSSHIPMENT

132. Transshipment.

- (1) Subject to this Act, and to the furnishing of such security as the proper officer may require, goods may be transshipped from the means of transport in which they are imported, either —
 - (a) directly to the aircraft or vessel in which they are to be exported; or
 - (b) with the permission of the proper officer and subject to such conditions as he may impose, to another aircraft or vessel and thereafter to the means of transport in which such goods are to be exported.
- (2) No security shall be required in respect of the transshipment of any goods from the Freeport Container Port, appointed as a port under section 6 of the Old Act, and situated on the island of Grand Bahama.

PART VIII – COASTING TRADE

133. Definition of coasting trade.

- (1) Subject to this Part —
 - (a) the carriage of goods by sea or by air from one part of the Customs territory to another part of the Customs territory shall be deemed to be coasting trade;
 - (b) any vessel or aircraft whilst employed in coasting trade shall be deemed to be a coasting vessel or coasting aircraft; and

- (c) any voyage by a vessel or an aircraft, whether laden or in ballast, from one part of the Customs territory to another part of the Customs territory shall be deemed to be a coastwise voyage.
- (2) The Comptroller may, if any doubt arises as to what constitutes a carriage by sea, prescribe in what cases the trade by water from one place in the Customs territory to another in the Customs territory shall be deemed a carriage by sea within the meaning of any Customs enactment.
- (3) Goods shall not be carried in a coasting vessel or aircraft except such as shall be loaded to be carried coastwise at some port or place in the Customs territory.

134. Provisions relating to vessels and aircraft from places outside the Customs territory.

- (1) Notwithstanding any provision in any Customs enactment to the contrary, the proper officer may permit a vessel or aircraft to convey goods from any Customs place at which the vessel or aircraft partially discharges its cargo, or loads cargo for a foreign place, to its place or places of destination within the Customs territory without being deemed a coasting vessel or aircraft where —
 - (a) the vessel or aircraft arrives in the Customs territory from a place outside the Customs territory having on board cargo intended to be delivered at more than one Customs place in the Customs territory; or
 - (b) the vessel or aircraft arrives in the Customs territory from a place outside the Customs territory intending to load cargo for a foreign place at more than one Customs place in Customs territory.
- (2) Goods referred to in subsection (1) shall be completely separated from the inward cargo still on board, to the satisfaction of the proper officer.
- (3) A vessel or an aircraft engaged in conveying goods only from one Customs controlled area within the Customs territory to another Customs controlled area within the Customs territory shall not, by reason thereof, be deemed a coasting vessel or coasting aircraft within the meaning of section 133.

135. Limits on coasting trade.

- (1) Subject to subsection (2), goods not yet entered for importation, and goods for exportation, shall not be carried by way of coasting trade in any vessel or aircraft used for that purpose.
- (2) The Comptroller may, subject to such conditions and restrictions as he thinks fit, permit —

- (a) a coasting vessel or aircraft to carry goods by way of coasting trade notwithstanding that the vessel or aircraft is also carrying goods brought in it from a place outside the Customs territory and not yet entered in the Customs territory without being treated as a coasting vessel or a coasting aircraft;
- (b) goods brought by another vessel or aircraft to a place in the Customs territory from a place outside the Customs territory that are consigned to and intended to be delivered to another place in the Customs territory to be transferred before entry of the goods has been made to a coasting vessel or a coasting aircraft for carriage by way of coasting trade to that other place; or
- (c) a vessel or aircraft that has begun to load goods for exportation or for use as stores on a voyage to a destination outside the Customs territory to carry goods by way of coasting trade until that loading has been completed.

136. Clearance of coasting vessels and aircraft.

- (1) Subject to this section and unless the Comptroller otherwise permits, the person in charge or the owner of the means of transport, as the case may be, shall not cause a coasting vessel or coasting aircraft to depart from a Customs place in the Customs territory before the person in charge or the owner of the means of transport, as the case may be, has submitted to the proper officer a declaration giving an account of the goods carried in that vessel or aircraft.
- (2) The declaration under subsection (1) shall be in such form and manner and containing such particulars as the Comptroller may direct and, when signed by the proper officer, shall serve as the clearance of that vessel or aircraft.
- (3) The master or commander of a vessel or aircraft shall, where no Customs officer is stationed at the place where a declaration is required to be produced under sub-section (1), consult a Police officer stationed at that place.
- (4) The Comptroller may, on the application of the person in charge or the owner of the means of transport, as the case may be, and subject to such conditions and restrictions as he thinks fit to impose, grant a general clearance for a coasting vessel or aircraft and any goods carried in it.
- (5) The Comptroller may, by notice in writing delivered to the person in charge or the owner of the means of transport, as the case may be, or to any member of the crew on board the vessel or aircraft, revoke at any time a general clearance granted under subsection (4).

137. Coastwise passengers.

The carriage of passengers, officers, and crew coastwise, whether or not in a coasting vessel or aircraft, shall be subject to the prescribed regulations.

138. Cargo book.

- (1) The master of a coasting vessel, and the commander of a coasting aircraft, shall keep a cargo book in such form and manner and containing such particulars as may be prescribed.
- (2) The master of a coasting vessel, or the commander of a coasting aircraft, shall upon a demand made by the proper officer produce the cargo book of that vessel or aircraft for inspection.
- (3) Subject to subsection (4), the person in charge or the owner of the means of transport, as the case may be, shall —
 - (a) where goods have been loaded onto or unloaded from a coasting vessel or a coasting aircraft at a place in the Customs territory, produce to the proper officer, before such vessel or aircraft departs from that place, the cargo book of such vessel or aircraft;
 - (b) where a coasting vessel or a coasting aircraft arrives at a place in the Customs territory where goods are to be unloaded, produce to the proper officer, before any goods are unloaded, the cargo book of such vessel or aircraft.
- (4) A vessel or aircraft may, where no Customs officer is stationed at a place referred to in sub-section (3), depart from that place, or unload, and the cargo book shall be produced to a proper officer at the first place the vessel or aircraft arrives at where a Customs officer is stationed.

139. Examination of goods in coasting vessels.

- (1) The proper officer may examine goods carried or to be carried in a coasting vessel —
 - (a) at any time while they are on board the vessel; or
 - (b) at any place in the Customs territory where the goods have been brought for shipment in a coasting vessel or unloaded from a coasting vessel.
- (2) For purposes of subsection (1), a proper officer may require any container to be opened or unpacked by or at the expense of the owner of the goods.
- (3) The proper officer may —
 - (a) board and search a coasting vessel at any time during its voyage; and

- (b) at any time require any document that should properly be on board a coasting vessel to be produced or brought to the proper officer for examination.

PART IX – GOODS FOR PERSONAL USE

140. Exemption from Customs duties of goods imported for personal use.

- (1) Goods may, subject to any regulations, be imported in the Customs territory exempt of duties and taxes where —
 - (a) they are contained in the personal baggage of the passengers, or members of the crew, of any aircraft or vessel arriving from a point outside of the Customs territory;
 - (b) they are of a non-commercial nature within the limits of the duty-free allowance; and
 - (c) there are no material indications to suggest the goods are part of commercial traffic.
- (2) Goods which are the *bona fide* belongings of the passengers, or members of the crew, of any aircraft or vessel arriving from a point outside of the Customs territory may, subject to any regulations, be imported in the Customs territory exempt of duties and taxes.
- (3) Subsections (1) and (2) do not apply to any goods the importation of which is prohibited under the provision of any law for the time being in force in The Bahamas.

141. Exemption from duties and taxes of goods exported for personal use.

- (1) Goods may, subject to any regulations, be exported from the Customs territory exempt of duties and taxes where —
 - (a) they are contained in the personal baggage of the passengers, or members of the crew, of any aircraft or vessel departing from the Customs territory to a point outside of the Customs territory;
 - (b) they are of a non-commercial nature within the limits of the duty-free allowance; and
 - (c) there are no material indications to suggest the goods are part of commercial traffic.
- (2) Goods which are the *bona fide* belongings of the passengers, or members of the crew, of any aircraft or vessel departing from the Customs territory

to a point outside of the Customs territory may, subject to any regulations, be exported from the Customs territory exempt of duties and taxes.

- (3) Subsections (1) and (2) do not apply to any goods the exportation of which is prohibited under the provision of any law for the time being in force in The Bahamas.

PART X – CONDITIONS FOR THE APPLICATION OF THE TARIFF ACT

DIVISION ONE – GENERAL PROVISIONS

142. Application of Tariff Act.

- (1) The Tariff Act (*Ch. 295*) shall apply to goods imported in the Customs territory or exported from the Customs territory.
- (2) Where the Minister determines that imported goods, benefiting from preferential tariff provisions contained in international trade agreements which The Bahamas has concluded with countries or groups of countries and territories, are being imported in such increased quantities and under such conditions as to cause or threaten to cause —
 - (a) serious injury to the industry of The Bahamas producing like or directly competitive products in the territory of The Bahamas;
 - (b) disturbances in a sector of the economy, particularly where these disturbances produce major social problems, or difficulties which could bring about serious deterioration in the economic situation of The Bahamas; or
 - (c) disturbances in the markets of like or directly competitive agricultural products,

he may, by Order published in the Gazette and pursuant to any legislation for the time being in force in relation to safeguard measures, impose safeguard measures of limited duration, solely to counteract the effects of the injurious imports, in the form of increased tariff rates or tariff rate quotas on those imports which in his determination has resulted in an injury referred to in paragraph (a), (b) or (c).

- (3) For the purposes of this section, the Minister shall make regulations pursuant to section 348 to determine the necessary factors that shall be present in order for an injury determination to be made together with other considerations consistent with the international trade obligations of The Bahamas that may be taken into account in arriving at such determination and the procedures to be followed in arriving at such determinations.

143. Application of Tariff Act to goods as presented.

Imported or exported goods shall be subject to the Tariff Act (*Ch. 295*) as they are presented at the time of their importation in the Customs territory or their exportation from the Customs territory.

DIVISION TWO – TARIFF CLASSIFICATION OF GOODS

144. Use of the Harmonised System.

The tariff classification of goods, or classes of goods, shall be effected on the basis of the descriptions and coding elements given in by the Harmonised System.

145. Appeals of classification decisions.

Disputes concerning tariff classification of goods may, within fifteen working days after the date on which notice of the decision is given, be appealed to the Comptroller under Division Two of Part XXIV and, if the appellant is dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given be appealed to the Customs Appeal Commission under Division Three of Part XXIV.

DIVISION THREE – VALUATION OF GOODS

146. Declarant to specify Customs value on goods declaration.

- (1) Every person who makes an entry of goods shall, on making the entry, specify in the prescribed form and manner the customs value of the goods, determined in accordance with the Third Schedule.
- (2) Every importer or exporter, or authorised agent of an importer or exporter, who makes a determination of customs value of goods pursuant to subsection (1) shall —
 - (a) keep the documents, records, and information in respect of that entry in such manner and for such period as is required by section 70 and any regulations made for the purposes of that section; and
 - (b) when required by the Customs authority, produce those documents, records, and information for the purpose of establishing the accuracy of the customs value.

147. Amendment of customs value.

- (1) The Customs authority may amend a customs value, and such amended customs value shall be the Customs value for the purposes of this Act, if the Customs authority is satisfied, whether as the result of an investigation or an audit or examination carried out by the Customs authority or for any

- other reason, that a determination of customs value made under section 146(1) in respect of goods is —
- (a) inconsistent with the Third Schedule; or
 - (b) for any other reason, incorrect.
- (2) Notice in writing shall be given to the declarant of —
- (a) an amended customs value made pursuant to clause (1); and
 - (b) the basis for the amended customs value and, where applicable, the provisions of the Third Schedule that are relevant to the amended customs value.
- (3) Subsection (1) applies whether or not the goods have been released from the control of the Customs authority or whether or not any duty assessed has been paid.
- (4) An importer or exporter who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

148. Implementing provisions.

The Customs authority may adopt measures laying down the rules for the determination of the Customs value in specific cases and with regard to goods for which a Customs debt is incurred after the use of a special procedure.

149. Foreign currency.

- (1) Where an amount that is required under this Act to be taken into account for the purpose of assessing duty or for any other purpose is not an amount in Bahamian currency, the amount to be so taken into account shall be the equivalent amount in Bahamian currency in accordance with a fair rate of exchange determined and notified by the Customs authority by such method as may be prescribed.
- (2) Where an amount is required to be converted into Bahamian currency pursuant to subsection (1), that amount shall be converted —
- (a) in the case of goods in respect of which a goods declaration has been made, at the rate applying as at the date of the making of the first goods declaration, not being a goods declaration for removal, for those goods:
 - (b) in the case of other goods, at the rate applying as at the date of the first determination of customs value of Customs duty of those goods.

DIVISION FOUR – ORIGIN AND PREFERENTIAL TARIFF PROVISIONS

150. Rules for the determination of Origin.

- (1) For the purpose of determining the origin of goods and unless otherwise stated, the following criteria shall apply —
 - (a) goods originating in a country shall be those wholly obtained or produced in that country;
 - (b) goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified, processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.
- (2) The Minister shall, pursuant to section 354, make regulations for the uniform interpretation, application and administration of rules to govern the determination of whether goods originate in non-preferential Customs territories, and of other countries entitled to most-favoured nation status in The Bahamas, for the purposes of applying —
 - (a) the Tariff Act (*Ch. 295*), with the exception of —
 - (i) preferential tariff measures contained in agreements which The Bahamas has concluded with certain countries or territories or groups of such countries or territories; and
 - (ii) preferential tariff measures adopted unilaterally by The Bahamas in respect of certain countries or territories or groups of such countries or territories;
 - (b) measures, other than tariff measures, established by The Bahamas and governing specific fields relating to trade in goods; and
 - (c) other legislation in force in The Bahamas relating to the origin of goods.
- (3) The Minister shall, in the case of goods eligible to benefit from preferential measures adopted unilaterally by The Bahamas in respect of certain countries or territories or groups of such countries or territories, make regulations pursuant to section 354 setting out the rules on preferential origin applying to these countries or territories or groups of countries or territories.
- (4) Regulations under subsection (3) respecting the determination of the origin of goods shall provide for a determination subject to such conditions as may be specified of whether goods, the whole or a portion of which are produced outside a country or a territory, originate or do not originate, as the case may be, in that country or territory for the purposes of this Act and any regulations.

- (5) The rules governing the determination of origin shall, in the case of goods eligible to benefit from preferential tariff measures contained in international trade agreements which The Bahamas has concluded with countries or territories, or groups of such countries or territories, pursuant to Article XXIV of the GATT 1994, be those set out in the Fourth Schedule.
- (6) The Customs authority may, where a place of origin has been indicated in the entry pursuant to the rules in subsections (3) or (5), require the importer to provide proof of origin for the imported goods.
- (7) The Customs authority may, where proof of origin of goods is provided pursuant to this Act or other Customs legislation, require in the event of reasonable doubt such additional evidence as it determines is necessary in order to ensure that the determination of origin complies with the rules laid down in this Act and other Customs legislation.

151. Conditions precedent to entry of goods at preferential rates of duty.

- (1) Goods shall, in order to benefit from the preferential duty measures referred to in section 150(4), comply with the rules laid down in the regulations prescribed by the Minister pursuant to section 354.
- (2) Goods shall, in order to benefit from the preferential tariff measures referred to in section 150(5), comply with the rules on preferential origin as laid down in the Fourth Schedule.
- (3) The Customs authority may, where it is claimed in respect of any goods that they are entitled under this Act or any other legislation or international trade agreement to be entered at a preferential rate of duty, require the claim to be verified at the time of entry or at any subsequent time, including any time after the goods have ceased to be subject to the control of the Customs authority.
- (4) Goods in respect of which a claim for preferential treatment has been made shall not be entered for such treatment where —
 - (a) the Customs authority requires the claim for preferential treatment to be verified at the time of entry of the goods; and
 - (b) the claim is not verified to the satisfaction of the Customs authority at such time.

152. Unsubstantiated and incorrect preference claims.

- (1) If the Customs authority determines, whether as the results of an investigation pursuant to section 42 or an audit or examination pursuant to section 46, or for any other reason, that the country of which the goods are the produce or the manufacture cannot be ascertained because no evidence can be provided by the importer, or the available evidence is inconclusive

as to that country, the goods shall be deemed, for the purpose of this Act or any other law, to be subject to the normal rates of duty set out in the Tariff Act.

- (2) The Customs authority shall, if a claim for preferential treatment is denied, issue a written decision to this effect to the importer.
- (3) An importer who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

153. Cooperation in Customs authorities (international administrative assistance).

- (1) The Customs authority shall, for the purpose of the proper application of the rules of origin provisions set out in the Fourth Schedule, assist the Customs authorities of other Economic Partnership Agreement signatories in verifying the authenticity and accuracy of information in movement certificates, invoice declarations or supplier's declarations filed by economic operators.
- (2) The assistance to be provided pursuant to subsection (1) shall be provided by the Customs authority in conformity with the Fourth Schedule and the Customs authority may enter into such agreements with foreign Customs authorities as may be necessary in the areas of administrative cooperation and mutual assistance.
- (3) The Customs authority shall, upon request of a foreign Customs authority, furnish to the foreign Customs authority such relevant information as it is able to obtain concerning the conditions under which goods that are the object of the request have been produced or manufactured and the observance of applicable rules of origin within the Customs territory.
- (4) The Customs authority shall, when assisting a foreign Customs authority under this section, have the power to request any evidence and carry out any examination of the exporter's records or other documents or records it considers appropriate and necessary.

PART XI – DUTIES

DIVISION ONE – ASSESSMENT AND RECOVERY OF DUTY

154. Duty on imported goods a Crown debt.

- (1) The duty on all goods imported or exported constitutes, immediately on importation or exportation of the goods, a Customs debt which is a debt due to the Crown.
- (2) Duty under subsection (1) shall be owed by the importer or exporter of the goods and, if more than one, whether at or at any time after the time of importation or exportation, then jointly and severally by all of them.
- (3) Subject to this Act, a Customs debt becomes due and payable when —
 - (a) goods have been entered in accordance with section 104 and the entry has been passed for home consumption;
 - (b) goods have been entered in accordance with section 113 and the entry has been passed;
 - (c) goods have been wrongfully landed or otherwise dealt with without having been entered pursuant to section 104 or section 113; or
 - (d) an offence has been committed against this Act and regulations in respect of such goods.
- (4) A Customs debt is recoverable by action at the suit of the Customs authority on behalf of the Crown.
- (5) The right to recover duty as a debt due to the Crown is not affected by the fact that —
 - (a) the goods have ceased to be subject to the control of the Customs authority;
 - (b) a bond or other security has been given for the payment of duty; or
 - (c) no proper assessment of duty has been made under this Act or that a deficient assessment of duty has been made.
- (6) The Customs authority may, subject to such terms and conditions as it may impose, approve the deferral by any person, organization, class of persons, or class of organizations, of the payment of duty due under this section and, for that purpose, may determine a duty accounting period, and may suspend or withdraw that approval, or vary any term or condition under which the approval is given, or vary the duty accounting period.
- (7) Where the Customs authority makes a decision under subsection (6), the persons or class of persons affected shall be advised of the decision by notice in writing.

- (8) All goods specified in the inward report of any means of transport shall be presumed to have been imported, unless the contrary is proven.
- (9) All goods specified in the outward report of any means of transport shall be presumed to have been exported, unless the contrary is proven.
- (10) A person who is dissatisfied with a decision of the Customs authority under subsection (6) may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.
- (11) The minimum amount of duty payable on goods shall be five Bahamian Dollars and any duty below the prescribed amount shall not be collected.
- (12) Goods liable to import duty —
 - (a) which have been imported or taken out of bond free of import duty, or at a reduced rate of import duty, in accordance with any Customs law; and
 - (b) which have been subsequently disposed of or treated in any manner inconsistent with the conditions on or purposes for which they were granted relief from import duty,
 shall, unless the Minister otherwise directs, be liable upon such disposal or treatment as described in paragraph (b) to import duty at the full rate applicable to goods of that class or description at the time of such disposal or treatment.
- (13) The person responsible for their disposal shall, where it is proposed to dispose of goods to which subsection (12) applies, furnish the Comptroller with the particulars of the proposed disposal and, unless the Minister otherwise directs, cause the import duty on the goods to be paid.
- (14) Goods to which subsection (12) applies shall, where such goods are disposed of or dealt with without payment of import duty to which they are liable, be liable to forfeiture.
- (15) A person who knowingly disposes of or acquires any goods to which subsection (12) applies without payment of the import duty to which such goods are liable commits an offence.

155. Additional duty imposed.

- (1) Where any duty, the payment of which has been deferred in accordance with section 154(6), remains unpaid by the due date for payment, there shall be imposed an additional duty of Prime Rate of the amount of duty unpaid by the due date.

- (2) Notwithstanding subsection (1), the Customs authority may, in its sole discretion, remit or refund the whole or any part of any additional duty imposed by that subsection.
- (3) Where, for any reason, the amount of duty in respect of which additional duty has been imposed under subsection (1) is amended, the additional duty shall, where necessary, be adjusted accordingly.
- (4) A person liable for the payment of duty who is dissatisfied with a decision of the Customs authority under subsection (2) may, within fifteen working days after notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

156. Rate of duty.

- (1) Import duty shall, unless otherwise provided under this Act, be payable on goods at the rate specified in the Tariff Act (*Ch. 295*) and in any other law enacted in respect of import duties and with respect to goods of that class or description.
- (2) Subject to the Customs laws, export duty shall be paid on goods at the rate specified in any law enacted in respect of export duties and with respect to goods of that class or description.
- (3) The person making an entry of goods shall, upon making the entry, specify the rate of duty applicable to the goods.
- (4) The import duty applicable to imported goods shall, where in accordance with section 96 such goods are entered before the arrival at the place of discharge in the Customs territory of the means of transport in which such goods are imported, be paid at the rate in force at the time of the arrival of the means of transport at the place of discharge.

157. Assessment of duty.

- (1) An entry for goods made under this Act shall be deemed to be an assessment by the importer, exporter, or licensee, as the case may be, of the duty payable in respect of such goods.
- (2) The Customs authority may, if it has reasonable cause to suspect that duty is payable on goods by a person who has not made an entry in respect of such goods, assess the duty at such amount as the Customs authority thinks proper.
- (3) The person liable for the payment of the duty shall be advised of an assessment pursuant to subsection (2) by notice in writing.

- (4) A person liable for the payment of the duty who is dissatisfied with a decision of the Customs authority under section (2) may, within fifteen working days after notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

158. Amendment of assessment.

- (1) Subject to section 164, the Customs authority may from time to time make such amendments to an assessment of duty as it thinks necessary in order to ensure the correctness of the assessment even though the goods to which the duty relates are no longer subject to the control of the Customs authority or the duty originally assessed has been paid.
- (2) The Customs authority shall, where an amendment under subsection (1) has the effect of imposing a fresh liability or altering an existing liability, give notice of the amendment to the person liable for the duty.
- (3) A person liable for the duty who is dissatisfied with a decision of the Customs authority under this section may within fifteen working days after notice of the decision is given appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

159. Due date for payment of duty.

- (1) Unless otherwise specified in this Act, the due date for the payment of duty assessed under section 157(2), or reassessed under section 158, or demanded under section 170 or section 171, shall be the date that is thirty working days after the date on which written notice of the assessment or amended assessment or demand, as the case may be, is given by the Customs authority.
- (2) Where all or part of any duty remains unpaid by the due date, the amount outstanding shall be deemed to have been increased by an amount calculated in accordance with section 155(1).

160. Assessment presumed to be correct.

- (1) Every assessment made by the Customs authority under this Act, including an assessment made by way of amendment, shall be taken to be correct and duty shall be payable accordingly unless on an appeal a different amount is determined to be the duty payable on the goods or it is determined that no duty is payable.

- (2) Notwithstanding anything in this Act, the Customs authority may, where an appeal has been lodged under Parts X or XI, and subject to receiving such security as it thinks sufficient to cover the full amount of duty, release the goods from the control of the Customs authority.

161. Payment of duty.

Duties may be paid by such means of payment as the Minister shall prescribe by Order.

162. Goods remaining on board and exported.

Subject to this Act and any other Customs laws, goods remaining on board and exported in the aircraft or vessel in which they were imported, whether as stores or otherwise, shall be exempt from liability to import or export duties.

163. Goods entered in bond for transshipment, export or stores.

Subject to this Act and any other Customs laws, goods shall be exempt from liability to import duties where such goods —

- (a) are goods entered under bond for transshipment or warehoused goods entered for exportation or for use as stores for any aircraft or vessel; and
- (b) have been proved, to the satisfaction of the Comptroller, to have been shipped, exported or taken into use as stores, as the case may be.

164. Goods arriving otherwise than cargo, stores or baggage.

Goods brought or coming into The Bahamas, otherwise than as cargo, stores or baggage carried in an aircraft or vessel, shall —

- (a) be liable to duty and to the Customs laws as if they were goods imported in the normal manner; and
- (b) if the country of origin of the goods is in question, be deemed to originate from such country as the Comptroller may on investigation determine.

165. Obligation to pay duty not suspended by appeal.

- (1) Subject to subsection (3), the obligation to pay and the right to receive and recover duty under this Act are not suspended by any appeal or legal proceedings.
- (2) Subject to subsection (3), if the appellant is successful in the appeal or the proceedings, the amount, if any, of the duty or any security received by the Customs authority in excess of the amount that, in accordance with the decision on the appeal or the proceedings, was properly payable shall

forthwith be refunded to the appellant by the Customs authority, or as the case may be, the appellant shall be released from the conditions of the security imposed under section 339.

- (3) Any obligation on the Customs authority under subsection (2) shall be suspended pending the outcome of any appeal filed by the Customs authority under this Act or any other Act against the decision requiring the duty to be refunded.

166. Customs authority to pay interest on duty refunded on appeal.

- (1) Subject to subsection (5), the Customs authority shall, where duty is required to be refunded in accordance with section 162 (2), pay interest calculated in accordance with subsection (2).
- (2) Interest payable in accordance with this section shall be calculated by reference to qualifying periods consisting of twelve consecutive months from the 1st day of month in any year until the 31st day of month in the following year and shall be the sum of the amounts of interest payable in respect of each applicable qualifying period, the amount of interest in respect of an applicable qualifying period being determined in accordance with the formula $\frac{(X) \times (Y) \times (Z)}{365}$ where —

365

- (a) X is the number of days in the period that commences on the later of the day on which the relevant duty is lodged to the credit of the Customs authority and ends on the earlier of the day on which the relevant duty is refunded by the Customs authority in accordance with this article;
 - (b) Y is the amount of any duty being the relevant duty, which, having been paid in accordance with section 160(1), is caused to be refunded in accordance with the outcome of a successful appeal; and
 - (c) Z is the specified rate of interest as determined in accordance with subsection (3).
- (3) The Prime Rate per annum that is to apply for the purposes of this section shall be the rate fixed by the Minister by Order published in the Gazette.
 - (4) The Customs authority may, if satisfied that the amount of any interest paid to an appellant in accordance with subsection (2) is in excess of the proper amount, recover the amount of the excess in accordance with the provisions of section 182 as if that amount was money refunded by the Customs authority in error.
 - (5) Any obligation on the Customs authority under this section shall be suspended pending any appeal by the Customs authority under this Act or any other Act in respect of the decision requiring duty to be refunded.

167. Limitation of time for amendment of assessments.

The Customs authority shall not, where an assessment of duty has been made under this Act, alter that assessment so as to increase the amount of the assessment after the expiration of three years from the date on which the original assessment was made.

168. Meaning of “related”.

For the purposes of section 166, one person is related to another person —

- (a) where that person is connected to the other person by blood relationship, marriage or adoption, or where the person is a trustee for the other person, and for the purposes of this paragraph —
 - (i) persons are connected by blood relationship if within the fourth degree of relationships;
 - (ii) persons are connected by marriage if one is married to the other or to a person who is connected by blood relationship to the other, or if one has a relationship in the nature of marriage with the other or with a person who is connected by blood relationship to the other; and
 - (iii) persons are connected by adoption if one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.
- (b) if the other person is a company, where the person is a director or officer of the other person, or is related within the meaning of paragraph (a) to a director or officer of the other person, or is directly or indirectly able to exercise control over the affairs of the other person;
- (c) if the person is a company, where the other person is a director or officer of the person, or is related within the meaning of paragraph (a), to a director or officer of the person, or is directly or indirectly able to exercise control over the affairs of the person; or
- (d) if the person and the other person are companies —
 - (i) where the person is a holding company or a subsidiary, as the case may be, of the other person within the meaning of the Companies Act (*Ch. 308*);
 - (ii) where the person owns or controls shares that in aggregate carry the right to exercise or control the exercise of twenty percent or more of the voting power at meetings of the other person, or, the other person owns or controls shares that in aggregate carry the right to exercise or control the exercise of twenty percent or more of the voting power at meetings of the person; or

- (iii) where the person and the other person have the same holding company within the meaning of the Companies Act (*Ch. 308*) or a third person owns or controls shares in each of them that carry the right to exercise or control the exercise of twenty percent or more of the voting power at meetings of each of them.

169. Duty constitutes a charge on goods.

- (1) Subject to subsection (3), the duty on any goods shall constitute a charge on such goods until fully paid.
- (2) Subject to the provisions of this section, the Customs authority may, where any duty charged on any goods under this section is due and unpaid and whether or not the property in the goods has passed to a third party, take possession of the goods and sell them or any part of them in satisfaction or part satisfaction of the charge.
- (3) Subsections (1) and (2) shall not apply as against a purchaser of the goods for valuable consideration and without knowledge that the duty was due but had not been paid.
- (4) For the purposes of this section, “purchaser” means —
 - (a) a person, other than a person liable to pay the duty, who acquired the goods from a person liable to pay the duty; or
 - (b) a subsequent purchaser of the goods.
- (5) The Customs authority may, in any case where a person claims at or before the taking of possession of the goods by the Customs authority that he or she is a purchaser to whom subsection (3) applies and there is a dispute as to whether that subsection applies —
 - (a) where the goods are in the possession or control of the importer, exporter or licensee, or agent or representative thereof, take possession of the goods and, subject to subsections (7) and (9), retain possession of them pending the resolution of the dispute; or
 - (b) where the goods are in the possession or control of the purchaser, by notice in writing direct the purchaser, subject to subsections (7) and (9), to retain the possession or control of the goods pending the resolution of the dispute.
- (6) The Customs authority shall, subject to subsections (7) and (9), retain possession of the goods pending the resolution of the dispute in any case where —
 - (a) possession of the goods has been taken by the Customs authority but the goods have not been sold;
 - (b) a person notifies the Customs authority that he or she claims that he or she is a purchaser to whom clause (3) applies; and

- (c) there is a dispute as to whether that subsection applies.
- (7) The Customs authority, or the purchaser in possession or control of the goods with the prior consent of the Customs authority, may sell the goods and the net proceeds of such sale shall be deemed to be substituted for the thing so sold in any case where goods that the Customs authority has taken possession of or has directed a purchaser to retain under this section consist wholly or partly of —
 - (a) any living creature; or
 - (b) any thing which, in the opinion of the Customs authority —
 - (i) is of a perishable nature; or
 - (ii) may otherwise lose its value if not sold as soon as possible.
- (8) The Customs authority or the purchaser of the goods may apply to the court for a declaration as to whether the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing and unpaid.
- (9) In any proceeding under subsection (8), the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty was owing but unpaid shall, where the purchaser and a person liable to pay the duty are related, be on the purchaser.

170. Application of section 171.

- (1) Section 171 shall apply to the recovery of unpaid duty, where the unpaid duty is a charge on the goods, that is due in relation to goods by —
 - (a) an individual who is bankrupt;
 - (b) a company that is in liquidation;
 - (c) a company in respect of the property of which a receiver has been appointed;
 - (d) an unincorporated body of persons including a partnership, or a joint venture, or the trustees of a trust, that is put into liquidation; or
 - (e) an unincorporated body of persons including a partnership, or a joint venture, or the trustees of a trust, in respect of the property of which a receiver is appointed by the Supreme Court.
- (2) Unpaid duty to which this section and section 168 apply shall be paid in accordance with the requirements of the Bankruptcy Act (*Ch. 69*).
- (3) Nothing in subsection (2) or in section 171 shall derogate from section 172.

171. Rights and duties of Customs authority in recovery of duty.

- (1) The Customs authority shall, in any case to which this section applies, notify the official assignee or the liquidator or the receiver, as the case

may be, that the unpaid duty constitutes a charge on the goods in accordance with section 169.

- (2) A notice under subsection (1) shall be given —
 - (a) within one year after —
 - (i) in the case of an individual, the date of the notice in the Gazette that the individual has been adjudicated bankrupt;
 - (ii) in the case of a company, the date of the notice in the *Gazette* of the date of the commencement of the liquidation or of the appointment of a receiver, as the case may be;
 - (iii) in the case of an unincorporated body of persons described in subsection (1)(d) of section 170 of this Act, the date of the notice in the Gazette of the commencement of the liquidation;
 - (d) in the case of an unincorporated body of persons under subsection (1)(e) of section 170, the date of the notice in the Gazette of the appointment of a receiver; or
 - (b) where there is a dispute as to whether section 169(5) applies, within one year after the dispute is resolved or determined.
- (3) The Customs authority may, if any duty to which this section applies is due and unpaid —
 - (a) realise the property subject to the charge;
 - (b) value the property subject to the charge and make a claim for the balance of the unpaid duty, if any, in the bankruptcy, liquidation, or receivership proceedings, as the case may be, in accordance with section 170(2);
 - (c) realise the property subject to the charge and make a claim for any balance of the unpaid duty remaining after deducting the amount realised in the bankruptcy, liquidation, or receivership proceedings, as the case may be, in accordance with section 170(2); or
 - (d) surrender the charge to the official assignee or the liquidator or the receiver, as the case may be, for the general benefit of creditors and make a claim for the whole debt in the bankruptcy, liquidation, or receivership proceedings, as the case may be, in accordance with section 170(2).
- (4) Where the Customs authority, in accordance with subsection (3)(b), values the property subject to the charge and claims for the balance of unpaid duty, the valuation and claim shall —
 - (a) contain full particulars of the valuation and claim;
 - (b) contain full particulars of the charge; and
 - (c) identify any documents that substantiate the claim and the charge.

- (5) The official assignee, the liquidator or the receiver may require production of any document referred to in subsection (4).
- (6) Where the Customs authority makes a claim under subsection (4), the official assignee, liquidator, or receiver, as the case may be, shall —
 - (a) accept the valuation and claim; or
 - (b) reject the valuation and claim in whole or in part, but —
 - (i) where a valuation and claim is rejected in whole or in part, the Customs authority may make a revised valuation and claim within twenty eight working days of receiving notice of the rejection; and
 - (ii) the official assignee, the liquidator or the receiver, as the case may be, may, if he subsequently considers that a valuation and claim was wrongly rejected in whole or in part, revoke or amend that decision.
- (7) The official assignee, the liquidator, or the receiver may, at any time, unless the Customs authority has realised the property, redeem the charge on payment of the assessed value where he —
 - (a) accepts a valuation and claim under subsection (6)(a);
 - (b) accepts a revised valuation and claim under subsection (6)(b)(i); or
 - (c) accepts a valuation and claim on revoking or amending a decision to reject a claim under subsection (6)(b)(ii).
- (8) The official assignee, the liquidator or the receiver may, at any time, by notice in writing require the Customs authority, within thirty days after receipt of the notice, to —
 - (a) elect which of the rights referred to in subsection (3) the Customs authority wishes to exercise; and
 - (b) if the Customs authority elects to exercise a right under paragraphs (b), (c) or (d) of subsection (3), exercise such right within that period.
- (9) The Customs authority shall be deemed to have surrendered the charge under subsection (3)(d) to the official assignee, the liquidator or the receiver, as the case may be, and may make a claim in the bankruptcy, liquidation, or receivership proceedings in accordance with section 170 in any case where —
 - (a) the Customs authority fails to give notice in accordance with subsection (1) to the official assignee, the liquidator or the receiver, as the case may be, within the time specified in subsection (2); or
 - (b) having been required to make an election in accordance with subsection (9), the Customs authority fails to do so within the time specified in that subsection.

- (10) The Customs authority, where it has surrendered a charge under subsection (3)(d) or is deemed to have surrendered a charge under subsection (9), may —
- (a) with the leave of the Court, the official assignee, the liquidator or the receiver, as the case may be, and subject to such terms and conditions as they may determine; and
 - (b) at any time before the official assignee, the liquidator or receiver has realised the property charged,
 - either withdraw the surrender and rely on the charge or submit a new claim under this section.

172. Release of goods subject to duty.

- (1) No person is entitled, except as otherwise provided in this Act or in such cases as may be approved by the Customs authority, and subject to such security as the Customs authority may require, to obtain release of goods from the control of the Customs authority until the sum payable by way of duty on the goods is paid in full.
- (2) No action or other proceeding shall be instituted against the Crown or the Customs authority or any Customs officer in respect of the detention of any goods during the period before the payment of the full sum by way of duty on the goods so payable.
- (3) The Customs authority, in any case where the Customs authority considers that undue hardship would result from the payment of duty as required by this section and subject to such conditions as it thinks fit to impose, may —
 - (a) direct the release of the goods from the control of the Customs authority; and
 - (b) accept payment of duty by instalment over a specified period of time.

173. Liability for duty on goods wrongly removed or missing.

- (1) The licensee of a Customs controlled area shall be liable for duty payable on goods that, in the opinion of the Customs authority, have been wrongfully removed or are missing from such Customs controlled area as if the goods had been imported, exported, or manufactured by the licensee and entered pursuant to section 104.
- (2) A licensee shall not be released from liability under this section by virtue of any other provision of this Act or any other Act.
- (3) Duty shall become due and payable on dutiable goods as if entry for home consumption has been made and passed where —

- (a) dutiable goods are removed from a Customs controlled area without the authority of the Customs authority; or
 - (b) dutiable goods are not produced by the licensee to the Customs authority and are not accounted for as having been lawfully delivered from the Customs controlled area.
- (4) The Customs authority may, by notice in writing, demand from the owner, importer or exporter of the goods, or the licensee of a Customs controlled area, payment of any sum that the Customs authority has reasonable cause to believe is owing under this section.
- (5) Where duty is payable under this section by two or more persons in respect of goods, they shall be jointly and severally liable for the payment of such duty.
- (6) A person liable for the payment of the duty who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

174. Liability of owners of means of transport for duty on goods unlawfully landed.

- (1) The owner of the goods and the person in charge of the means of transport without prejudice to the liability of any other person shall, where cargo, stores or other goods are unlawfully landed in the Customs territory in or from a means of transport that is within the Customs territory, be jointly and severally liable for the payment of the duty on the goods as if the goods had been imported by them and entry had been made and passed for home consumption pursuant to section 104.
- (2) The Customs authority may by notice in writing demand from the owner or the person in charge of any means of transport payment of any sum that the Customs authority has reasonable cause to suspect is owing under this section.
- (3) The sum demanded by the Customs authority shall, in any proceedings for the recovery of duty or for a refund of duty paid under this section, be presumed to be due and payable unless the contrary is proved.
- (4) A person liable for the payment of duty who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the

decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

175. Effect of payment of duty by one person on liability of other person.

Liability under this Act for the payment of duty on goods shall be extinguished by the payment of the duty by any other person who may be liable for such payment under this Act unless the duty is subsequently refunded or remitted.

176. Incidence of altered duties.

- (1) The liability of goods to duty or the rate of duty to which goods are liable shall, in the case of any legislative amendment relating thereto, be determined except where otherwise expressly provided —
 - (a) in the case of goods held in an export warehouse or produced in a manufacturing area, by the law in force at the time the goods are removed from the export warehouse or manufacturing area; or
 - (b) in the case of goods other than those referred to in paragraph (a), by the law in force at the time the goods are imported into the Customs territory.
- (2) In this section, the term “legislative amendment” includes a variation that takes place at any time or periodically in the liability of goods to duty or in the rate of duty to which they are liable.

177. Reimportation of goods exported.

- (1) Subject to subsection (2), goods exported from the Customs territory may, in such cases and under such conditions as may from time to time be approved by the Comptroller, be admitted free of duty or at such rate of duty, not exceeding the duty that would be payable on the goods if imported for the first time, as may be determined by the Customs authority.
- (2) This section applies to goods which, when reimported, are in substantially the same condition as when exported.
- (3) Notwithstanding subsection (2) —
 - (a) any reimported goods —
 - (i) which are of a kind liable to duty *ad valorem*; and
 - (ii) which were, after exportation, subject to any process including repair,
 shall on reimportation be chargeable with import duty on the amount of increase of value attributable to such process; and

- (b) the increase of value of such reimported goods as referred to in paragraph (a) shall be taken to be the cost and other charges of the process including repair together with the freight, insurance and all other charges involved in delivering the goods to the processor and in returning the goods to the importer.

178. Economic operators leaving The Bahamas.

- (1) The Customs authority may, if the Customs authority has reasonable cause to believe that an importer, exporter, or licensee is about to leave the Customs territory before duty owing by the importer, exporter, or licensee becomes payable under this Act, require the importer, exporter, or licensee to pay such duty on a date, earlier than the date on which the duty becomes payable, that the Customs authority fixes and notifies to the importer, exporter, or licensee in writing.
- (2) A notice issued under subsection (1) shall constitute a demand for payment and the duty shall become due and payable on the date fixed by the Customs authority.
- (3) Duty demanded by the Customs authority under this section shall be presumed to be due and payable unless the contrary is proven.

DIVISION TWO – REFUNDS, REMISSIONS AND DRAWBACKS OF DUTY

179. Application of duties.

- (1) Any duty, charge or drawback imposed or allowed under the Customs laws according to any specified weight or measure shall, unless specific provision is made to the contrary, be calculated according to the imperial weights and measures.
- (2) Any duty, charge or drawback imposed or allowed under the Customs laws according to any specified weight, measure, strength, or value shall, unless specific provision is made to the contrary in any Customs law, be deemed to apply in the same proportion to any greater or lesser weight, measure, strength, or value, as the case may be.

180. Goods exported in other than normal package.

A package shall, subject to any provision to the contrary in the Customs laws, be liable to duty as if it were a separate article and, for all purposes of the Customs laws, be deemed to be a separate article where —

- (a) goods are imported or exported in the package; and
- (b) the package, in the opinion of the Comptroller —
 - (i) is not the normal or proper package for the goods; or

- (ii) is designed for use, subsequent to importation or exportation, other than as a package for goods of the same or a similar nature.

181. Goods subject to *ad valorem* duty.

The value of goods which on importation are liable to *ad valorem* duty shall be determined in accordance with the Third Schedule and any regulations made in relation thereto.

182. Customs may refund duty paid in error.

- (1) The Customs authority shall, unless there is good reason not to, refund any duty which the Customs authority is satisfied has been paid in error, whether by mistake of law or of fact.
- (2) This section shall apply in respect of any duty paid in error before the commencement of this Act.
- (3) A person who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

183. Refunds and remission of duty.

- (1) Subject to any prescribed exceptions, restrictions or conditions, the Customs authority may refund or remit any duty where the Customs authority is satisfied that imported goods, or goods manufactured in the Customs territory, as the case may be —
 - (a) have been damaged, destroyed, pillaged or lost, or have diminished in value or deteriorated in condition, prior to their release from the control of the Customs authority;
 - (b) are of faulty manufacture; or
 - (c) have been abandoned to the Crown for destruction or other form of disposal prior to their release from the control of the Customs authority.
- (2) A person who is dissatisfied with a decision of the Customs authority under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV and, if dissatisfied with the decision made by the Comptroller, may within fifteen working days after the date on which

notice of the decision is given appeal to the Customs Appeal Commission under Division Three of Part XXIV.

- (3) Sample goods of such nature or value as may be prescribed and samples of bulk goods subject to the control of the Customs authority shall, by rule issued by the Comptroller, subject to such conditions as may be prescribed, be delivered free of duty.
- (4) Pursuant to section 354, the Minister may make regulations prescribing the minimum amount of duty refundable on goods and the circumstances in which duty below the prescribed amount shall not be refunded.

184. Power to apply refunds towards payment of other Customs debt.

The Customs authority may, where under this Act duty is or becomes refundable to a person, in its sole discretion —

- (a) apply the whole or any part of the sum so refundable towards the payment of any other Customs debt that is payable by such person;
or
- (b) refund the whole sum to such person.

185. Recovery of duty refunded in error.

Money refunded by the Customs authority through error of fact or law shall be recoverable by action at the suit of the Customs authority on behalf of the Crown at any time within three years after the date of its payment.

186. Goods temporarily imported.

- (1) Subject to this section, where the Customs authority is satisfied that goods have been temporarily imported, a sum equal to the amount of the duty payable on the goods may pursuant to sections 43 and 339 be secured in such cases as may be approved by the Customs authority and, on receipt of such security, the Customs authority may release the goods from its control without payment of duty.
- (2) Subject to subsection (4) and to such conditions as may be prescribed, the person giving a security shall be released from the conditions of the security or his security may be returned if, within three months from the date of their importation or within such longer period as the Customs authority may determine in any particular case, the Customs authority is satisfied that the goods have been —
 - (a) exported;
 - (b) shipped for export;
 - (c) packed for export into a bulk cargo container in a Customs controlled area and the container secured to the satisfaction of the Customs authority;

- (d) destroyed; or
 - (e) dealt with in such manner as the Customs authority may allow.
- (3) Duty shall, where goods temporarily imported are used for industrial or commercial purposes or such other purposes as the Customs authority may consider relevant, be payable in respect of the goods in the amount by which their value for duty, as determined by the Customs authority at the time it is satisfied pursuant to subsection (2) that the goods have been dealt with under any of paragraphs (a) to (e), is less than their value for duty as ascertained in accordance with this Act at the time of their importation.
- (4) An amount of duty which is payable in accordance with subsection (3) may be deducted from any deposit of money given as security under subsection (1).
- (5) Where, at the expiry of the period prescribed by subsection (2), goods have not been dealt with in accordance with that subsection —
- (a) any sum secured by way of deposit of money shall be retained by the Crown; or
 - (b) any sum secured otherwise than as described in paragraph (a) shall be paid to the Crown by the importer within fourteen working days after the expiry of that period or such longer period as the Comptroller may allow and, on such payment, the security shall be released.
- (6) This section shall not apply to any goods that are, by regulations made under the Tariff Act (*Ch. 295*), declared to be goods to which this section does not apply.

187. Drawbacks of duty on certain goods.

- (1) Subject to this section, drawbacks of duty may be allowed, in such amounts and subject to such conditions as may be prescribed on —
- (a) goods imported into the Customs territory that are later exported from the Customs territory;
 - (b) goods that are produced in a manufacturing area and exported from the Customs territory;
 - (c) imported parts and materials used in, worked into, or attached to, goods manufactured or produced in the Customs territory and exported from the Customs territory; or
 - (d) imported materials, with the exception of fuel, consumed in the manufacture or production of goods produced in the Customs territory and exported from the Customs territory.

- (2) The Customs authority may, for the purposes of this section, treat goods as having been exported where —
 - (a) the Customs authority is satisfied that such goods have been shipped for export;
 - (b) such goods have been packed for export into a bulk cargo container in a Customs place or Customs controlled area and the container has been secured to the satisfaction of the Customs authority; or
 - (c) such goods have been entered into an export warehouse and the Customs authority is satisfied that they will be exported.
- (3) Where drawback has been allowed on any goods treated as exported pursuant to subsection (2) or on goods consumed in the manufacture of such goods, the goods shall not, without the permission of the Customs authority, be unshipped or re-landed or unpacked before export.
- (4) Where drawback has been allowed on goods treated as exported pursuant to subsection (2) or on goods consumed in the manufacture of such goods and has been paid in respect of any goods that are unshipped or re-landed or unpacked before export —
 - (a) the amount of drawback allowed in respect of those goods or on goods consumed in the manufacture of those goods shall, immediately on their unshipment, re-landing or unpacking, constitute a debt due to the Crown; and
 - (b) the debt due to the Crown shall immediately be payable by the owner of the goods at the time of their unshipment, re-landing or unpacking.
- (5) A debt due to the Crown under subsection (4) shall be recoverable by action at the suit of the Customs authority on behalf of the Crown.
- (6) The right to recover drawback as a debt due to the Crown under this section shall not be affected by the fact that a bond or other security has been given in respect of the unshipment, re-landing or unpacking of the goods before export.
- (7) The Customs authority may, where under this section drawback is granted to any person, apply in its sole discretion the whole or any part of the sum allowed towards the payment of any duty that is payable by such person.
- (8) This section does not apply to any goods that are, by regulations made under the Tariff Act (*Ch. 295*) declared to be goods to which this section does not apply.
- (9) Pursuant to section 354, the Minister may make regulations prescribing the minimum amount of drawback of duty on goods and the circumstances in which drawback below the prescribed amount shall not be allowed.

188. Drawbacks do not apply to safeguard measures.

Drawbacks shall not, except as the Minister may otherwise specifically permit by Order published in the Gazette, apply in respect of duties imposed under any safeguard measures adopted by the Government.

PART XII – BONDED WAREHOUSES AND WAREHOUSING PROCEDURE**189. Categories of warehouses and effects of warehousing.**

- (1) Customs bonded warehouses shall be either —
 - (a) general bonded warehouses, or public Customs warehouses, for the warehousing of goods generally, regardless of the owner of goods; or
 - (b) private Customs bonded warehouses, for the warehousing only of goods which are the property of the licensee.
- (2) Dutiable imported or exported goods may be warehoused in premises subject to Customs control for a maximum period of two years.
- (3) Pursuant to section 354, the Minister may make regulations to extend or reduce the period set out in subsection (2) depending on the nature of goods or the type of warehouse concerned.
- (4) Unless otherwise prescribed in this Act, the warehousing of goods in a bonded warehouse shall have the effect of suspending the payment of duties on imported or exported goods for the period set out in subsection (2) or as otherwise prescribed by the Minister pursuant to subsection (3).

190. Authorised goods, prohibited goods and other restrictions.

- (1) Pursuant to section 354, the Minister may make regulations to prohibit, or restrict permanently or temporarily, the warehousing of goods of the following categories —
 - (a) publications, including electronic publications, that are restricted or prohibited under Bahamian law and all other indecent or obscene articles;
 - (b) goods infringing intellectual property rights;
 - (c) endangered species of the fauna and flora;
 - (d) any goods of a class or description whose importation is prohibited or restricted by virtue of the First Schedule;
 - (e) any goods of a class or description whose exportation is prohibited or restricted by virtue of the Second Schedule; or

- (f) any other goods the importation or exportation of which is prohibited by the Government of The Bahamas in the public interest.
- (2) Subject to subsection (1), goods that are permitted for warehousing shall be —
 - (a) any imported goods chargeable with Customs duties or excisable taxes and which are entitled to repayment of duty when exported;
 - (b) national goods for exportation from the Customs territory; or
 - (c) goods to be used as stores for aircraft or vessels.

191. Licensing of bonded warehouses.

- (1) The Comptroller may, on application by the owner of any building or any other secured place or the occupier of any building or any other secured place with the consent of the owner, license such a building or secured place as a bonded warehouse for storage under bond.
- (2) The Comptroller may also license any building or any other secured place to be a Government bonded warehouse for the warehousing of goods generally.
- (3) The Customs authority shall lay down the requirements for the construction and layout of Customs warehouses and the arrangements for Customs control and shall specify the person or persons held responsible for the payment of any duty chargeable on goods placed under the Customs bonded warehouse procedure that are not accounted for to the satisfaction of the Customs authority.
- (4) The provisions of this Act relating to licensed bonded warehouses apply, except for the requirements of licensing and the furnishing of security, to Government bonded warehouses.
- (5) All buildings or secured places licensed as bonded warehouses at the commencement of this Act shall be deemed, according to the terms of such appointments, to have been duly licensed under this Act.
- (6) The application for a building or any other secured place to be licensed as a bonded warehouse shall be made in such form and contain such particulars as may be prescribed by the Customs authority.
- (7) The Comptroller may refuse to license any building or any other place as a bonded warehouse; and, in this case, the applicant shall be advised by notice in writing of the decision of the Comptroller.
- (8) The Comptroller may, at any time, revoke a licence that has been granted and the Comptroller shall, where he intends to revoke or not to renew any licence of a bonded warehouse granted under this section, not later than three months before the date when the revocation is due to take effect or

the licence is due to expire, give notice of his intention in writing to the licensee.

- (9) An applicant who is dissatisfied with a decision of the Comptroller under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Customs Appeal Commission under Division Three of Part XXIV.
- (10) The licensee of a bonded warehouse shall post a bond, as prescribed by the Comptroller, as security for the liability imposed on duties; and the Comptroller may, at any time, require a licensee to furnish a new security in a different amount or in different terms.
- (11) The Comptroller may, at any time, require a licensee to make such alterations or additions to the bonded warehouse as the Customs authority may consider necessary to ensure the proper security of warehousing of any goods.
- (12) No warehousing business shall be carried on in a licensed bonded warehouse except by a licensee licensed under this section by the Customs authority.
- (13) The licensee of a bonded warehouse shall be strictly liable for contravention of any condition or restriction under this section.
- (14) Every licence shall be subject to the payment of the prescribed fee and shall expire on the 31st December of each year or may be for such other periods as the Comptroller thinks fit.
- (15) A licensee shall, where he proposes not to renew his license in relation to any bonded warehouse, cause notice of his intention to be given to the owners of all goods warehoused therein.
- (16) All goods warehoused in a bonded warehouse shall, after the date of termination of the licence of such bonded warehouse or such later date as the Comptroller may permit, within such time as the Comptroller may direct be entered and delivered for home consumption, or removal to another bonded warehouse, or for exportation as the case may be.

192. Entry of goods in bonded warehouses.

- (1) Subject to this Act, goods that are to be deposited and stored in a bonded warehouse shall be entered in such form and manner, including by electronic means, and within the time as prescribed under sections 104(1)(b) or 113(1)(b).
- (2) The licensee of a bonded warehouse shall, where goods are entered under the bonded warehouse Customs procedure and delivered into his custody, take particular account of the goods.

- (3) Goods shall, where entered in a Government bonded warehouse, be subject to such rent or other charges as may be prescribed by the Minister by regulation pursuant to section 354.
- (4) All liabilities in respect of warehoused goods shall, in case of a transfer of ownership of such goods to a new owner, be transferred to the new owner.
- (5) The Customs authority may, where goods have not been entered and delivered in accordance with section 191(16), cause such goods to be taken to a Customs warehouse and dealt with in accordance with sections 200 and 201.

193. Maintenance of goods.

- (1) No person other than the proper officer, or the licensee, or any employee of the licensee duly authorised in that regard, shall open any bonded warehouse or gain access to any goods therein.
- (2) The Customs authority shall, at any time, have access to any part of a bonded warehouse and may conduct inventories of warehoused goods and examine any goods therein to ensure compliance with this Act and other Customs legislation.
- (3) Goods deposited in a bonded warehouse shall be arranged, stowed and maintained in a manner that permits easy access to the goods by the Customs authority and the Comptroller may give such directions respecting the arrangement and stowage or maintenance of goods as he thinks fit.
- (4) The Customs authority may, subject to such conditions as it may impose —
 - (a) permit goods to be inspected;
 - (b) permit goods to be bulked, sorted, lotted, packed or repacked within a bonded warehouse;
 - (c) permit samples of goods to be taken by the owner; or
 - (d) regauge, remeasure or reweigh any warehoused goods.

194. Loss or deterioration of goods.

- (1) The licensee of a bonded warehouse shall, if the Customs authority finds at the time of an inspection in or at the time goods are lawfully removed from the warehouse any part of such goods to be missing, pay to the Customs authority, notwithstanding any other liability or penalty incurred under this Act, the duty that such goods would have borne if they had been entered for home consumption on the date of the discovery of the deficiency.

- (2) No duty shall be payable by the licensee of a bonded warehouse, notwithstanding any other provision of any Customs enactment, on warehoused goods that are damaged or destroyed.

195. Removal of goods from bonded warehouses.

- (1) Goods which have been deposited and stored in a bonded warehouse may be entered for —
 - (a) home consumption;
 - (b) exportation or re-exportation;
 - (c) temporary admission including temporary admission for inward processing;
 - (d) use as stores for aircraft or vessels; or
 - (e) removal to another bonded warehouse.
- (2) The Customs authority may, where goods entered to be warehoused under the Customs bonded warehouse procedure are not duly warehoused by the licensee, cause the goods to be removed from the bonded warehouse for which they were entered.
- (3) The licensee shall, where goods are removed in accordance with subsection (2), pay the duty chargeable on such goods.
- (4) The Customs authority shall, where warehoused goods have to be removed to another bonded warehouse, require the owner of goods to deliver any entry of such goods in such form and manner as the Customs authority may direct.
- (5) Warehoused goods entered for exportation or for use as stores for an aircraft or a vessel proceeding to a place outside the Customs territory may be delivered for that purpose but no warehoused goods shall be entered or delivered —
 - (a) for exportation in a light aircraft or a vessel of less than ten tons register; or
 - (b) for use as stores for a light aircraft or a vessel less than five hundred tons register.
- (6) Warehoused goods delivered for exportation or for the purposes of use as stores for an aircraft or a vessel shall forthwith be put on board the aircraft or the vessel for which those goods are entered.
- (7) The licensee of a bonded warehouse shall, where goods are unlawfully removed from the bonded warehouse, pay to the Customs authority the duty at the rate applicable at the date of the removal.
- (8) Goods not removed from a bonded warehouse at the expiry of the period referred to in section 189(2), or of such period as prescribed by the

Minister pursuant to section 183(3), shall be removed to a Customs warehouse by or at the expense of the licensee of the bonded warehouse.

196. Payment of duty.

- (1) Unless otherwise permitted under this Act, goods may not be removed from a bonded warehouse until entry of those goods has been made and all duty chargeable on those goods and any charges in respect of the removal of the goods from the bonded warehouse have been paid.
- (2) The amount of duty chargeable on goods shall be calculated in accordance with the value of those goods determined at the time they were first warehoused.
- (3) The rates of duty chargeable on warehoused goods shall be those in force with respect to the goods of that class or description at the time of the removal of the goods from the bonded warehouse for home consumption, export or use as stores for an aircraft or a vessel.

PART XIII – TEMPORARY ADMISSION

197. Prior authorisation and conditions of use of the regime.

- (1) Pursuant to section 354, the Minister may make regulations for granting temporary admission to the Customs territory of goods of a specified class or description imported for a specific purpose and intended for re-exportation in the same state or following manufacturing, processing or repair in the Customs territory.
- (2) The Minister may make regulations pursuant to section 348 to specify the conditions under which prior authorisation is required for temporary admission of goods to the Customs territory.
- (3) Temporary admission shall be authorised for —
 - (a) goods imported directly from outside the Customs territory;
 - (b) goods in transit;
 - (c) goods entered under the bonded warehouse Customs procedures; or
 - (d) goods imported from a free zone.
- (4) All prohibitions and restrictions specified in section 208 shall apply to temporarily admitted goods.
- (5) The Comptroller shall prescribe by rule conditions under which goods intended for temporary admission shall be produced to the Customs authority and an entry made.

- (6) The Customs authority, where goods are temporarily admitted to undergo manufacturing or processing in the Customs territory, shall —
 - (a) fix the rate of yield of the operation to be undergone by reference to the actual conditions under which the operation is effected; and
 - (b) specify, upon fixing the rate of yield in paragraph (a), the description, quality and quantity of the compensating products obtained during or as the result of the manufacturing or processing of the goods temporarily admitted.
- (7) Temporary admission shall be authorised for a maximum period of one year.
- (8) Pursuant to sections 186(1) and (2), the owner of goods shall provide security on temporarily admitted goods in the Customs territory in the form prescribed by the Customs authority and such security shall not exceed the amount of duties from which the goods are conditionally relieved.
- (9) The Customs authority may, for the purpose of identifying goods temporarily admitted and subject to re-exportation in the same state, have recourse to the affixing of Customs marks where the temporarily admitted goods cannot be readily identified by means of foreign seals, by marks, numbers or other indications permanently affixed to them.
- (10) Goods shall be re-exported upon expiry of the period for temporary admission.
- (11) Goods temporarily admitted to the Customs territory shall be deemed to be re-exported in the same state despite —
 - (a) normal depreciation due to the use made of such goods during their stay in the Customs territory; or
 - (b) undergoing operations necessary for the preservation of temporarily admitted goods.
- (12) The Customs authority may under certain circumstances authorise —
 - (a) entry for home consumption of a certain quantity of compensating products obtained during or as the result of the manufacturing or processing of the goods temporarily admitted; or
 - (b) destruction of temporarily admitted goods.

198. Payment of duty.

- (1) Goods temporarily admitted to the Customs territory shall be afforded full conditional relief from duties and taxes otherwise chargeable on such goods.

- (2) Goods imported in accordance with this section for a temporary use or purpose may be wholly or partially exempted from liability to import duties.
- (3) For the purposes of this section, the Minister may by regulations —
 - (a) specify goods, or any class of goods, either generally or in any particular manner, which may be imported in accordance with this section;
 - (b) impose conditions to be fulfilled in respect of the importation or use of such goods;
 - (c) determine the period of time during which temporary importation shall be permitted and after which such goods shall be exported;
 - (d) specify, in cases of partial exemption from the liability to import duty, the proportion of the import duty to which such goods are liable.
- (4) Subject to the prescribed regulations, no goods shall be exempt from liability to import duty under this section unless the owner of the goods has deposited or given security for the amount of the import duty to which the goods would otherwise be liable.
- (5) Goods shall, where any condition of their importation has been contravened, be liable to import duty as from the date of their importation and any deposit given under subsection (4) shall be brought to account as duty or, if security was given, the owner shall be required to pay duty.
- (6) The owner of goods shall, where no condition of their importation has been contravened, be entitled on the exportation of the goods to have any deposit paid under subsection (4) refunded or any security given discharged.
- (7) The Customs authority may assess import duties on waste deriving from the processing or manufacturing of goods temporarily admitted for inward processing that is not re-exported or treated in such a way as to render it unusable or commercially valueless.

PART XIV – TEMPORARY EXPORTATION

199. Prior authorisation and conditions of use of the regime.

- (1) Pursuant to section 354, the Minister may make regulations to authorise goods of a specified class or description which are in free circulation in the Customs territory to be temporarily exported for manufacturing, processing or repair outside of the Customs territory and thereafter to be re-imported in the Customs territory with total or partial exemption from import duties.

- (2) Temporary exportation for outward processing may also be authorised in the case of goods which, while being under an inward processing procedure in the Customs territory, must be sent temporarily outside of the Customs territory for supplementary processing.
- (3) Pursuant to section 354, the Minister may make regulations to specify the conditions under which prior authorisation is required for temporary exportation of goods outside the Customs territory.
- (4) The Customs authority shall prescribe the conditions under which goods for temporary exportation shall be produced to the Customs authority and an entry made.
- (5) The Customs authority may, for the purpose of identifying goods temporarily exported for outward processing, affix marks or rely on marks, numbers or other indications permanently affixed to the goods.

PART XV – CUSTOMS WAREHOUSES

200. Depositing goods in Customs warehouses.

- (1) Goods may be deposited in a Customs warehouse where —
 - (a) goods remain unentered at the expiration of the period permitted under section 104(2)(b) or within such further period as the Comptroller may allow;
 - (b) goods are not removed from a bonded warehouse at the expiry of the period indicated in section 189(2) or of such period as prescribed by the Minister pursuant to section 189(3); or
 - (c) goods are abandoned by the owner of goods after unloading or temporary deposit in a Customs-approved transit shed.
- (2) The Customs authority shall take particular account of the goods deposited in a Customs warehouse pursuant to subsection (1).
- (3) The Customs authority may, where under this Act goods are required to be deposited in a Customs warehouse, decide in its discretion that it is undesirable or inconvenient to deposit such goods in the Customs warehouse and direct that such goods be deposited in some other place whereupon the goods shall for all purposes be deemed to have been deposited in a Customs warehouse as from the time that they are required to be so deposited.
- (4) The owner of goods shall be liable for any deterioration or loss of the goods during the period of deposit in a Customs warehouse.

- (5) The Customs authority shall not be liable for the loss or damage to goods occasioned by reason of being deposited and dealt with in a Customs warehouse.
- (6) All costs incurred during or as a result of the deposit of goods in a Customs warehouse shall be chargeable to the owner of goods.
- (7) Goods deposited in a Customs warehouse shall only be examined in the presence of the owner of the goods.

201. Sale by public auction of goods deposited in Customs warehouse.

- (1) The Customs authority may, where goods deposited in a Customs warehouse are not lawfully removed within two months after deposit, sell such goods by public auction after one month's notice in the *Gazette*.
- (2) Goods which are of a perishable nature may be sold by the Customs authority without notice, either by public auction or otherwise, at any time after deposit in the Customs warehouse.
- (3) The proceeds of sale shall, where goods are sold under this section, be applied in order of priority in discharge of —
 - (a) duties, if any;
 - (b) expenses of removal and sale;
 - (c) rent and charges due to the Customs authority; and
 - (d) any other charges.
- (4) Any balance remaining after the proceeds of sale have been applied in accordance with subsection (3) shall —
 - (a) be paid into the Customs revenue, if the goods were prohibited or restricted goods in relation to which there had been a contravention or if no application for the balance is made by the owner pursuant to paragraph (b);
 - (b) be paid to the owner of goods subject to application being made by the owner within one month of the date of the sale.
- (5) Goods offered for sale in accordance with this section which cannot be sold for a sum sufficient to cover the charges referred to in subsection (3) may be destroyed or disposed of in such a manner as the Comptroller may direct.
- (6) The Customs authority may refuse delivery of goods deposited in a Customs warehouse until the Customs authority is satisfied that all duties and other charges and expenses due in respect of those goods have been paid.

PART XVI – FREE ZONES

202. Definition.

- (1) For the purposes of this Act, a Free Zone means a part of the territory of The Bahamas where any goods introduced are regarded, insofar as duties only are concerned, as being outside of the Customs territory.
- (2) The provisions of this Act shall, in all respects other than stated in subsection (1), apply to all goods and materials entering, existing or being processed within, and exiting from, Free Zones except in such cases as may be determined by the Minister.

203. Establishment and concession.

- (1) The Government may designate, by Act to Parliament, parts of the territory of The Bahamas as Free Zones.
- (2) Points of entry and exit in relation to Free Zones shall be defined.
- (3) Persons established or with goods located in a Free Zone shall, in the event of the closure of the Free Zone and subject to compliance with the applicable conditions and formalities, be given sufficient time —
 - (a) to remove their goods to another Free Zone; or
 - (b) to place them under a Customs procedure.

204. Authorised goods, prohibited goods and other restrictions.

- (1) Admission to a Free Zone shall not be refused solely on the grounds that the goods, irrespective of country of origin or country of shipment, are liable to prohibitions or restrictions not being prohibitions and restrictions imposed on grounds of —
 - (a) public morality or order, public security or health, or veterinary or phytosanitary considerations; or
 - (b) protection of an intellectual property right.
- (2) Subject to subsection (1), admission to a Free Zone shall be authorised for —
 - (a) goods of any class or description imported directly from abroad; or
 - (b) any goods brought from the Customs territory being goods deemed to be exported for the purpose of drawback under this Act.
- (3) The Customs authority may require that hazardous goods, which are likely to affect other goods or which require special safety precautions, shall be placed in premises specially equipped to receive them.

205. Authorised operations.

- (1) Goods admitted to a Free Zone shall be allowed to undergo —
 - (a) loading, unloading and transshipment;
 - (b) any form of handling such as breaking bulk, grouping of packages, sorting, grading and repacking;
 - (c) storage; and
 - (d) all operations necessary for their preservation.
- (2) The Government may authorise, by Act to Parliament, the manufacture and processing of goods placed in a Free Zone and shall specify the processing or manufacturing operations to which goods may be subjected.
- (3) The Government shall, by Act to Parliament, enumerate the cases in which goods to be consumed inside a Free Zone may be admitted in exemption of duties and shall lay down the requirements which must be met.
- (4) Goods admitted to a Free Zone may transfer ownership.
- (5) Goods admitted to a Free Zone may be used as stores for vessels and aircraft used for international trade.

206. Entry and removal of goods.

- (1) Entries shall be made for goods entering or leaving a Free Zone.
- (2) The Customs authority may conduct checks on goods entering or leaving a Free Zone.
- (3) The Customs authority may carry out checks at any time on the goods stored in a Free Zone to ensure that —
 - (a) the goods are being accounted for satisfactorily;
 - (b) the goods are subject only to operations authorised by the Government under this Act or other Customs legislation; and
 - (c) no unauthorised goods have been introduced or removed from the Free Zone.
- (4) A person carrying on an activity of the kind specified in subsections 205(1) and (2) shall —
 - (a) keep records in a form prescribed by the Customs authority; and
 - (b) when goods are transshipped within a Free Zone, keep all documents relating to such activity at the disposal of the Customs authority.
- (5) Goods admitted to or produced in a Free Zone may be —
 - (a) removed in part or in full to another Free Zone;
 - (b) exported or re-exported; or

- (c) brought into the Customs territory to be placed under a Customs procedure, subject to compliance with the conditions and formalities applicable in each case.
- (6) The Customs authority may, where appropriate, certify on request of the exporter that the goods leaving the Free Zone originate in The Bahamas.
- (7) There shall no limit imposed, unless otherwise prescribed by the Minister by order published in the Gazette, on the duration of the stay of goods in a Free Zone.

207. Payment of duty.

- (1) The introduction or re-introduction of dutiable goods in the Customs territory shall entail payment of the appropriate duty.
- (2) The rates of duty chargeable on goods removed from a Free Zone and imported into the Customs territory shall be those in force with respect to the goods of that class or description at the time of the removal of the goods from the Free Zone for home consumption.
- (3) Where goods have undergone processing and manufacturing in a Free Zone, —
 - (a) the amount of import duty chargeable on goods entered for home consumption after such processing or manufacturing shall be limited to the amount of import duty applicable to the imported goods in the state in which they were originally introduced into the Free Zone; and
 - (b) the nature of goods, their Customs value and the quantity to be taken into consideration shall be those that existed at the time the goods were entered in the Free Zone had they not undergone such processing or manufacturing.
- (4) The amount of import duty chargeable on goods imported into the Customs territory for home consumption after processing or manufacturing in a Free Zone shall, where goods of Bahamian origin were used, be limited to the amount of import duty applicable to the imported goods used and in the state in which they were originally introduced into the Free Zone.
- (5) The Customs value and the rate of duty applicable in the case of uncustomed goods shall be those which would apply in respect of such goods at the time the goods became uncustomed goods, if known, or the rate and Customs value in force on the day of forfeiture, whichever is the higher.

PART XVII – PROHIBITED AND RESTRICTED GOODS

208. Prohibited and restricted imports.

- (1) It shall be unlawful to import into the Customs territory any of the goods specified in Head A of the First Schedule.
- (2) The goods specified in Head B of the First Schedule are restricted goods and such goods may not be imported in the Customs territory except in accordance with the conditions of the relevant restriction.
- (3) The Minister may, by order published in the Gazette, amend the First Schedule.
- (4) A prohibition or restriction imposed by an order made under subsection (3) may —
 - (a) be general;
 - (b) be limited to the importation of goods from a specified place or by or from a specified person or class of persons; or
 - (c) whether general or limited, be absolute or conditional.
- (5) All orders in force at the commencement of this Act prohibiting or restricting the importation of goods into the Customs territory shall continue in force as if they were made under this Act, unless revoked.
- (6) No goods otherwise dutiable are exempt from duty because their importation is unlawful.

209. Prohibited and restricted exports.

- (1) It shall be unlawful to export from the Customs territory any of the goods specified in Head A of the Second Schedule.
- (2) The goods specified in Head B of the Second Schedule are restricted goods and these goods may not be exported from the Customs territory except in accordance with the conditions of the relevant restriction regulating their exportation.
- (3) The Minister may, by order published in the Gazette, amend the Second Schedule.
- (4) A prohibition or restriction imposed by an order made under subsection (3) may —
 - (a) be general;
 - (b) be limited to the exportation of goods to a specified place or by or from a specified person or class of persons; or
 - (c) whether general or limited, be absolute or conditional.

- (5) All orders in force at the commencement of this Act prohibiting or restricting the exportation of goods from the Customs territory shall continue in force as if they were made under this Act, unless revoked.
- (6) No goods otherwise dutiable are exempt from duty because their exportation is unlawful.
- (7) No prohibition under this section applies to goods that are already loaded into or onto the exporting means of transport at the time when the prohibition comes into force.

210. Production of licence or permit for goods.

- (1) A conditional prohibition may allow the importation or exportation of goods —
 - (a) under the authority of a licence, permit or consent granted by the competent authority or by any other person named therein, whether granted before or after the importation of the goods, subject to such terms and conditions not inconsistent with the provisions of the prohibition as may be imposed by the grantor; or
 - (b) on or subject to any other prescribed conditions.
- (2) The Customs authority shall, where under this Act or any other Act the importation or exportation of goods of any class or description is prohibited or restricted, refuse to enter such goods or to clear them for exportation unless —
 - (a) the goods are imported or exported under the authority of a licence, permit or consent; and
 - (b) the importer or exporter produces such licence, permit or consent in respect of the goods.

211. Goods in transit, for transshipment or as stores for vessel or aircraft.

- (1) Sections 208 and 210 shall not, save where expressly provided to the contrary in the First Schedule, apply to goods imported in transit or for transshipment, or as the bona fide stores of any aircraft or vessel and —
 - (a) such goods shall be duly re-exported within such time as the Comptroller may specify; and
 - (b) if not so re-exported, such goods shall as from the last date on which they should have been re-exported be deemed to be prohibited or restricted goods, as the case may be, and to have been imported on such date.
- (2) Section 209 and 210 shall not, save where expressly provided to the contrary in the Second Schedule, apply to goods in transit or for transshipment, or goods exported as stores of any aircraft or vessel, and —

- (a) such goods shall be duly exported or re-exported within such time as the Comptroller may specify; and
- (b) if not so exported or re-exported, such goods shall as from the last date on which they should have been exported or re-exported be deemed to be prohibited or restricted goods, as the case may be.

PART XVIII – COUNTERFEIT AND PIRATED GOODS

212. Customs action against goods suspected of infringing certain intellectual property rights.

- (1) This Part sets out the conditions for action by the Customs authority when goods are suspected of infringing an intellectual property in the following situations —
 - (a) when they are imported into the Customs territory;
 - (b) when they are exported or re-exported from the Customs territory;
 - (c) when they are entered into a bonded warehouse;
 - (d) when they are entered for temporary admission into the Customs territory;
 - (e) when they are in transit; or
 - (f) when they are found during checks conducted by the Customs authority on goods —
 - (i) deposited in a Customs-approved transit shed;
 - (ii) in the process of being re-exported; or
 - (iii) placed in a Free Zone.
- (2) For the purposes of this Act, “goods infringing intellectual property rights” means —
 - (a) “counterfeit goods”namely —
 - (i) goods, including packaging, bearing without authorisation a trademark identical to the trademark validly registered in respect of the same type of goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the trademark-holder’s rights;
 - (ii) any trademark symbol, including a logo, label, sticker, brochure, instructions for use or guarantee document bearing such a symbol, even if presented separately, which infringes the trademark-holder’s rights in the same manner of the goods referred to in subparagraph (i);
 - (iii) packaging materials bearing the trademarks of counterfeit goods, presented separately, which infringe the trademark-

- holder's rights in the same manner of the goods referred to in subparagraph (i);
- (b) "pirated goods", namely goods which are or contain copies made without the consent of the holder of the copyright or related right or design right, or of a person duly authorised by the holder in the country of production,, regardless of whether it is registered pursuant to the law of The Bahamas.
 - (c) goods which infringe —
 - (i) a patent;
 - (ii) a national plant variety right;
 - (iii) geographical indications; or
 - (iv) any such other intellectual property right as may be prescribed by the Minister by regulation pursuant to section 354.
- (3) For the purposes of this section and sections 213 to 218, "right-holder" means —
- (a) the holder of a trademark, copyright or related right, design right, patent, plant variety right or a protected designation of origin, or a protected geographical indication; and
 - (b) any other person authorised to use any of the intellectual property rights mentioned in paragraph (a) or a representative of the right-holder or authorised user.
- (4) Any mould or matrix which is specifically designed or adapted for the manufacture of goods infringing intellectual property rights shall be treated as goods of that kind if the use of such moulds or matrices infringes the right-holder's rights under the law of The Bahamas.
- (5) This Part shall not apply to goods which have been manufactured with the consent of the right-holder but are placed under one of the situations referred to in subsection (1) —
- (a) bearing a trademark with the consent of the right-holder of that trademark;
 - (b) bearing a protected geographical indication;
 - (c) being protected by a patent, a copyright or related right or by a design right; or
 - (d) being protected by a plant variety right.
- (6) The provisions of this Part shall not apply where traveller's personal baggage contains goods of a non-commercial nature within the limits of the duty-free allowance and there are no material indications to suggest the goods are part of commercial traffic.

213. Application for action by the Customs authority.

- (1) A right-holder of an intellectual property right may make application to the Customs authority, in accordance with this Act, for suspension of Customs clearance procedures and detention of goods where the right-holder suspects goods infringing intellectual property rights are found in one of the situations referred to in section 212(1).
- (2) An application by a right-holder under subsection (1) shall be submitted to the Central Office of the Bahamas Customs Department.
- (3) An application in respect of goods suspected to infringe intellectual property rights shall be submitted in writing in such format, including by electronic means, as may be prescribed by the Customs authority and contain all information required to enable the goods in question to be readily recognised by the Customs authority, including —
 - (a) the name and business address of the applicant;
 - (b) a statement of the grounds for the application for border measures related to the goods in question;
 - (c) an accurate and detailed technical description of the goods in respect of which an intellectual property right applies together with all necessary documentation and, where appropriate, a sample of the genuine product;
 - (d) any specific information the right-holder may have concerning the type or pattern of fraud;
 - (e) details specific to the type of intellectual property right referred to in the application for action;
 - (f) the name and address of the person appointed by the right-holder to be contacted by the Customs authority in case goods suspected to infringe the concerned intellectual property right are found by the Customs authority;
 - (g) in the case of a specific shipment of allegedly infringing goods or for all shipments in general —
 - (i) a statement including prima facie evidence showing that such intellectual property right has been infringed or that right is about to be infringed;
 - (ii) information on particulars identifying the consignment;
 - (iii) the location of the goods;
 - (iv) the scheduled arrival or departure date of the goods;
 - (v) the means of transport used;
 - (vi) the identity of the importer, exporter or holder of the goods;
 - (vii) the technical differences, if known, between the authentic and suspect goods;

- (h) where appropriate, information on previous findings showing examples of goods infringing the intellectual property right referred to in the application.
- (4) An application under this section shall be accompanied, where appropriate, by —
- (a) adequate evidence by, or on behalf of, the applicant of the ownership of a valid intellectual property right for the goods in question;
 - (b) authorisation from the right-holder, in accordance with the applicable law, where the applicant is any other person authorised to use the intellectual property right, or a representative of the right-holder;
 - (c) a declaration from the right-holder, which may be submitted in writing or electronically in accordance with the laws of The Bahamas, —
 - (i) accepting liability towards the persons involved in a situation referred to in section 212(1) in the event that a procedure initiated pursuant to section 215 is discontinued owing to an act or omission by the right holder or in the event that the goods in question are subsequently found not to infringe an intellectual property right;
 - (ii) agreeing to bear all costs incurred during the procedure for assistance in keeping goods under Customs control pursuant to section 209; and
 - (d) the fee as prescribed in regulations.
- (5) The Customs authority shall not reject an application without further examination on the basis that the applicant has not provided some of the information listed in subsections (3) and (4) but may, at any time, request further information from an applicant if the Customs authority considers that the information is relevant to the application.
- (6) The Customs authority shall, within a reasonable period of time not to exceed thirty working days from the date of receipt of the application, notify the applicant in writing whether the application has been accepted or rejected and, if the application is rejected, clearly state the reasons for the rejection.
- (7) The Customs authority shall for a duration of one year, unless the applicant requests a shorter period for assistance or applies for action in cases of specific shipments, provide assistance regarding applications made under this section and shall on expiry of the one year period extend that period upon the written application of the right-holder.

- (8) The Customs authority shall inform all its offices immediately after the granting of an application of the details of the application and of the goods referred to in the application.
- (9) A right-holder having commenced action under this section shall inform the Customs authority if his intellectual property right ceases to be valid or if he ceases to be the owner of the intellectual property right for any reason whatsoever.
- (10) Where the Customs authority has sufficient grounds in the course of action taken pursuant to section 212(1), and before an application pursuant to subsection (1) has been lodged by a right-holder or granted, to believe that there are goods infringing intellectual property rights, the Customs authority may suspend the release of such goods or detain them for a period of three working days from the moment of receipt of a notification by the right-holder and by the holder of the goods, if the latter is known, in order to enable the right-holder to submit an application for action under this section.
- (11) The Customs authority may, during the course of any action pursuant to subsection (10), without divulging any information other than the actual or supposed number of items and their nature and before informing the right-holder of any possible infringement, request the right-holder to provide the proper officer with such further information that may be needed to confirm the suspicion of infringement.

214. Provision of security.

- (1) The Customs authority may require an applicant to provide a security or equivalent assurance or undertaking sufficient to protect the consignee, consignor or owner of the goods and the Customs authority.
- (2) The security or equivalent assurance pursuant to subsection (1) shall not be fixed at an amount which would unreasonably deter recourse to these procedures and shall be sufficient to protect the interests of the right-holder.
- (3) Payment of the security shall not affect the other legal remedies available to the right-holder.

215. Detention of suspected counterfeit or pirated goods.

- (1) The Customs authority shall, where it is satisfied after consulting with the applicant, if necessary, that goods found in one of the situations referred to in section 218(1) are suspected to infringe intellectual property rights, detain the goods referred to in the application and such detention shall remain in force for an initial period, and any extension thereof, in accordance with sections 222(1) and (2).

- (2) The proper officer shall immediately inform the Central Office of the Bahamas Customs Department which processed an application of a detention.
- (3) The Customs authority shall immediately inform the owner of the goods, the consignee or consignor and the applicant, of a detention of goods and may inform them of the actual or estimated quantity, and the actual or supposed nature, of the goods which have been detained.
- (4) The Customs authority shall, with a view to establishing whether an intellectual property right has been infringed and without prejudice to the protection of personal data, commercial and industrial secrecy and professional and administrative confidentiality, notify the right-holder of the names and addresses of the consignee, consignor, the owner of goods and the origin and place of shipment of goods suspected of infringing an intellectual property right.
- (5) The Customs authority shall give an applicant and the persons involved in any of the situations referred to in section 218(1) an opportunity to examine goods which have been detained; and —
 - (a) when examining such goods, the proper officer may take samples, and provide them to the right-holder, strictly for the purposes of analysis and to facilitate subsequent procedures; and
 - (b) any analysis of samples shall be carried out under the sole responsibility of the right-holder and at the right-holder's expense.
- (6) A right-holder receiving a notification pursuant to subsection (4) shall use the information solely for the purposes specified in section 222(1) and, upon any other use by the right-holder, the Customs authority may in its sole discretion —
 - (a) suspend the right-holder's application for action for the period of validity remaining before renewal;
 - (b) refuse to renew the application.
- (7) The Customs authority shall determine the conditions of storage of goods that are suspected of infringing intellectual property rights during a period of suspension of release or detention.
- (8) The right-holder may, where the Customs authority has detained goods that are suspected of infringing intellectual property rights, request the Customs authority to permit such goods to be abandoned for destruction under Customs control, without a determination that an intellectual property right has been infringed, subject to the following conditions —
 - (a) the right-holder —
 - (i) informs the Customs authority in writing within ten working days, or three working days in the case of perishable goods, of receipt of a notification under section 215 that the goods

- concerned are infringing intellectual property rights within the meaning of this Act; and
- (ii) provides the Customs authority with the written agreement of the importer, the owner of the goods, or the holder of the goods, to abandon the goods for destruction;
- (b) the information and agreement referred to in paragraph (a) —
- (i) with the consent of the Customs authority, may be provided directly to the Customs authority by the importer, the owner of the goods or the holder of the goods;
 - (ii) shall be deemed to have been accepted by the parties for the purposes of this section if the importer, the owner of the goods or the holder of the goods has not specifically opposed the destruction of the goods within the prescribed period; and
- (c) the Customs authority may, if in its opinion the circumstances warrant, extend the prescribed period by a further ten working days.
- (9) Destruction of infringing goods pursuant to subsection (8) shall be carried out at the expense, and under the responsibility, of the right-holder and shall in all cases be preceded by the taking of samples of such goods for keeping by the Customs authority as are necessary to constitute evidence admissible in any future legal proceedings.
- (10) The simplified procedures set out in subsection (8) shall not be available to the right-holder if the importer, the holder of the goods or the owner of the goods objects to, or contests in any way, the destruction of the goods that are suspected of infringing intellectual property rights.

216. Release of goods.

- (1) Subject to subsections (2) and (3), goods shall be released subject to completion of all other Customs formalities if, within a period of ten working days after the applicant has been served notice of a detention, the Customs authority has not been informed that proceedings have been initiated by a party other than the defendant to determine —
 - (a) whether an intellectual property right has been infringed; or
 - (b) that the Customs authority has undertaken measures to prolong the detention of the goods pursuant to subsection (2).
- (2) The Customs authority may in appropriate cases extend the period referred to in subsection (1) by a maximum of ten working days.
- (3) The period for detention shall, in the case of perishable goods that are suspected of infringing intellectual property rights, be three working days and such period may not be extended.

- (4) The owner or holder or consignee of goods shall, in the case of goods that are suspected of infringing intellectual property rights other than trademarks, copyright and related rights, be entitled to obtain the release of the goods on the posting of a security and on condition that —
- (a) the Customs authority has been notified that a procedure has been initiated within the period provided for in subsection (1) to establish whether an intellectual property right has been infringed under the law of The Bahamas;
 - (b) all Customs formalities have been completed;
 - (c) the security provided is sufficient to protect the interest of the right-holder for any infringement;
 - (d) the payment of such security will not prejudice any other remedy available to the right holder; and
 - (e) the security shall be released if the right holder fails to pursue his right of action within a reasonable period of time
- (5) The security referred to in subsection (4) shall be released if the right-holder does not exercise his right to institute legal proceedings within twenty working days of the date on which he receives notification of the suspension of release or detention.
- (6) This section shall also apply in cases where goods are detained in the course of any criminal investigation.

217. Provisions applicable to goods found to infringe intellectual property rights.

- (1) Goods found to infringe intellectual property rights shall not be —
- (a) entered for home consumption;
 - (b) exported or re-exported from the Customs territory;
 - (c) placed under transit procedures;
 - (d) entered in a bonded warehouse;
 - (e) temporarily admitted in the Customs territory; or
 - (f) placed in a Free Zone.
- (2) The Customs authority may, where it is determined by court order that goods detained under provisions of this Act are subject to confiscation as goods infringing intellectual property rights, without prejudice to other legal remedies open to the right-holder, —
- (a) destroy such goods at no cost to the Treasury; or
 - (b) have such goods destroyed by the right-holder under the supervision of the Customs authority.

218. Liability of the Customs authority and the right holder.

- (1) The right-holder's liability to other parties shall be governed by the law of The Bahamas.
- (2) Save as otherwise provided by the laws in force in The Bahamas, the acceptance of an application shall not entitle the right-holder to compensation in the event that such goods are not detected by the Customs authority and are released or no action is taken to detain them in accordance with section 215(1).
- (3) The lawful execution of authority conferred on the Customs authority under this Part to take action in respect of goods that are suspected of infringing intellectual property rights shall not render the Customs authority liable for loss or damages to any person affected by the exercise of such authority.

PART XIX – CUSTOMS ADVANCE RULINGS

219. Application for Customs ruling.

- (1) A person may make an application, in respect of particular goods specified in the application, to the Customs authority for a Customs ruling in respect of any one or more of the following matters —
 - (a) tariff classification of goods;
 - (b) determination of the origin of the goods for the purposes of this Act and other Customs legislation; or
 - (c) valuation of the goods.
- (2) An application under subsection (1) may be made —
 - (a) at any time before the date of importation or exportation into or from the Customs territory of the goods that are the subject of the application; or
 - (b) at any later time, if the Customs authority, in its sole discretion, permits.
- (3) A person may, in addition to those matters specified in subsection (1), make application to the Customs authority for a Customs ruling in relation to the correct application of any provision of this Act or other Customs legislation including any regulations, order or rules, made pursuant to such legislation.
- (4) Every application under this section shall be in the prescribed form, and shall —
 - (a) state the name and address of the applicant;

- (b) specify the particular goods that are the subject of the application;
 - (c) specify, in respect of those goods, the matter or matters listed under subsections (1) and (3) on which the applicant requests a Customs ruling and the applicant's opinion as to what the Customs ruling should be;
 - (d) unless the Customs authority agrees otherwise, be accompanied by the goods, or a sample of the goods, or sufficient technical description or documentation as is deemed necessary by the Customs authority;
 - (e) contain, or have attached, all information relevant to a proper consideration of the application; and
 - (f) be accompanied by such fee as may be prescribed by the Customs authority.
- (5) A ruling may be requested by, and given to, a single person or several persons having a direct interest in the matter.
- (6) The Customs authority may, at any time, request further information from an applicant if the Customs authority considers such information to be relevant to the application.

220. Making of Customs ruling.

- (1) Subject to subsection (8), the Customs authority shall —
- (a) in the case of an application made under section 219(1), make a ruling in respect of the goods specified in the application and in respect of the matter or matters on which the ruling is sought; or
 - (b) in the case of an application made under section 219(3), make a ruling in respect of the particular matter specified in the application.
- (2) The Customs authority shall make a ruling under subsection (1) as soon as possible and at the latest within sixty working days, or such other time or times as may be prescribed, from the date on which the request is received by the Customs authority.
- (3) The Customs authority shall, where it is unable to comply with the time limits referred to in subsection (2), inform the applicant of that fact before the expiry of such time limits, stating the reasons and indicating the further period of time it considers necessary in order to give a ruling on the request.
- (4) The applicant shall be notified in writing of the Customs ruling which shall set out the grounds on which it is based.
- (5) The Customs ruling shall refer to the right of appeal provided for in section 228.

- (6) The Customs authority may decline to make a Customs ruling if, in the Customs authority's opinion, it has insufficient information to do so.

221. Advance binding rulings.

- (1) The Customs authority shall, on application by a person with an interest therein and in a format to be prescribed by the Comptroller, issue a binding advance ruling to permit the applicant to determine the status of goods to be imported prior to the importation for purposes of this Act and other Customs legislation with respect to —
 - (a) classification for tariff purposes of specific goods (called a “BTC ruling”);
 - (b) origin of specific goods (called a “BOI ruling”); or
 - (c) proper valuation of specific goods for Customs purposes (called a “BVI” ruling).
- (2) An application for obtaining a BTC, BOI or BVI ruling shall be refused —
 - (a) where the request is made, or has already been made, to the Customs authority by or on behalf of person or persons who have already obtained a determination in respect of the same goods and, in the case of BOI rulings, under the same factual circumstances in relation to determining the origin of the goods; or
 - (b) where, in the opinion of the Customs authority, the application does not relate to any intended use of the requested ruling or any intended use of a Customs procedure.
- (3) BTC, BOI or BVI rulings shall be binding only in respect of the tariff classification, determination of the origin of the goods, or determination of the valuation methodology to be applied for specific goods under specific circumstances.
- (4) BTC, BOI or BVI rulings shall be binding on the Customs authority, in relation to the person to whom the ruling was addressed, only in respect of goods for which Customs formalities have been completed after the date of the ruling.
- (5) BTC, BOI or BVI rulings shall be binding on the holder of the ruling, in relation to the Customs authority, only with effect from the date on which notification of the ruling is received.
- (6) BTC, BOI or BVI rulings shall be valid until such rulings are annulled or modified by the Customs authority.
- (7) The person to whom a BTC, BOI or a BVI ruling is addressed shall, in order for such ruling to apply in the context of a particular Customs procedure, prove —

- (a) in the case of a BTC ruling, that the goods declared correspond in every respect to those described in the ruling;
 - (b) in the case of a BOI ruling, that the goods declared and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the ruling; or
 - (c) in the case of a BVI ruling, that the goods declared and the commercial circumstances or arrangements surrounding their acquisition which may have an effect on determining their valuation for customs purposes correspond in every respect to the goods and commercial circumstances or arrangements described in the ruling.
- (8) BTC, BOI and BVI rulings shall be annulled and considered null and void where it is determined, after issuance, that they have been based on inaccurate or incomplete information from the applicant and the person to whom the ruling was addressed shall be notified of the annulment.
- (9) Subsection (1) shall not prevent the Customs authority from issuing rulings in relation to any other Customs technical or procedural matter designed to facilitate trade or streamline Customs procedures in such circumstances as it sees fit.
- (10) Pursuant to section 8, the Comptroller shall make rules prescribing the conditions —
- (a) for the implementation of a formal system for the issuance of BTC, BOI and BVI rulings by the Customs authority;
 - (b) for the building and maintenance of a database at the Central Office of the Customs authority; and
 - (c) for the publication in the *Gazette* of the BTC, BOI and BVI rulings issued by the Customs authority.

222. Notice of Customs ruling.

- (1) The Customs authority shall promptly give notice in writing or by such electronic means as may be prescribed, to the applicant of —
 - (a) a Customs ruling, together with the reasons for the ruling, and the conditions, if any, to which it is subject;
 - (b) an advance binding ruling, in the form prescribed by regulations made by the Customs authority;
- (2) Rulings given by the Customs authority shall, unless otherwise specified, be valid throughout the Customs territory.

223. Effect of Customs ruling.

- (1) Subject to section 226, —

- (a) a ruling in respect of specific goods, in respect of which a ruling has been given under sections 220(1)(a) and 221(1), shall be conclusive evidence for the purposes of this Act and other Customs legislation.
- (b) a ruling in respect of a particular matter, in respect of which a ruling has been given under section 220(1)(b), shall be conclusive evidence for the purposes of this Act and other Customs legislation.

224. Confirmation of basis of Customs ruling.

The Customs authority may by notice in writing, at any time after a Customs ruling is made pursuant to sections 220 and 221, require the applicant to satisfy the Customs authority in such manner and within such time limits as the Customs authority considers appropriate —

- (a) that the facts or information on which the Customs ruling was made remain correct; and
- (b) that any conditions on which the Customs ruling was made have been complied with.

225. Amendment or revocation of Customs ruling.

- (1) The Customs authority may, without prejudice to provisions in this Act which specify the cases in and the conditions under which decisions are invalid or become null and void, amend or revoke a Customs ruling at any time where, in cases other than those referred to in section 226, the Customs ruling does not conform or no longer conforms with this Act or any regulations prescribed under this Act.
- (2) The person to whom a Customs ruling was addressed shall be notified of its annulment.
- (3) Annulment of a Customs ruling shall take effect as from the date on which the initial customs ruling took effect, unless otherwise specified in the decision in accordance with the Customs legislation.
- (4) A Customs ruling shall be revoked or amended where, in cases other than those referred to in subsection (1), one or more of the conditions laid down for its issue were not or are no longer fulfilled.
- (5) Subject to subsection (7) —
 - (a) the Customs authority shall promptly after making an amendment of a Customs ruling give notice in writing to the person to whom the ruling was addressed; and
 - (b) the ruling as amended shall be applied as from the date on which notice of the amendment is received, or is deemed to have been received, by the person to whom it was addressed.

- (6) The Customs authority may in exceptional cases, where in the opinion of the Customs authority the legitimate interests of the person to whom the ruling was addressed so require, defer the date on which revocation or amendment takes effect.
- (7) Notwithstanding subsection (5), the Customs ruling as given prior to an amendment under this section shall be applied to goods if the amended ruling has the effect of increasing any duty liability in respect of such goods where the goods —
 - (a) are imported or exported within three months of the date notice of the amendment is given, pursuant to a binding contract entered into before that date;
 - (b) have left the warehouse in the country from which they are being exported for direct shipment to the Customs territory at the date notice of the amendment of the ruling is given; or
 - (c) are imported or exported on or before the date notice of the amendment is given but have not been entered for home consumption or export.
- (8) Notwithstanding subsection (5), the provisions of section 176 shall, where the amendment to a Customs ruling has the effect of decreasing any duty liability in respect of any goods, apply as if the higher duty had been paid in error.
- (9) A Customs ruling addressed to several persons may, unless specified elsewhere in this Act or other Customs legislation, be revoked only in respect of a person who fails to fulfil an obligation imposed under that ruling.
- (10) Pursuant to section 8, the Comptroller shall prescribe rules for the implementation of this section including with respect to rulings addressed to several persons.

226. Cessation of Customs ruling.

Without prejudice to section 225, a Customs ruling shall cease to have effect on the earliest of the following dates —

- (a) the date of a material change in the Customs legislation if that date occurs prior to importation or exportation of the relevant goods, as the case may be;
- (b) the date on which any of the conditions to which the Customs ruling was made subject cease to be met or complied with;
- (c) the date of a failure to satisfy the requirements of the Customs authority under section 224; or
- (d) the date of any amendment or revocation of the Customs ruling under section 225.

227. No liability where Customs ruling relied on.

- (1) Where an applicant has relied on a Customs ruling in relation to specific goods or a specific matter, and, as a result —
 - (a) the applicant has not paid the amount of duty that, but for the ruling, is payable on the goods;
 - (b) the applicant would, but for the ruling, be liable to the imposition of a penalty under section 230; or
 - (c) goods, but for the ruling, would be liable to seizure under this Act, the amount of the duty otherwise payable shall not be recoverable as a debt due to the Crown, and no penalty shall be imposed under section 230, and the goods shall not be liable to seizure under this Act, as the case may be.
- (2) Subsection (1) shall apply —
 - (a) only in relation to a matter on which a Customs ruling has been given and in circumstances where the Customs ruling has not ceased under section 226; and
 - (b) in accordance with any amendment to a Customs ruling of which the applicant has received notice under section 225.

228. Appeal from rulings or decisions of Customs authority and suspension of implementation.

- (1) Any person who is dissatisfied with a Customs ruling or a decision to amend a Customs ruling made by the Customs authority under this Act may —
 - (a) within fifteen working days after the date on which notice of such ruling or decision is received, appeal to the Comptroller under Division Two of Part XXIV; and
 - (b) if dissatisfied with the decision made by the Comptroller, within fifteen working days after the date on which notice of the decision is given appeal to the Commission under Division Three of Part XXIV.
- (2) The submission of an appeal shall not suspend the implementation of a disputed Customs ruling or decision.
- (3) Where a disputed ruling or decision has the effect of causing Customs duties, fees or taxes to be payable, suspension of such Customs ruling or decision shall be conditional upon the provision of a security.
- (4) This section and section 229 shall not apply to appeals lodged with a view to the annulment, revocation or amendment of a decision taken by a judicial authority.

229. Rulings or decisions on appeal.

Sections 220 and 221 shall apply with regard to rulings or decisions by the Customs authority on appeals.

PART XX – OFFENCES AND PENALTIES

DIVISION I – GENERAL PROVISIONS

230. Customs penalties

- (1) Penalties for failure to comply with the provisions of this Act and other Customs legislation shall be effective, proportionate and dissuasive.
- (2) For the purposes of this Act, penalties shall take one, or both, of the following forms —
 - (a) a pecuniary charge by the Customs authority, including a settlement applied in place of and in lieu of a criminal penalty; and
 - (b) the withdrawal, suspension and or amendment of any authorization held by the person concerned including the revocation of any licence granted under this Act.
- (3) Aggregation of penalties shall, where penalties are combined on the basis of the same fact, be proportionate to the offence involved.

231. Imposition of penalty.

- (1) Subject to section 232, where the Customs authority is satisfied that an entry contains an error or omission —
 - (a) and as a result an amount of duty payable under this Act has not been paid or declared for payment or would not have been paid or declared for payment; or
 - (b) resulting in the declaration being materially incorrect,the Customs authority shall give notice to the person who made the entry to pay all sums that the Customs authority has determined to be owing within ten working days of the issuance of the notice.
- (2) The Customs authority shall issue a notice of penalty to be paid, in accordance with subsections (3) and (4), in addition to any duties otherwise owing unless the person receiving a notice pursuant to subsection (1) —
 - (a) makes payment within twenty working days after receiving such notice; or
 - (b) satisfies the Customs authority that such person is entitled under section 232 to an exemption from the imposition of a penalty.

- (3) The Customs authority shall, in any case where as a result of an error or omission an amount of duty payable under this Act has not been paid or declared for payment, issue a notice requiring the person who made the entry to pay the greater of —
 - (a) fifty dollars; or
 - (b) an amount equal to five per centum of the duty unpaid or not declared.
- (4) The Customs authority shall, in any case where an error or omission has resulted in an entry being materially incorrect only, issue a notice requiring the person who made the entry to pay fifty dollars in respect of such entry.
- (5) The due date for the payment of any penalty imposed under this section shall be the date that is fourteen working days after the date on which notice of the penalty is given by the Customs authority.
- (6) The amount of a penalty shall constitute a debt due to the Crown and shall be recoverable by action at the suit of the Customs authority.
- (7) No person by whom or on whose behalf the amount of a penalty is paid shall, unless otherwise determined by the Customs authority, be prosecuted for an offence in relation to the error or omission and the goods in relation to which the error or omission occurred shall not be liable to seizure under this Act.
- (8) Nothing in subsection (7) shall apply to a prosecution or seizure in relation to goods that have been forfeited to the Crown by reason of the importation of the goods being prohibited or unlawful.
- (9) For the purposes of this section, "materially incorrect" means that the entry contains an error or omission in relation to any of the terms of the declaration.
- (10) An additional penalty equivalent to the Prime Rate shall be imposed where any penalty imposed under this section remains unpaid by the due date for payment.
- (11) A penalty shall, where goods referred to in subsection (1) become free of duty or subject to a lower rate of duty under the Customs Tariff after the entry is made, be calculated according to the provisions of subsection (3) as if the duty liability had not so changed.
- (12) A person who is dissatisfied with a decision of the Customs authority under this section may —
 - (a) within fifteen working days after the date on which notice of the decision is given, appeal to the Comptroller under Division Two of Part XXIV; and

- (b) if dissatisfied with the decision made by the Comptroller, within fifteen working days after the date on which notice of the decision is given appeal to the Commission under Division Three of Part XXIV.

232. No penalty in certain cases.

A person shall not be liable to the imposition of a penalty under section 231 where —

- (a) such person has voluntarily disclosed the error or omission to the Customs authority before the Customs authority has notified such person of the error or omission;
- (b) such person satisfies the Customs authority that he formed a view as to the relevant facts pertaining to the entry which, while incorrect, was reasonable having regard to the information available to such person when the entry was prepared;
- (c) such person satisfies the Customs authority that he acted in good faith on information provided by the importer or supplier of the goods to which the entry relates and reliance on the accuracy or completeness of the information so provided was reasonable in the circumstances;
- (d) the total correct Customs value of the goods to which the error on the entry relates is less than one hundred dollars;
- (e) an information for an offence against this Act has been laid in relation to the error or omission; or
- (f) the period between the date of lodgement of the entry and the date on which the error or omission was first identified exceeds three years.

233. General penalty.

An offence shall, where this Act creates an offence without providing for a specific penalty, be prosecuted summarily and the person so prosecuted shall be liable on summary conviction to a maximum fine of five thousand dollars.

DIVISION II – OFFENCES IN RELATION TO CUSTOMS AUTHORITY

234. Threatening or resisting a Customs officer.

- (1) No person shall —
 - (a) threaten by using abusive or offensive language;
 - (b) assault or molest; or
 - (c) by force resist or intentionally intimidate,

any Customs officer or any other person employed by the Customs Department, or a person acting in the officer's aid, while acting or proceeding to act in the execution of his public duty or in the execution of any power described in this Act or any other Customs legislation.

- (2) A person who commits an offence against this section shall be liable on conviction on information to imprisonment for a maximum term of five years.
- (3) Any person aiding, abetting or assisting in actions having the effect or the purpose to commit an offence under subsection (1) shall be liable on summary conviction to imprisonment for a maximum term of two years and to a maximum fine of ten thousand dollars.

235. Obstructing a Customs officer or interfering with Customs property.

- (1) A person who, otherwise than by force —
 - (a) intentionally obstructs or hinders any Customs officer or authorised person in the performance of a duty or the exercise of a power imposed or conferred on him under any Customs enactment;
 - (b) commits any act that impedes or attempts to impede the carrying out of a search for anything liable to forfeiture under any Customs enactment or detention, seizure or removal under this Act;
 - (c) unless there is just and sufficient cause, intentionally interferes with any equipment, means of transport, animal, communications system, or other aid used, or intended for use, by the Customs authority;
 - (d) commits any act having the effect or purpose of impairing the effectiveness of any equipment, means of transport, animal, communications system, or other aid used, or intended for use, by the Customs authority;
 - (e) damages, breaks, or destroys goods to prevent seizure thereof by a proper officer;
 - (f) does anything calculated to prevent the procuring or giving of evidence as to whether or not anything is liable to forfeiture;
 - (g) prevents or impedes in any way the arrest or apprehension of a person under any Customs enactment; or
 - (h) releases or attempts to release any person apprehended or arrested for any offence punishable under this Act or any other Customs enactment,

commits an offence and shall be liable on summary conviction to imprisonment for a maximum term of two years, or to a maximum fine of five thousand dollars, or to both such fine and imprisonment.

- (2) A person who commits an offence under subsection (1), or any act contrary to any provision of this Act, armed with any firearm or other weapon shall be liable on conviction on information to imprisonment for a maximum term of twenty years.
- (3) A person who commits an offence under subsection (1), or any act contrary to any provision of this Act, disguised in any way shall be liable on conviction on information to —
- (a) imprisonment for a maximum term of two years;
 - (b) a maximum fine of five thousand dollars; or
 - (c) both such fine and imprisonment.
- (4) A person who, whether or not he causes physical damage, intentionally fires —
- (a) at an aircraft, vessel or vehicle in the service of the Customs authority; or
 - (b) at a Customs officer executing his duty or a person acting in the officer's aid,
- commits an offence and shall be liable on conviction on information to imprisonment for a maximum term of twenty years.
- (5) A person who, with intent to obstruct any Customs officer or authorised person under this Act in the execution of his duty, warns or does any act for the purpose of warning any other person engaged in the commission of an offence under this Act, whether or not such other person is in a position to take advantage of such warning or act, commits an offence and on summary conviction shall be liable to —
- (a) imprisonment for a maximum term of two years;
 - (b) a maximum fine of five thousand dollars; or
 - (c) both such fine and imprisonment.
- (6) A person shall not be liable to any legal proceedings for —
- (a) preventing any other person from giving a warning described in subsection (5); and
 - (b) for purposes of paragraph (a), entering any land.
- (6) A person aiding, abetting or assisting in actions having the effect or the purpose to commit an offence under subsection (1) commits an offence and on summary conviction shall be liable to —
- (a) imprisonment for a maximum term of two years;
 - (b) a maximum fine of five thousand dollars; or
 - (c) both such fine and imprisonment.

236. Carrying away officers.

- (1) Where a means of transport departs from the Customs territory carrying on board a Customs officer without his consent, the master of the vessel or the commander of the aircraft or the person in charge of the means of transport, as the case may be, commits an offence and on conviction on indictment shall be liable to —
 - (a) imprisonment for a maximum term of twenty years; and
 - (b) a maximum fine of fifty thousand dollars.
- (2) In addition to any other liability imposed on any person under subsection (1), the amount of any expenses incurred by the Customs authority or the Government of the Bahamas caused by the carrying away of a Customs officer may be recovered from such person or from the owner of the means of transport.

237. Impersonation of Customs officer.

- (1) A person commits an offence who, not being a Customs officer or an authorised person for the purposes of this Act, for the purpose of obtaining admission to any building, vessel, aircraft or other place, or for the purpose of performing or procuring to be performed any act that such person is not entitled to perform or procure to be performed, or for any other unlawful purpose —
 - (a) falsely assumes the name, designation or character of the Comptroller, a Customs officer or of any other person authorised by the Comptroller to discharge any duty relating to an assigned matter; or
 - (b) by words, conduct or demeanour holds himself out to be the Comptroller or a Customs officer or any other person authorised by the Comptroller to discharge any duty for the purposes of this Act or wears or uses the uniform, name, designation or description of the Comptroller or of a Customs officer or an authorised person for the purposes of this Act.
- (2) A person who commits an offence under this section, in addition to any other proceedings that may be taken against him, shall be liable on summary conviction to imprisonment for a maximum term of two years, or to a fine of five thousand dollars, or to both such fine and imprisonment.

238. Bribery and collusion.

- (1) A person who, in order to induce him to perform or abstain from performing any act related to an assigned matter whereby the Government of The Bahamas is or may be defrauded, or that is otherwise unlawful or

in contravention of the duties of the Comptroller, a Customs officer or other person authorised under this Act —

- (a) directly or indirectly offers or gives to the Comptroller, or any Customs officer, or to any other person authorised by the Comptroller to discharge any duty for the purposes of this Act, any payment or other reward, whether pecuniary or other, or any promise or security for any such payment or reward; or
- (b) proposes or enters into any agreement with the Comptroller, a Customs officer or any other person authorised by the Comptroller, to discharge any duty for the purposes of this Act,

commits an offence and shall be liable on summary conviction or on indictment to imprisonment for a maximum term of five years and to a maximum fine of ten thousand dollars.

- (2) A Customs officer or any other person authorised under this Act to act as a Customs officer —

- (a) who in connection with any of his duties directly or indirectly asks for or takes any payment or other reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or a reward which he is lawfully entitled to claim or receive; or
- (b) who enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at any act or thing whereby the Customs revenue is or may be defrauded, or which is contrary to the Customs laws or the proper execution of his duty,

commits an offence and on conviction on information shall be liable to imprisonment for a maximum term of three years, or to a fine of ten thousand dollars, or to both such fine and imprisonment.

239. Counterfeit seals or marks.

- (1) A person commits an offence who, without lawful authority or excuse, has in his possession, makes or uses, any counterfeit seal, stamp, or mark in imitation of or closely resembling any seal, stamp, or mark used by the Customs authority for the purposes of this Act or other Customs legislation.
- (2) On summary conviction of a person for an offence under this section —
 - (a) such person shall be liable to imprisonment for a maximum term of five years and to a maximum fine of ten thousand dollars; and
 - (b) goods in respect of which the offence has been committed shall be liable to forfeiture.

240. Obligations of persons arriving in or departing from the Customs territory.

- (1) A person commits an offence who wilfully fails to comply with any requirement imposed on such person by or under any of sections 80, 81, 82, 86, 87 or 88.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.

241. Unauthorised presence in certain Customs controlled areas.

- (1) A person commits an offence who, without the permission of a Customs officer, enters into, or remains in when directed by a Customs officer to leave, a Customs controlled area when that area is being, or is about to be, used for any of the purposes for which it is licensed.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of fifty thousand dollars.

DIVISION III – OFFENCES IN RELATION TO POWERS OF CUSTOMS OFFICERS

242. Failure to answer questions.

- (1) A person commits an offence who, when required under this Act or other Customs legislation, to answer any question put to such person —
 - (a) without reasonable excuse, fails or refuses to answer it; or
 - (b) intentionally gives a misleading answer.
- (2) A person who commits an offence under this section shall be liable on summary conviction to imprisonment for a maximum term of three years, or to a maximum fine of five thousand dollars, or to both such fine and imprisonment.
- (3) It shall be a defence to a prosecution for an offence against this section for a person to prove that he —
 - (a) did not, when required to answer the question, have the information required to answer the question in his knowledge, possession, or control; or
 - (b) honestly and reasonably believed that the answer he gave was, in all the circumstances, correct at that time.
- (4) It shall not be a reasonable excuse for the purposes of subsection (1)(a) if a person fails or refuses to answer a question on the grounds that to answer the question would or might incriminate or tend to incriminate that person.

243. Failure to produce evidence of identity or entitlement to travel.

- (1) A person commits an offence who fails without reasonable excuse to comply with a demand made under section 33.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of five thousand dollars.

244. Failure to produce or account for goods.

- (1) A person commits an offence who fails or refuses to produce or account for any goods when required to do so under sections 39, 40 or 41.
- (2) A person who commits an offence against this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.
- (3) A person shall not be liable to an offence under this section if such person did not have possession or control of the goods or were otherwise unable, for good reason, to comply with the requirements of the Customs authority.

245. Failure to comply with requisition to produce documents.

- (1) A person commits an offence who fails or refuses to comply with a requirement of the Customs authority to produce any document under section 47.
- (2) A person who commits an offence against this section shall be liable on summary conviction to a maximum fine of five thousand dollars
- (3) A person shall not be liable to an offence under this section if such person did not have possession or control of the documents or information or did not have knowledge of the relevant documents, books, or records.

246. Failure or refusal to remain at place.

- (1) A person commits an offence who —
 - (a) fails or refuses to remain at the place that is being searched until the earlier of the events specified in section 55(2)(a) and (b); or
 - (b) fails or refuses to remain at the place where such person is being searched until the search is completed.
- (2) A person who commits an offence under this section shall be liable on summary conviction to imprisonment of a maximum term of one year, or to a maximum fine of five thousand dollars, or to both such fine and imprisonment.

DIVISION IV – OFFENCES IN RELATION TO CUSTOMS CONTROLLED
AREAS AND WAREHOUSES

247. Absence of licence.

- (1) A person who contravenes section 14 commits an offence.
- (2) A person who uses a building, or permits it to be used, as a bonded warehouse without such building having been licensed as a bonded warehouse under section 191 commits an offence.
- (3) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of one thousand dollars.

248. Failure to comply with conditions of licence.

- (1) A person commits an offence who fails to comply with, or acts in contravention of, any term, condition, or restriction subject to which a licence has been granted under sections 16 or 191.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of one thousand dollars.

249. Unauthorised access to bonded warehouses.

- (1) A person commits an offence who —
 - (a) being a person other than the proper officer, or the warehouse keeper, or an employee of the warehouse keeper duly authorised in that behalf —
 - (i) opens a bonded warehouse without the authority of the proper officer and without just and sufficient cause; or
 - (ii) creates or obtains access to a bonded warehouse, or to goods in a bonded warehouse, without the authority of the proper officer and without just and sufficient cause.
 - (b) being a person other than the proper officer, or the warehouse keeper, or any employee of the warehouse keeper duly authorised in that behalf, —
 - (i) enters a bonded warehouse, or any part thereof, contrary to the orders of a proper officer; or
 - (ii) refuses to leave any bonded warehouse, or part thereof, when directed to do so by the proper officer.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a maximum fine of one thousand dollars.

250. Other offences in relation to warehouses.

- (1) A person commits an offence who —
-

- (a) contravenes any condition imposed in section 193(3) (which relates to the maintenance of goods); or
 - (b) deals with warehoused goods contrary to subsections (5) and (6) of section 195 (which relates to the use of warehoused goods as stores for an aircraft or a vessel proceeding to a place outside of the Customs territory).
- (2) A person —
- (a) who takes, or causes or permits to be taken, goods from a bonded warehouse otherwise than in accordance with this Act; or
 - (b) who wilfully destroys or damages any warehoused goods otherwise than in circumstances provided for in this Act,
- commits an offence and shall be liable on summary conviction to imprisonment for a maximum term of two years, or to a maximum fine of five thousand dollars, or to both such fine and imprisonment.
- (3) The goods in respect of which an offence is committed under subsections (1) and (2) shall be liable to forfeiture.

DIVISION V – OFFENCES IN RELATION TO ARRIVAL

AND DEPARTURE OF MEANS OF TRANSPORT

251. Offences in relation to arrival of means of transport.

- (1) A person commits an offence who —
- (a) being the person in charge of any means of transport, fails to comply with section 72(1)(a) (which relates to notification of arrival) or any direction given by a Customs officer under section 72(1)(b);
 - (b) being the person in charge of, or the owner of, or a member of the crew of, or a passenger on or in, any means of transport —
 - (i) refuses to answer any question put to such person by a Customs officer under section 73(2)(a) (which relates to a requirement to answer questions) or knowingly gives a false answer to the question; or
 - (ii) fails to comply with any request made under section 73(2)(b);
 - (c) being the master of a vessel, fails to comply with any direction of a Customs officer under section 74(1) and (4) (which relates to the bringing-to of a ship), or fails to comply with section 74(3);
 - (d) being the person in charge of any means of transport, fails to comply with section 75(1) (which relates to the arrival of means of transport at a nominated Customs place only);

- (e) being a member of the crew of, or a passenger on or in, any means of transport, acts in contravention of section 75(2);
 - (f) being a person in charge of any means of transport, fails to comply with, or acts in contravention of, section 76(2) (which relates to means of transport arriving at a place other than a nominated Customs place);
 - (g) being a member of the crew of, or a passenger on or in, any means of transport, acts in contravention of section 76(3) or (4);
 - (h) being the person in charge of or the owner of any means of transport —
 - (i) fails to obey a Customs direction given under section 78(2) (b);
 - (ii) refuses to answer any question put to such person by a Customs officer under subsection 78(6)(a) (which relates to a requirement to answer questions) or knowingly gives a false answer to the question; or
 - (iii) fails to produce any documents required by a Customs officer under subsection 78(6)(b).
- (2) On conviction of a person for an offence under paragraph (c) of subsection (1) —
- (a) in the case of the master of a light aircraft or of a vessel less than one hundred and fifty tons register —
 - (i) such person shall be liable on summary conviction to a maximum fine of five thousand dollars; and
 - (ii) the means of transport in respect to which the offence is committed may be liable to forfeiture;
 - (b) in the case of the master in charge of an aircraft other than a light aircraft, or of a vessel of one hundred and fifty tons register or more —
 - (i) such person shall be liable on summary conviction to a maximum fine of twenty thousand dollars; or, on conviction on information, to a maximum fine of one hundred thousand dollars; and
 - (ii) the aircraft or vessel in respect of which the offence is committed may be seized and detained until the fine is paid or security given.
- (3) A person who commits an offence under paragraphs (a), (b), (d), (e), (f), (g) or (h) of subsection (1) shall be liable on summary conviction to a maximum fine of five thousand dollars.

- (4) The master or commander or the person in charge of a means of transport, as the case may be, shall within all reasonable delays make report of the means of transport, its cargo and stores to the nearest Customs officer where such means of transport is —
 - (a) lost or wrecked; or
 - (b) compelled to land or to bring to within the Customs territory owing to accident, stress of weather or other unavoidable cause.
- (5) A person who contravenes subsection (4) commits an offence and shall be liable on summary conviction to a maximum fine of five thousand dollars.

252. Offences in relation to inward report.

- (1) The person being in charge of the means of transport and the owner of the means of transport each commit an offence where —
 - (a) such person, being the person in charge of or the owner of a means of transport, as the case may be, fails to comply with section 78(2) (a) (which relates to the delivery of inward reports);
 - (b) an inward report delivered pursuant to section 78 is erroneous, misleading, or defective in any material particular; or
 - (c) a document delivered in support of an inward report is not genuine or is erroneous or misleading,
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of five thousand dollars.

253. Signalling to smugglers.

- (1) In this section references to a “prohibited signal” or a “prohibited message” are references to a signal or message connected with the smuggling or intended smuggling of goods and or people into or out of the Customs territory.
- (2) A person who by any means sends a prohibited signal or transmits a prohibited message from any place or from any means of transport within the Customs territory to a person in any other means of transport commits an offence and on summary conviction —
 - (a) shall be liable to imprisonment for a maximum term of one year and to a maximum fine of ten thousand dollars; and
 - (b) any equipment or apparatus used for the sending of the signal or message shall be liable to forfeiture.
- (3) Subsection (2) applies whether or not the person for whom the signal or message is intended is in a position to receive it or is actually engaged at such time in smuggling.

- (4) For the purposes of this section, any mean of transport to which a signal described in subsection (1) is sent shall, unless the contrary is proved, be deemed to be a smuggling means of transport if such means of transport —
- (a) changes its course;
 - (b) if a vessel and if at anchor, weighs anchor and re-anchors; or
 - (c) sends a signal in apparent response.

254. Communicating with arriving means of transport.

A person on board a means of transport who, for the purpose of committing an offence under this Act, communicates in any way with another means of transport arriving from a place outside the Customs territory before it is cleared by the proper officer commits an offence and on summary conviction shall be liable to —

- (a) imprisonment for a maximum term of one year; and
- (b) a maximum fine of five thousand dollars.

255. Offences in relation to departure of means of transport.

- (1) A person commits an offence who —
- (a) being the person in charge of any means of transport, fails to comply with section 89 (which relates to clearance of means of transport);
 - (b) being the person in charge of any means of transport —
 - (i) refuses to answer any question put to such person by a Customs officer under section 90(b) (which relates to a requirement to answer questions) or knowingly gives a false answer to the question;
 - (ii) fails to produce any documents required by a customs officer under section 90(c); or
 - (iii) fails to comply with any requirement made under section 90(d);
 - (c) being a person in charge of, or a member of the crew of, any means of transport, fails to comply with section 91(which relates to boarding of outward means of transport);
 - (d) being a person in charge of any means of transport, fails to comply with a demand made by a Customs officer under section 92 (which relates to the production of a certificate of clearance), or refuses to answer any question put to such person under that section or knowingly gives a false answer to the question; or

- (e) being a person in charge of any means of transport, acts in contravention of section 93 (which relates to the departure of means of transport only from a Customs place).
- (2) A person who commits an offence under paragraphs (a) to (e) of subsection (1) shall be liable on summary conviction to a maximum fine of five thousand dollars.

256. Offences in relation to outward report.

- (1) The person being in charge of the means of transport and the owner of the means of transport each commit an offence where —
 - (a) such person, being the person in charge or the owner of any means of transport, as the case may be, fails to comply with section 90(1) (a) (which relates to the delivery of outward reports);
 - (b) an outward report delivered pursuant to section 90 is erroneous, misleading, or defective in any material particular; or
 - (c) any document delivered in support of an outward report is not genuine or is erroneous or misleading.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of five thousand dollars.

DIVISION VI – OTHER OFFENCES

257. Offences in relation to coasting trade.

- (1) Without limiting the scope of section 270, a person who carries coastwise, or unloads after carriage coastwise, or puts on board any means of transport for carriage coastwise —
 - (a) any goods the importation of which is prohibited under section 202; or
 - (b) any restricted goods contrary to any condition regulating the carriage coastwise of such goods,
 commits an offence and on summary conviction —
 - (i) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of of ten thousand dollars, or to both such fine and imprisonment,
 - (ii) any goods in respect of which the offence is committed shall be liable to forfeiture; and
 - (iii) the means of transport in relation to which the offence is committed may be seized and detained.
- (2) Subject to subsection (1) —

- (a) a person who is in any way responsible for or partakes in any actions described in sub-paragraphs (i) and (ii) commits an offence where goods for carriage coastwise, without the permission of the Customs authority, and contrary to any conditions the Customs authority may have imposed —
 - (i) have been unloaded from or loaded to a coasting vessel or aircraft at any place other than a proper place of loading or a sufferance wharf; or
 - (ii) having been unloaded or landed, have not been conveyed to a Customs controlled area; and
- (b) on summary conviction of a person described in paragraph (a) —
 - (i) such person shall be liable to a maximum fine of five thousand dollars;
 - (ii) the goods in respect of which the offence is committed shall be liable to forfeiture; and
 - (iii) the means of transport in relation to which the offence is committed may be seized and detained until the fine is paid.
- (3) A person in charge of a coasting vessel or aircraft —
 - (a) who causes a coasting vessel or aircraft to depart from any Customs port or airport within the Customs territory without clearance; or
 - (b) who delivers an account which is false or incorrect in any material particular,commits an offence and on summary conviction —
 - (i) such person shall be liable to a maximum fine of five thousand dollars; and
 - (ii) the means of transport in relation to which the offence is committed may be seized and detained until the fine is paid.
- (4) A person in charge of a coasting vessel or aircraft arriving at any port or place within the Customs territory —
 - (a) who fails to obtain a certificate of clearance for the coastwise voyage; or
 - (b) who permits, without the permission of the proper officer, any goods to be unloaded before the delivery of the certificate of clearance,commits an offence and on summary conviction —
 - (i) such person shall be liable to a maximum fine of five thousand dollars;
 - (ii) any goods in respect of which the offence is committed shall be liable to forfeiture; and

- (iii) the means of transport in relation to which the offence is committed may be seized and detained until the fine is paid.
- (5) The master of any coasting vessel or the commander of any coasting aircraft —
 - (a) which deviates from its voyage, unless forced to do so by circumstances beyond his control the proof whereof shall lie on such master or commander; or
 - (b) which having deviated from its voyage, or having taken on board any wreck or other goods, or discharged any goods, in the course of a voyage from one part of The Bahamas to another —
 - (i) does not forthwith proceed directly to the nearest Customs port or airport and explain the circumstances to the satisfaction of the proper officer; and
 - (ii) does not deliver any such wreck or other goods taken on board to the proper officer,
 commits an offence and on summary conviction —
 - (i) any goods in respect of which the offence is committed shall be liable to forfeiture; and
 - (ii) the means of transport in relation to which the offence is committed may be seized and detained.
- (6) A person in charge of a coasting vessel or a coasting aircraft —
 - (a) who refuses to answer any questions lawfully put to him or to produce any books or document required of him under this section; or
 - (b) who makes any false or incorrect reply to any question,
 commits an offence and on summary conviction —
 - (i) such person shall be liable to a maximum fine of five hundred dollars; and
 - (ii) the means of transport in relation to which the offence is committed may be seized.

258. Adapting means of transport for smuggling.

- (1) The person in charge and the owner of a means of transport each commit an offence if the means of transport comes to or is found within the Customs territory having —
 - (a) any part, or any secret or disguised place, adapted for the purpose of concealing goods or persons; or
 - (b) any device adapted for the purpose of concealing goods or persons.
- (2) On conviction of a person for an offence under this section —

- (a) in the case of a light aircraft or of a vessel less than one hundred and fifty tons register —
 - (i) such person shall be liable on summary conviction to a maximum fine of five thousand dollars;
 - (ii) the means of transport, and any goods found in or attached in any manner to the means of transport, in respect to which the offence is committed shall be liable to forfeiture;
- (b) in the case of an aircraft, other than a light aircraft, or of a vessel of one hundred and fifty tons register or more —
 - (i) such person shall be liable on summary conviction to a maximum fine of ten thousand dollars or on conviction on information to a fine of one hundred thousand dollars;
 - (ii) the aircraft or vessel in respect of which the offence is committed may be seized and detained until the fine is paid or security given; and
 - (iii) any goods, in respect of which the offence has been committed, found in the means of transport or attached in any manner to it, shall be liable to forfeiture.

259. Interference with seals and fastenings.

- (1) A person acting as described in paragraph (b) and the person in charge of the means of transport each commit an offence where —
 - (a) in pursuance of a power conferred under this Act a lock, mark or seal has been placed by a Customs officer on goods to secure or identify such goods or a fastening, lock, seal, or mark has been placed on a hatchway, opening, or other place or device on a means of transport; and
 - (b) without the authority of a Customs officer, a person opens, alters, breaks, or erases any fastening, lock, seal or mark referred to in paragraph (a) while the means of transport or the goods are within the Customs territory.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.

260. Interference with cargo.

- (1) A person who acts as described in any one of paragraphs (a) to (d) and the person in charge of the means of transport each commit an offence where, at any time after a means of transport carrying goods from a point outside the Customs territory arrives within the Customs territory and before a report is made in accordance with section 78, the person so acting —
 - (a) interferes with any cargo;

- (b) makes any alteration in the storage of goods carried so as to facilitate the unloading of any of the goods before the report has been made;
 - (c) opens any package; or
 - (d) damages, removes, destroys, or throws overboard, any of the goods in order to prevent seizure.
- (2) Subsection (1) shall not apply if the act was —
- (a) authorised by the Customs authority;
 - (b) required by any statutory or other requirement relating to navigation or safety; or
 - (c) compelled by accident, stress of weather, or other necessity.
- (3) A person who commits an offence under paragraphs (a), (b) or (c) of subsection (1) shall be liable on summary conviction to a maximum fine of five thousand dollars.
- (4) On conviction of a person for an offence under paragraph (d) of subsection (1) —
- (a) in the case of a light aircraft or of a vessel less than one hundred and fifty tons register —
 - (i) such person shall be liable on summary conviction to a maximum fine of five thousand dollars; and
 - (ii) the means of transport, and any goods found in or attached in any manner to it, in respect to which the offence is committed shall be liable to forfeiture;
 - (b) in the case of an aircraft other than a light aircraft, or of a vessel of one hundred and fifty tons register or more —
 - (i) such person shall be liable on summary conviction to a maximum fine of ten thousand dollars or on conviction on information to a maximum fine of one hundred thousand dollars;
 - (ii) the aircraft or vessel in respect of which the offence is committed may be seized and detained until the fine is paid or security given; and
 - (iii) any goods in respect of which the offence has been committed, found in the means of transport or attached in any manner to it, shall be liable to forfeiture.

261. Unloading goods without authorisation.

- (1) A person who acts in contravention of section 83(2) commits an offence.
- (2) On summary conviction of a person for an offence under this section —

- (a) such person shall be liable to a maximum fine of ten thousand dollars; and
- (b) the goods in respect of which the offence has been committed shall be liable to forfeiture.

262. Offences in relation to movement and storage of goods.

- (1) A person commits an offence who —
 - (a) acts in contravention of section 110 (which relates to transportation of imported goods);
 - (b) subject to section 270(1), acts in contravention of section 111 (which relates to the removal of goods from a Customs controlled area); or
 - (c) subject to section 270(1), takes goods out of a Customs controlled area or does any act in relation to goods taken out of a Customs controlled area that constitutes a contravention of the permission granted by the Customs authority under section 112 (which relates to the temporary removal of goods from a Customs controlled area).
- (2) On summary conviction of a person for an offence under this section —
 - (a) such person shall be liable to a maximum fine of five thousand dollars; and
 - (b) the goods in respect of which the offence has been committed shall be liable to forfeiture.

263. Interference with goods subject to Customs control.

- (1) A person who, except with the permission of a Customs officer —
 - (a) makes any alteration in the condition of goods subject to the control of Customs;
 - (b) interferes with, including by way of addition to or taking away from, such goods;
 - (c) unpacks or repacks such goods; or
 - (d) removes such goods from any place in which a Customs officer has directed that the goods are to be stored,commits an offence and on summary conviction —
 - (i) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment; and
 - (ii) the goods in respect of which the offence is committed shall be liable to forfeiture.
- (2) A person, other than a proper officer or a person otherwise authorised by law, on finding any uncustomed goods on land or in the sea —

- (a) who interferes with or picks up any such goods found on land or floating upon or sunk in the sea; or
- (b) who fails to report his discovery to the nearest Customs officer, commits an offence and on summary conviction —
 - (i) such person shall be liable to a maximum fine of five thousand dollars; and
 - (ii) the goods in respect of which the offence is committed shall be liable to forfeiture.

264. Offences in relation to entries.

- (1) A person commits an offence who —
 - (a) fails to make an entry required under this Act: or
 - (b) makes or signs, or causes to be made or signed, or submits or causes to be submitted to the Customs authority, an entry required under this Act that is erroneous or defective in any material particular.
- (2) A person who commits an offence under this section shall be liable on summary conviction to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment.

265. Offences in relation to other declarations and documents.

- (1) A person commits an offence who —
 - (a) makes or causes to be made any declaration, certificate, application, or other document, or written statement, under this Act that is false or incorrect in any material particular: or
 - (b) produces or delivers to a Customs officer any document that is erroneous in any material particular.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment.
- (3) A person, with respect to a document that is required under this Act or that is used in the transaction of any business relating to an assigned matter under this Act —
 - (a) who counterfeits or falsifies that document;
 - (b) who knowingly accepts, receives or uses any such document so counterfeited or falsified;
 - (c) who alters any such document after it has been officially issued; or

- (d) who produces or delivers to a Customs officer any document that is not genuine;

commits an offence and shall be liable on summary conviction to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment.

266. Offences in relation to records.

- (1) A person commits an offence who fails to keep records that are required to be kept under section 70.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a maximum fine of five thousand dollars.
- (3) A person commits an offence who —
 - (a) fails without reasonable excuse to make available to the Customs authority, or to give the Customs authority on the request of a Customs officer access to, the records that are required to be kept by section 70;
 - (b) fails, when requested by a Customs officer, to operate any mechanical or electronic device on which any records or information required to be kept by section 70 are stored for the purpose of enabling the Customs officer to obtain the records or information.
- (4) A person who commits an offence under subsection (3) shall be liable on summary conviction to a maximum fine of five thousand dollars.
- (5) A person commits an offence who, with intent to defeat the purposes of this Act —
 - (a) destroys, alters, or conceals any book, document, or record required to be kept under this Act; or
 - (b) sends or attempts to send out of the Customs territory any book, document, or record required to be kept under this Act.
- (6) A person who commits an offence under subsection (5) shall be liable on summary conviction to imprisonment for a maximum term of two years and to a maximum fine of five thousand dollars.
- (7) In any prosecution for an offence alleged to have been committed under subsection (5) it shall be presumed in the absence of evidence to the contrary, where it is proved that the person charged with the offence has committed an act as described in paragraph (a) or (b) of subsection (5), that in committing such act the person intended to defeat the purposes of this Act.

267. Possession of incomplete documents.

- (1) A person commits an offence who, without lawful authority or cause, has in his possession or brings into the Customs territory any document or form that is —
 - (a) incomplete or fraudulently produced;
 - (b) capable of being used for any purpose under this Act; and
 - (c) signed, certified or bears any mark or inscription to indicate that it is correct or authentic.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment.

268. Offences in relation to use of goods.

- (1) A person acting as described in paragraph (a) or (b), where goods under any provision of this Act or the Tariff Act (*Ch. 295*) are exempt from duty or liable to a lower rate of duty if entered for a particular purpose or under any condition imposed by the Minister by order and goods have been entered under such provision, commits an offence where such person —
 - (a) knowingly uses or deals with such goods for a purpose other than that for which they have been so entered; or
 - (b) knowingly fails to comply with a condition imposed by the responsible Minister in respect of the goods so entered.
- (2) A person who commits an offence under subsection (1) shall on summary conviction —
 - (a) be liable to payment of import or export duty as from the date of importation or exportation of the goods;
 - (b) have any deposit given brought to account as duty or, if security was given, the owner of goods shall be required to pay duty; and
 - (c) be liable to a maximum fine of either —
 - (a) ten thousand dollars; or
 - (b) an amount equal to three times the amount of the duty that would have been payable if the goods had been entered otherwise than under the provision under which they were entered,whichever sum is the greater.

269. Provisions relating to offences against sections 264 to 269.

For the purposes of this Act —

- (a) every declaration, invoice, certificate, written statement, or other document, required or authorised by or under this Act to be made or produced by a person making an entry shall be deemed to form part of such entry;
- (b) every amendment of an entry shall be deemed to form part of such entry, and
- (c) an amendment to an entry shall not relieve a person from liability to the imposition of a penalty, seizure of goods, or criminal liability, incurred in respect of the entry before its amendment.

270. Offences in relation to importation or exportation of prohibited or restricted goods.

- (1) A person commits an offence who —
 - (a) imports into or lands in the Customs territory goods the importation of which is prohibited under section 208 or exports, or transports with intent to export, goods from the Customs territory the exportation of which is prohibited under section 209;
 - (b) without lawful justification or cause, removes from a Customs controlled area goods the importation or exportation of which is prohibited under section 208 or section 209; or
 - (c) commits a breach of, or fails to comply with, a term or condition on or subject to which a licence, permit, or consent has been granted under section 210.
- (2) On summary conviction of a person for an offence under subsection (1) —
 - (a) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment;
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture; and
 - (c) the means of transport in relation to which the offence is committed may be seized and detained.
- (3) A person commits an offence who is —
 - (a) knowingly concerned or conspires in any importation, exportation, transportation, shipment, or landing of goods to which paragraphs (a) or (b) of subsection (1) applies;
 - (b) knowingly concerned or conspires in the removal from a Customs controlled area of goods to which paragraph (c) of subsection (1) applies; or
 - (c) knowingly concerned in a breach or failure to comply with a term or condition to which paragraph (d) of subsection (1) applies.

- (4) On summary conviction of a person for an offence under subsection (3) —
 - (a) such person shall be liable to imprisonment for a maximum term of five years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment;
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture; and
 - (c) the means of transport in relation to which the offence is committed may be seized and detained.
- (5) It shall not be a defence in a prosecution for an offence under subsection (3) that the defendant had no knowledge or no reasonable cause to believe that the goods in respect of which the offence was committed were prohibited imports or prohibited exports, as the case may be.

271. Offences in relation to importation and exportation of goods.

- (1) A person commits an offence who —
 - (a) acts in contravention of subsections (2) to (5) of section 104 (which relates to entries required);
 - (b) fails to comply with a request made under section 104(6)(b); or
 - (c) fails, or is knowingly concerned in any failure, to comply with section 106 (which requires goods for import to be dealt with according to entry).
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a maximum fine of five thousand dollars.
- (3) A person commits an offence who —
 - (a) acts in contravention of section 113(1) (which relates to entries required);
 - (b) fails to comply with a request made under section 113(2)(b);
 - (c) fails, or is knowingly concerned in any failure, to comply with section 115 (which requires goods for export to be dealt with according to entry);
 - (d) acts in contravention of section 116(2) (which relates to goods to be loaded only after an entry has been made and passed);
 - (e) acts in contravention of section 118 (which relates to the requirement for goods for export not to be re-landed); or
 - (f) acts in contravention of section 187(3) (which relates to drawbacks of duty on certain goods).
- (4) A person who commits an offence under subsection (3) shall be liable on summary conviction to a maximum fine of five thousand dollars.

272. Offences in relation to Customs-approved secure export schemes.

- (1) Without limiting the scope of section 260, a person commits an offence who, without lawful justification or reasonable cause —
 - (a) alters, removes, damages, disposes of, or otherwise interferes with, a Customs seal applied to a package of goods; or
 - (b) applies an approved seal or markings of the kind referred to in section 127(1)(b) to a Customs-approved secure package otherwise than in accordance with the relevant Customs-approved secure exports scheme.
- (2) Subsection (1) applies to a package if the package is —
 - (a) a package to which a Customs seal has been lawfully applied; or
 - (b) a Customs-approved secure package to which a seal or marking of the kind referred to in section 127(1)(b) has been lawfully applied.
- (3) A person commits an offence who, without lawful justification or reasonable cause, tampers or interferes with a package to which paragraphs (a) or (b) of subsection (2) applies by adding other goods to the goods in it when it was secured.
- (4) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.

273. Defrauding the Customs authority of revenue.

- (1) A person commits an offence who does any act, or omits to do any act, for the purpose of —
 - (a) evading, or enabling any other person to evade, payment of duty or full duty on goods;
 - (b) obtaining, or enabling any other person to obtain, money by way of drawback or a refund of duty on goods to which such person or such other person is not entitled under this Act;
 - (c) conspiring with any other person, whether that other person is in the Customs territory or not, to defraud the revenue of the Customs authority in relation to goods; or
 - (d) defrauding in any other manner the revenue of the Customs authority in relation to goods.
- (2) A person who commits an offence under subsection (1) shall be —
 - (a) guilty of defrauding the revenue of the Customs authority; and
 - (b) liable on summary conviction to imprisonment for a term of five years and to a maximum fine of ten thousand dollars.

274. Possession or custody of uncustomed goods or prohibited or restricted goods.

- (1) A person commits an offence who, knowingly and without lawful justification, has in their possession or custody uncustomed or prohibited or restricted goods.
- (2) On summary conviction of a person for an offence under this section —
 - (a) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment; and
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture.

275. Purchase, sale, exchange, etc. of uncustomed goods or prohibited or restricted goods.

- (1) A person commits an offence who, knowingly and without lawful justification, purchases, offers for sale, exchanges, or otherwise acquires or disposes of, any uncustomed or prohibited or restricted goods.
- (2) On summary conviction of a person for an offence under this section —
 - (a) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of five thousand dollars, or to both such fine and imprisonment; and
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture.

276. Possession or control of concealed goods.

- (1) A person commits an offence who knowingly has in his possession or keeps concealed goods which he knows, or ought reasonably to have known, to be —
 - (a) dutiable goods;
 - (b) prohibited goods;
 - (c) restricted goods; or
 - (d) uncustomed goods.
- (2) On summary conviction of a person for an offence under paragraph (a) of subsection (1) —
 - (a) such person shall be liable to a maximum fine of five thousand dollars; and
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture.

- (3) On summary conviction of a person for an offence under paragraph (b) or (c) or (d) of subsection (1) —
 - (a) such person shall be liable to imprisonment for a maximum term of three years, or to a maximum fine of ten thousand dollars, or to both such fine and imprisonment; and
 - (b) any goods in respect of which the offence is committed shall be liable to forfeiture.

277. Offences in relation to seized goods.

- (1) A person commits an offence who, having custody of goods pursuant to section 293, acts in breach of any requirement of, or imposed pursuant to, subsection (8) of that section.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a maximum fine of ten thousand dollars.
- (3) A person commits an offence who, without the permission of the Customs authority, takes or carries away or otherwise converts to his or her own use goods, including any means of transport, that have been seized as forfeited.
- (4) A person who commits an offence under subsection (3) shall be liable on summary conviction to a maximum fine of ten thousand dollars.

278. Offences in relation to Customs Appeal Commission.

- (1) A person commits an offence who, with intent to deceive, makes any false or misleading statement or any material omission in any information given to the Customs Appeal Commission for the purposes of this Act.
- (2) A person who commits an offence under subsection (1) shall be liable on summary conviction to a maximum fine of ten thousand dollars.
- (3) A person commits an offence who, after being summoned to attend before the Customs Appeal Commission to give evidence or to produce any papers, documents, records, or things, without sufficient cause —
 - (a) fails to attend in accordance with the summons;
 - (b) refuses to be sworn or to give evidence or, having been sworn in, refuses to answer any question that the person is lawfully required by the Commission to answer concerning the subject of the proceedings; or
 - (c) fails to produce any paper, document, record, or thing.
- (4) A person commits an offence who —
 - (a) willfully obstructs or hinders a member of the Commission or any person authorized by the Commission in any inspection or

- examination of papers, documents, records, or things pursuant to section 329(1)(a);
- (b) without sufficient cause, fails to comply with any requirement of the Commission or any person authorized by the Commission made under section 329(1)(b); or
 - (c) without sufficient cause, acts in contravention of or fails to comply with any order made by the Commission under section 329(3) or any term or condition of the order.
- (5) A person who commits an offence under subsection (3) or subsection (4) of this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.

279. Unauthorised access to or improper use of Customs computerised management system.

- (1) A person commits an offence who —
 - (a) knowingly and without lawful authority, by any means gains access to or attempts to gain access to any Customs computerised system;
 - (b) having lawful access to any Customs computerised system, knowingly uses or discloses information obtained from such a computer system for a purpose that is not authorised; or
 - (c) knowing that they are not authorised to do so, receives information obtained from any Customs computerised system and uses, discloses, publishes, or otherwise disseminates such information.
- (2) A person who commits an offence under this section shall be liable on summary conviction to imprisonment for a maximum term of three years or to a maximum fine of ten thousand dollars.

280. Interference with Customs computerised systems.

- (1) A person commits an offence who —
 - (a) by any means, knowingly falsifies any record or information stored in any Customs computerised system; or
 - (b) knowingly damages or impairs any Customs computerised system.
- (2) A person who commits an offence under this section shall be liable on summary conviction to imprisonment for a maximum term of three years or to a maximum fine of ten thousand dollars.

281. Offences in relation to unauthorised use of codes for accessing Customs computerised systems.

- (1) A person commits an offence who, to gain access to a Customs computerised system or to authenticate a transmission of information to or from a Customs computerised system —
 - (a) uses an access code, not being an approved user of a Customs computerised system; or
 - (b) being an approved user, uses an access code of any other approved user.
- (2) A person who commits an offence under this section shall be liable on summary conviction to a maximum fine of ten thousand dollars.

DIVISION VII – MISCELLANEOUS PROVISIONS RELATING TO OFFENCES

282. Liability of officers and corporations.

- (1) For the purposes of this section, the term “corporation” includes a company, trust, partnership, or other enterprise.
- (2) Where a corporation commits an offence under a provision of this Act every person described in paragraphs (a) and (b) who participated in, directed, authorised, acquiesced in, or assented to, the act or omission constituting the offence also commits an offence under such provision, such persons being —
 - (a) a director, manager, secretary, officer, or agent, of the corporation; and
 - (b) a person purporting to act in the capacity of a person referred to in paragraph (a).
- (3) An individual who commits an offence pursuant to subsection (2) shall be liable on conviction —
 - (a) to the penalty prescribed by the provision creating the offence in respect of an individual who is convicted of it; or
 - (b) if no penalty is prescribed in respect of an individual, to the penalty prescribed for the offence.
- (4) A person may be convicted of the offence pursuant to subsection (2) even though the corporation has not itself been charged with, or convicted of, the offence.

283. Liability of principal and authorised agent.

- (1) A declaration or any other document or certificate made, or other act done, by an authorised agent in the course of his agency in relation to the report, entry, or clearance of any means of transport or goods, or any other matter

under this Act, shall be deemed also to have been made or done by the authorised agent's principal.

- (2) A principal who authorises an agent to act for him in relation to a report, entry, or clearance of any means of transport or goods, or any other matter under this Act, may be prosecuted for any offence committed by the authorised agent and shall accordingly be liable to the penalties imposed but —
 - (a) a principal shall not be sentenced to imprisonment for an offence committed by his authorised agent unless the principal consented to the commission of the offence; and
 - (b) nothing contained in this Act shall relieve the authorised agent from liability to prosecution in respect of such offence.
- (3) For the purposes of this section, the knowledge or intent of an authorised agent shall be imputed to the principal in addition to the principal's own knowledge or intent.
- (4) For the purposes of this section, a person described in paragraphs (a), (b) or (c) shall be deemed also to be the authorised agent of the principal —
 - (a) an employee of the authorised agent;
 - (b) a person performing any function of or for the authorised agent;
 - (c) a person acting under the instruction of the authorised agent,
- (5) A person who acts or purports to act as the authorised agent of any other person in relation to a report, entry, or clearance of any means of transport or goods, or any other matter under this Act, shall be liable to the same penalties as if he were the principal for whom he so acts or purports to act.

284. Accomplices and other persons having interest in offence.

An accomplice or any other person aiding, abetting or assisting a person in action having the effect or the purpose to commit an offence under this Act may be prosecuted for any offence committed under this Act and shall, accordingly, be liable to the penalties imposed by this Act.

285. Attempts to commit an offence.

An attempt to commit an offence under this Act shall be an offence punishable in the same manner and gives rise to the same cause for seizure as if the offence attempted had been committed.

286. Power of Customs authority to deal with petty offences.

- (1) This section applies to an offence that is committed in relation to goods —
 - (a) the Customs value of which does not exceed one thousand dollars;

- (b) on which duty payable under this Act does not exceed one thousand dollars; or
 - (c) on which the duty evaded or attempted to be evaded does not exceed one thousand dollars.
- (2) The Customs authority may —
- (a) where a person admits in writing that he has committed an offence in relation to goods to which this section applies; and
 - (b) where such person requests that the offence be dealt with by the Customs authority,
- order such person, at any time before an information has been laid in respect of the offence, to pay such sum of money not exceeding five hundred dollars as the Customs authority may think fit in full satisfaction of any fine or other penalty to which the person would otherwise be liable under this Act.
- (3) The payment of a sum satisfactory to the Customs authority pursuant to subsection (2) shall relieve an offender of further liability to prosecution for the offence in respect of which payment has been made.
- (4) An admission in writing of the commission of an offence made by an offender shall not, where the Customs authority declines to exercise its power under subsection (2), be admissible as evidence in any prosecution for the offence.

287. Assembling to evade Customs enactment.

Each person commits an offence under this Act and each person shall be liable on summary conviction to imprisonment for a maximum term of three years and to a maximum fine of ten thousand dollars where persons —

- (a) assemble in groups of two or more for the purpose of evading any provision of a Customs enactment; or
- (b) having assembled as described in paragraph (a), do evade any such provision.

288. Second convictions.

Upon a second or subsequent conviction of a person for an offence under sections 236, 251(1), 257(1), 258, 259, 261, 262, 264, 267, 268, 269 or 270 respectively —

- (a) such person shall be liable —
 - (i) for the amount of duty payable on the goods in respect of which the offence was committed together with all interest owing in accordance with this Act; and

- (ii) to a fine in an amount equal to the amount of duty payable on the goods in respect of which the offence was committed or to the fine prescribed in respect of an offence committed under sections 242, 257(1), 263(1), 264, 265, 267, 268, 270, 273, 274, 275 or 276 respectively, whichever is the greater;
- (b) the court before which such person is convicted may, if the person is the holder of any licence issued under the Business Licence Act (*No 25 of 2010*), order in addition to any other penalty imposed that the licence shall cease to have effect from the date of the order and, upon such order, the licence shall accordingly cease to have effect.

289. Fine up to three times the value of goods may be imposed.

The court may, where on conviction for an offence under this Act a person becomes liable to a fine of a specified amount, impose a fine of three times the value of the goods in respect of which the offence was committed or such specified amount, whichever is the greater; and for the purpose of determining the value of goods —

- (a) the Comptroller shall cause the goods to be appraised by the proper officer;
- (b) the proper officer shall appraise the goods according to the rules set out in the Third Schedule;
- (c) no regard shall be had to any damage or injury sustained by the goods; and
- (d) a certificate of the appraised value given under the hand of the Comptroller shall be *prima facie* evidence of the value of the goods.

290. Compounding of offences by the Comptroller.

- (1) Subject to subsection (2), where the Comptroller is satisfied that a person has committed an offence under this Act in respect of which a fine is provided or in respect of which any thing is liable to forfeiture, the Comptroller may —
 - (a) compound the offence and order the person to pay such sum of money, not exceeding the amount of the fine to which the person would be liable if he were convicted of the offence, as he may think fit; and
 - (b) order any thing liable to forfeiture in connection with the offence to be forfeited.
- (2) The Comptroller shall not exercise his powers under this section unless the person admits in writing that he has committed the offence and requests the Comptroller to deal with the offence under this section.

- (3) Where the Comptroller makes an order under this section —
 - (a) such order shall be put into writing and shall have attached to it the request made to the Comptroller to deal with the matter;
 - (b) the order shall specify the offence which the person committed and the penalty imposed by the Comptroller;
 - (c) a copy of the order shall be given to the offender;
 - (d) the offender shall not be liable to any further prosecution in respect of the offence;
 - (e) the order may be enforced in the same manner as an order of the court;
 - (f) the order shall be published in the Gazette or in any other daily newspaper in general circulation in The Bahamas.
- (4) Notwithstanding subsection (3)(d), where any prosecution is brought it shall be a good defence for the offender to prove that the offence with which he is charged has been compounded under this section.

PART XXI – FORFEITURE AND SEIZURE

291. Application.

This Part shall apply to all forfeitures under this Act.

292. Goods liable to forfeiture.

- (1) The following goods shall, in addition to any other circumstances in which goods are liable to forfeiture under this Act, be liable to forfeiture —
 - (a) prohibited goods;
 - (b) restricted goods which are dealt with contrary to any condition regulating their importation, exportation or carriage coastwise;
 - (c) goods subject to Customs control which are moved, altered, or in any way interfered with, except with the permission of the Customs authority;
 - (d) goods in respect of which any drawback, rebate, remission or refund of duty, has been unlawfully obtained;
 - (e) goods in respect of which an erroneous statement, declaration, certificate, or claim, has been made or produced to any Customs officer;
 - (f) goods in respect of which, in any matter relating to the Customs authority, an entry, declaration, certificate, application, answer, statement or representation, which is false or incorrect in any

- material particular has been delivered, made or produced by any person knowing the same to be false or incorrect;
- (g) all goods that have been unlawfully imported into the Customs territory or in respect of which an attempt to so import has been made;
 - (h) all goods unlawfully exported from the Customs territory or in respect of which an attempt to so export has been made;
 - (i) goods dealt with in contravention of, respectively, sections 83, 106, 110, 111, 115 and 132;
 - (j) uncustomed goods that are found in any place;
 - (k) dutiable goods found concealed in or on any means of transport, bulk cargo container, pallet or similar device, or any other thing;
 - (l) dutiable goods packed in any package, whether with or without other goods, in a manner appearing to be intended to deceive the Customs authority;
 - (m) dutiable goods found on or in any means of transport, bulk cargo container, or pallet or similar device that is unlawfully in any place;
 - (n) dutiable goods found on or in any means of transport, bulk cargo container, pallet, or similar device, after arrival in any Customs place from a point outside the Customs territory —
 - (i) not being goods specified or referred to in the inward report or baggage belonging to the crew or passengers; and
 - (ii) not being accounted for to the satisfaction of the Customs authority;
 - (o) goods which are imported contained in any package of which the entry, application for shipment, or application to unload, does not correspond with the goods;
 - (p) dutiable goods found in the possession of any person who, when questioned under sections 30 or 31, denied or failed to disclose the possession of those goods;
 - (q) goods in any package where those goods are not fully accounted for in the entry or declaration relating to such package;
 - (r) goods in respect of which an offence has been committed under —
 - (i) section 239 (which relates to offences in relation to counterfeit seals or marks);
 - (ii) section 265 (which relates to offences in relation to declarations and other documents);
 - (iii) section 272 (which relates to offences in relation to Customs approved secure export schemes);

- (iv) section 273 (which relates to defrauding the revenue of the Customs authority);
 - (v) sections 274 and or 275 (which relates to the possession or custody, sale or exchange, of uncustomed or prohibited goods);
 - (vi) section 276 (which relates to possession or control of concealed goods).
- (2) Notwithstanding section 119, for the purposes of subsection (1)(h) goods, the exportation of which is prohibited under this Act, shall be deemed to have been exported as soon as they are placed on or in any means of transport for exportation.
- (3) Notwithstanding this Act, where prohibited or restricted goods have been shipped for importation without knowledge by the shipper of the prohibition or restriction and, in the opinion of the Customs authority, before the expiration of a reasonable time for the information to be available at the point of shipment outside of the Customs territory —
 - (a) such goods shall not on importation be liable to forfeiture but shall be re-exported, or otherwise disposed of, in such manner as the Customs authority may determine; and
 - (b) pending re-exportation or disposal, such goods shall be subject to Customs control.
- (4) Forfeiture of goods shall extend to the forfeiture of the case, covering, or other enclosure, not being a bulk cargo container, pallet or a similar device, in or on which the goods are contained at the time of seizure, importation, or exportation.
- (5) Notwithstanding subsection (4), forfeiture of goods shall extend to the forfeiture of a bulk cargo container, pallet or a similar device where such bulk cargo container, pallet or similar device has been adapted for the purpose of concealing goods.
- (6) Where goods have become liable to forfeiture under this Act or any other Customs enactment, every means of transport or any other thing shall also be liable to forfeiture including —
 - (a) any machinery or equipment in or on the means of transport or thing, or any animal that is being or has been used for the carriage, handling, deposit, or concealment of any goods liable to forfeiture, either at the time of any alleged offence for which it later became liable to forfeiture or after it became liable to forfeiture; and
 - (b) any other article mixed, packaged or found with the article liable to forfeiture.
- (7) A means of transport shall be liable to forfeiture where —

- (a) such means of transport is or has been within the Customs territory while constructed, adapted, altered or fitted in any manner for the purpose of concealing goods;
 - (b) at any time while it is within the Customs territory, any part of its cargo or any article carried on board is thrown overboard or is damaged or destroyed to prevent seizure; or
 - (c) it has imported cargo into the Customs territory and —
 - (i) a substantial part of such cargo is afterwards found to be missing; and
 - (ii) the master or the commander, or the person in charge, of the means of transport, as the case may be, is unable to account for such missing cargo to the satisfaction of the Customs authority.
- (8) All tackle, apparel or furniture belonging to a means of transport shall, where such means of transport is liable to forfeiture, also be liable to forfeiture.
- (9) Notwithstanding subsections (6)(a), and (7)(b) and (c), any aircraft other than a light aircraft, and any vessel of one hundred and fifty tons register or more, made use of in the importation, landing, removal, conveyance, exportation or carriage coastwise, of any goods liable to forfeiture under this Act shall not itself be liable to forfeiture unless the offence in respect of or in connection with which the forfeiture is sought —
- (a) was the primary purpose of the voyage during which the offence was committed; or
 - (b) was committed while the vessel was under chase after refusing to stop when required to do so.
- (10) Notwithstanding subsection (6)(a) —
- (a) where any aircraft other than a light aircraft and any vessel of one hundred and fifty tons register or more would, but for subsection (9), be liable to forfeiture for or in connection with an offence under any Customs enactment; and
 - (b) where in the opinion of the Customs authority, the master or the commander, or any other person in charge, of such means of transport, as the case may be, is implicated by his own act or by neglect in the offence,

the master or the commander, or any other person in charge, of that means of transport, as the case may be, commits that offence and shall be liable on summary conviction to a maximum fine of ten thousand dollars or on conviction on information to a maximum fine of one hundred thousand dollars and, until the fine is paid or security given, the Customs authority may withhold clearance of such means of transport.

- (11) Pursuant to section 10, no claim shall be brought against the Customs authority for damages in respect of the payment of any deposit or security or the detention of any vessel under this section.
- (12) The exemption from forfeiture of any means of transportation under this section shall not affect the liability to forfeiture of any goods carried on board.

293. Procedure for seizure.

- (1) A Customs officer or a police officer —
 - (a) may seize any thing which is liable to forfeiture under this Act or which he has reasonable grounds to believe is liable to such forfeiture including but not limited to any —
 - (i) aircraft,
 - (ii) vessel,
 - (iii) vehicle,
 - (iv) animal, or
 - (v) goods.
 - (b) may seize any thing as mentioned in paragraph (a) whether or not any prosecution for any offence under this Act which would render such thing liable to forfeiture has been, or will be, taken.
- (2) Goods may be seized wherever the goods are found within the Customs territory.
- (3) Goods liable to forfeiture may be seized within three years of the date on which the goods became liable to forfeiture and, in accordance with section 314, shall not be seized after three years from such date.
- (4) Anything liable to forfeiture under this Act and any other Customs enactment may be seized or detained by a proper officer.
- (5) A Customs officer or a police officer may use such force as is reasonably necessary for effecting the seizure and securing of goods.
- (6) Except as provided in subsections (7) and (8), all goods seized shall be taken to, and detained at, such place of security as the Customs authority directs.
- (7) The Customs authority may, where goods, including any means of transport or animal, have been or may be seized and detained under this Act, leave such goods in the custody of either —
 - (a) the person from whom the goods have been seized; or
 - (b) any other person designated by the Customs authority and who consents to having such custody.

- (8) A person who has the custody of goods under subsection (7) shall hold them in safekeeping, without charge to the Government and in accordance with any reasonable conditions that may be imposed by the Customs authority, until a final decision is made as to whether or not they are to remain forfeit, and further shall —
- (a) make the goods available to the Customs authority on request;
 - (b) not alter, or dispose of, or remove the goods from the Customs territory, unless they are authorised to do so by a Customs officer; and
 - (c) return the goods on demand to the custody of the Customs authority.
- (9) A thing may —
- (a) where the person seizing or detaining a thing liable to forfeiture under a Customs enactment is a police officer; and
 - (b) where the thing seized is required for use in connection with proceedings that may be brought under a law other than a Customs enactment,
- be retained in the custody of the police until either proceedings are completed or it is decided that no proceedings will be brought.
- (10) Notice in writing of the seizure or detention shall, where the thing may be required for use in connection with proceedings that may be brought under a law other than a Customs enactment, be given immediately to the Customs authority with full particulars of the thing seized or detained.
- (11) A Customs officer shall, where a thing article is retained in the custody of the police under subsection (9), be authorised to examine and take account of it while it remains in such custody.
- (12) Where any thing liable to forfeiture under this Act has been seized —
- (a) if any person is being prosecuted for the offence by reason of which the thing was seized, such thing shall be detained until the determination of the prosecution and shall be dealt with in accordance with section 304(1); and
 - (b) the thing shall, in all other cases, be detained until one month after the date of the seizure or of any notice given under section 294, as the case may be.

294. Notice of seizure.

- (1) The Customs authority shall, where any thing has been seized under section 293 and unless the thing was seized in the presence of the owner or, in the case of a means of transport, of the master or the person in

charge of the means of transport, as the case may be, give notice in writing of the seizure and the reasons for it in the prescribed form —

- (a) as soon as is reasonably practicable in the circumstances but, in any event, within one month of the seizure;
 - (b) to any person known or believed to have an interest in the goods or means of transport or, where such person is in a foreign country, to their agent or representative in the Customs territory.
- (2) A seizure shall not be invalidated or rendered illegal by reason of any failure to give notice under subsection (1) if reasonable steps were taken to give the notice.

295. Forfeiture to relate back.

A forfeiture shall, where pursuant to section 291 goods are forfeited and the goods are seized, relate back to the date of the act or event from which the forfeiture arose.

296. Delivery of goods seized on deposit of value.

- (1) The Comptroller may, where any goods other than prohibited goods have been seized as being liable to forfeiture, deliver the goods at any time before their forfeiture to the owner or other person from whom they were seized on the deposit with the Comptroller of —
 - (a) a cash sum equal to the value of the goods; and
 - (b) any duty, as determined by the Comptroller, to which the goods may be liable.
- (2) Any money deposited pursuant to subsection (1) shall be deemed substituted for the goods seized and all the provisions of this Part so far as they are applicable shall accordingly apply to such money.

297. Sale of certain seized goods.

- (1) The Customs authority may sell or destroy any thing seized as being liable to forfeiture where such thing is —
 - (a) a living creature; or
 - (b) anything that, in the opinion of the Comptroller —
 - (i) is of a perishable nature;
 - (ii) is likely to deteriorate or diminish in value by keeping;
 - (iii) it is desirable to sell immediately; or
 - (iv) is likely to create a health or safety risk if kept.
- (2) The net proceeds of a sale pursuant to subsection (1) shall be deemed to be substituted for the thing sold and all the provisions of this Part so far as they are applicable shall accordingly extend and apply to such proceeds.

298. Application to the Comptroller for notice disallowing seizure.

- (1) Subject to section 293(12)(a), the owner may, where goods liable to forfeiture under this Act have been seized, claim such goods by notice in writing to the Comptroller within one month of the date of the seizure or of any notice given under section 294, as the case may be.
- (2) Goods seized shall, where a notice of claim has been given in accordance with subsection (1), be detained by the Comptroller to be dealt with in accordance with this Act but —
 - (a) subject to paragraph (b), the Comptroller may permit the goods seized to be delivered to the claimant;
 - (b) the claimant shall give security for the payment of the value, as determined by the Comptroller, of the goods in the event of their forfeiture.

299. Procedure after notice of claim.

- (1) The Comptroller, where a notice of claim has been given pursuant to section 298(1), may within two months after the receipt of the claim —
 - (a) by notice in writing to the claimant, require the claimant to institute proceedings for the recovery of the goods claimed within two months of the date of the notice; or
 - (b) himself institute proceedings for the forfeiture of the goods claimed.
- (2) Subject to subsection (3), goods seized shall be released to the claimant where the Comptroller pursuant to subsection (1) fails within the period of two months —
 - (a) to require the claimant to institute proceedings; or
 - (b) himself to institute proceedings.
- (3) Goods claimed pursuant to section 298(1) which are prohibited or restricted goods which have been imported, or carried coastwise, or attempted to be exported, in contravention of any regulations relating to such goods —
 - (a) shall not be released to the claimant; and
 - (b) may be disposed of in such manner as the Comptroller may direct.

300. Application for order disallowing seizure where notice not received.

- (1) Any person claiming an interest in goods seized as being liable to forfeiture under this Act who did not receive notice under section 294 may, except where the goods have already been forfeited to the Crown, apply to the court within six months after the date on which the goods were seized for an order —

- (a) where the goods seized have not been sold, destroyed, or otherwise disposed of, of the kind specified in section 298(1); or
 - (b) where the goods seized have been sold, destroyed, or otherwise disposed of, that compensation be paid by the Crown for the whole or part of any loss suffered by the applicant.
- (2) The court may, on any application made under subsection (1), dismiss the application or make an order —
 - (a) where the goods seized have not been sold, destroyed, or otherwise disposed of, of the kind specified in section 299(1); or
 - (b) where the goods seized have been sold, destroyed, or otherwise disposed of, that compensation in such amount as the court thinks fit be paid by the Crown to the applicant for the whole or any part of any loss suffered by the applicant and such order may be made on such terms and conditions as the court thinks fit.
- (3) No order for the payment of compensation shall be issued except in respect of goods that, in the opinion of the court, were seized or detained without reasonable cause and except to the extent that the court disallows the seizure.
- (4) An order by the court dismissing an application under this section shall be deemed to be an order for forfeiture of the goods to the Crown unless the goods have already been forfeited pursuant to section 301.
- (5) Without prejudice to subsection (2), the court may dismiss an application under subsection (1) that is not made as soon as reasonably practicable after the applicant became aware of the seizure of the goods.

301. Forfeiture if no claim against seizure.

Goods seized as liable to forfeiture shall, where no claim under section 298(1) is made within one month of the seizure, be deemed to be forfeited to the Crown.

302. Forfeiture if claim against seizure is discontinued.

Goods claimed shall, where the Comptroller has required the claimant pursuant to section 299(1)(a) to institute proceedings within the period of two months and the claimant has failed to do so, be forfeited on the expiration of such period.

303. Waiver of forfeiture.

- (1) A person who but for the forfeiture would be entitled to goods may, where goods have been seized under this Act as liable to forfeiture, apply to the Minister for a waiver of the forfeiture.
- (2) An application for a waiver under this section may be made before or after the seizure of the goods but shall be made —

- (a) in the case of a person who received notice of the seizure under section 294, not later than twenty working days after the date on which notice was given to the person; and
 - (b) in the case of a person who did not receive notice of the seizure under section 294, not later than thirty working days after the date of the seizure.
- (3) The Minister may, on an application made under this section where he considers it equitable to do so, subject to such terms and conditions as the Minister may determine, and whether or not the thing has been forfeited —
- (a) waive the forfeiture either in whole or in part ; and
 - (b) direct the return in whole or in part of the goods or property so seized.
- (4) Without prejudice to subsection (3), any waiver may be made subject to the condition that there is paid to the Crown in respect of the goods or property a sum equal to the whole or any part of any one or more of —
- (a) any costs or expenses incurred by the Customs authority;
 - (b) any duty not already paid; or
 - (c) any duty already refunded.
- (5) The Minister may, either generally or particularly, delegate to the Comptroller any of his powers under this section except the power of delegation.

304. Forfeiture of seized goods on conviction.

- (1) Subject to subsection (2), where this Act provides that on the commission of an offence any goods are liable to forfeiture, the conviction of any person for such offence has effect as a forfeiture, without suit or judgement, of any goods that have been seized and —
 - (a) in respect of which the offence was committed; or
 - (b) that were otherwise liable to forfeiture under this Act.
- (2) The court may, where it imposes a sentence on the conviction of any person for an offence to which subsection (1) applies, order if it thinks fit the restoration of the goods forfeited to the person from whom the goods were seized and, where such an order is issued, the conviction shall not have effect as a forfeiture of those goods.
- (3) The court may, on issuing an order pursuant to subsection (2), impose such conditions as it thinks fit.
- (4) Subsection (2) shall not apply where the goods before the conviction have been —
 - (a) sold by public auction;

- (b) restored to the person from whom they were seized; or
 - (c) otherwise disposed of by the Comptroller under any other provision of this Act.
- (5) The forfeiture of any thing which has been seized under this Act as being liable to forfeiture shall in no way be affected by the fact that the owner of the thing was in no way concerned with the act which rendered the thing liable to forfeiture.
- (6) A forfeiture shall, where any thing is forfeited under this Act, have effect as from the date when the liability to forfeiture arose.

305. Disposal of forfeited goods.

- (1) Ownership of forfeited goods, or in any deposit made under section 296, or in the proceeds of sale under section 297, as the case may be, shall vest in the Crown.
- (2) Forfeited goods, unless they are prohibited or restricted goods, may after their forfeiture as the Customs authority directs be —
- (a) destroyed;
 - (b) sold by public auction;
 - (c) used or otherwise disposed of.
- (3) Any auction under this section shall be advertised in the Gazette and on the Bahamas Customs website not less than fourteen working days before it is due to take place.
- (4) None of the following persons shall be permitted to bid for anything at an auction under this section —
- (a) a Customs officer or any other person serving or employed within the Customs Department; or
 - (b) any person who has or had an interest in the goods or any other thing being auctioned.
- (5) The proceeds of sale shall, where goods are sold under this section, be applied in order of priority in the discharge of —
- (a) applicable duties, if any;
 - (b) expenses of removal and sale;
 - (c) rent and charges due to the Customs authority; and
 - (d) any other charges,
- and the balance of the proceeds of sale, if any, shall be paid into the Customs revenue.
- (6) Anything not sold at an auction under this section may be destroyed or otherwise disposed of as the Comptroller may direct.

- (7) Nothing in this section shall prevent the Comptroller from authorising —
- (a) the withholding from sale of anything forfeited or deemed to be forfeited; and
 - (b) the use by a proper officer of anything withheld from sale, where such retention and use would assist such officer in the performance of his duty.

306. Application of forfeiture provisions.

The provisions of this Act with respect to the forfeiture of goods shall apply to any means of transport, or other thing, forfeited under this Act.

PART XXII – EVIDENCE

307. Burden of proof.

- (1) An allegation made on behalf of the Government shall be presumed to be true unless the contrary is proven where such allegation —
- (a) is made in any proceedings under this Act instituted by or on behalf of or against the Government, other than a prosecution for an indictable offence;
 - (b) is made in any statement of claim, statement of defence, plea, or information; and
 - (c) relates to the —
 - (i) identity or nature of any goods;
 - (ii) value of any goods for duty;
 - (iii) country or time of exportation of any goods;
 - (iv) fact or time of the importation of any goods;
 - (v) place of manufacture, production, or origin of any goods; or
 - (vi) payment of any duty on goods.
- (2) The presumption in subsection (1) shall not be excluded by the fact that evidence is produced on behalf of the Government in support of any such allegation.
- (3) This section shall apply to proceedings in which the existence of an intent to defraud the revenue of the Customs authority is in issue.
- (4) Notwithstanding subsections (1), (2) and (3), the prosecution shall bear the burden of proving intent beyond a reasonable doubt in any proceeding relating to an offence under this Act where it is alleged that the defendant intended to commit the offence.

- (5) The onus shall, in any proceedings under a Customs enactment, be on the defendant to prove that —
 - (a) duties assessed have been paid in respect of goods;
 - (b) goods were, as applicable —
 - (i) lawfully loaded into or unloaded from any aircraft or vessel;
 - (ii) lawfully transferred from one aircraft or vessel to another aircraft or vessel; or
 - (iii) lawfully imported in, or exported from, the Customs territory.
- (6) It shall be sufficient evidence of the matter or fact in question, until the contrary is proven, where the Crown avers by the Comptroller that —
 - (a) the Comptroller has elected that a particular penalty should be sued for or recovered;
 - (b) a person is or was the Minister, the Comptroller, a Customs officer or a police officer;
 - (c) a person is or was authorised by the Comptroller to discharge, or was engaged by the orders or with the concurrence of the Comptroller in the discharge of, any duty under this Act;
 - (d) goods were thrown overboard, damaged, broken or destroyed for the purpose of preventing or avoiding their seizure;
 - (e) an offence was committed or an act was performed within the limits of any Customs place or other Customs controlled area, or at, in, or over, any part of The Bahamas;
 - (f) the Comptroller is or is not satisfied as to any matter as to which he is required to be satisfied under this Act or by any other Customs legislation; or
 - (g) the Comptroller has directed or requested any proceedings under this Act to be instituted.
- (7) Where upon any trial a question arises as to whether a person is a proper officer —
 - (a) such person's own evidence on the matter shall be deemed sufficient; and
 - (b) a proper officer shall be deemed a competent witness upon the trial of any suit notwithstanding such officer may be entitled to a reward upon the conviction of the party charged in the suit.
- (8) In all cases where the fine for an offence under a Customs enactment is an amount that is to be determined by the value of goods —
 - (a) such value shall be determined in accordance with the Third Schedule; and

- (b) a certificate signed by the proper officer attesting to the value of the goods shall be accepted by the court as *prima facie* evidence of the value of the goods.
- (9) An order for seizure by a court under any Customs legislation may be proven in any court, or before any competent tribunal, by the production of a certificate of seizure to be signed by the officer of the court.

308. Documents made overseas.

- (1) The court may, in any proceeding under this Act, admit in evidence as proof of any fact in issue a document made in a country outside the Customs territory.
- (2) Any certificate or copy of an official document shall be receivable in evidence and be sufficient evidence of the matter in question if it purports to be certified under the hand and seal or stamp of office —
 - (a) of a Customs department or similar institution in any member country of the World Customs Organisation; or
 - (b) of any diplomatic or consular representative of The Bahamas in any foreign country.

309. Prescribed forms.

- (1) The production of any document under the hand of a Customs officer purporting to be a prescribed form, an extract from a prescribed form, or a copy of any such form or extract shall, in all courts and in all proceedings, be sufficient evidence of the fact that the form was prescribed and all courts shall take judicial notice of the signature of the Customs officer either on the prescribed form or on any extract or copy thereof.
- (2) Any document purporting to be signed by the Minister or the Comptroller, or by their order, or by a person with their authority, or by any person in the service of the Government of The Bahamas shall, until the contrary is proven, be deemed to have been so signed and the matters contained in such document may, in proceedings under this Act or any other legislation, be proven by the production of such document or any document purporting to be a copy of such document.
- (3) The production of a certificate purporting to be signed by the competent authority shall, in any proceeding under this Act or other Customs legislation, be sufficient evidence of all matters stated in the certificate unless the contrary is proven.

310. Record of computer transmission admissible in evidence.

A computer printout of an extract of a record kept by the Customs authority or an approved third party certified by or on behalf of the Comptroller under the

seal of the Customs Department as a true copy shall, in any proceedings under this Act or any other legislation and in all courts, be admissible as evidence of the electronic message received by or sent to or from the Customs authority set out in such printout, unless the contrary is proven.

311. Presumption of authenticity of documents.

All documents purporting to be signed by or on behalf of the Comptroller, or to be sealed with the seal of the Customs Department, shall in all courts and in all proceedings under this Act and any other legislation be deemed to have been so signed or sealed with due authority, unless the contrary is proven.

PART XXIII – LEGAL PROCEEDINGS

312. Jurisdictions in respect of appeals in Customs matters.

- (1) All disputed matters involving a Customs enactment may be prosecuted in Supreme Court —
 - (a) after exhaustion of all appeal proceedings available under this Act before the Comptroller and the Customs Appeal Commission; and
 - (b) subject to any provisions to the contrary in any Customs legislation.
- (2) Without prejudice to the powers of any court, civil proceedings under the Customs laws relating to any claim to any thing which has been seized under this Act and any claim to any duty, fee, charge, expense or any sum payable under the Customs laws may be heard or determined without limit of amount before the Supreme Court.
- (3) Subject to subsection (4), proceedings for an offence under this Act and any other Customs legislation, or for forfeiture of goods, shall not be commenced except by order of the Comptroller in writing.
- (4) Notwithstanding subsection (3), any court before which a person who has been arrested for an offence under any Customs enactment is brought may deal preliminarily with the case against him.
- (5) An offence under this Act or any other Customs legislation shall be regarded as having been committed, and every cause of complaint as having arisen, either —
 - (a) in the place in which the offence was actually committed or arose; or
 - (b) in any place in The Bahamas where the offender or person prosecuted may be brought.

313. Actions by or against the Comptroller.

- (1) Nothing contained in this Act shall confer any right of action against the Comptroller in his representative capacity, whether in contract or in tort.
- (2) The Comptroller may, where under this Act any proceedings may be brought by or against the Comptroller, sue or be sued by the name of the Comptroller and may, for all purposes, be described by such name.
- (3) The Comptroller shall, notwithstanding that any such action may lie in tort, be responsible for the errors or omissions of any Customs officer or any other person performing any duty under this Act as if such officer or person were the servant or agent of the Comptroller.
- (4) Costs may, where under this Act any proceedings are brought by or against the Comptroller, be awarded to or against the Comptroller.
- (5) Where under this Act any proceedings are brought by or against the Comptroller and —
 - (a) any sums or costs are covered by the Comptroller, such sums or costs shall be paid out of the Customs authority revenues;
 - (b) any damages or costs are ordered to be paid by the Comptroller, such damages or costs shall be paid by the Government and the Comptroller shall not be personally liable for them.
- (6) The fact that security has been given by bond or otherwise for the payment of any duty or for the compliance with any condition shall not in any proceedings brought be a defence to a charge of non-payment or non-compliance, as the case may be.
- (7) Any officer or other person authorised by the Comptroller, although not an attorney-at-law, may prosecute and conduct any information or other proceedings under any Customs enactment in respect of any offence or penalty.
- (8) Any summons or other process issued for the purpose of proceedings under this Act shall be deemed to have been duly served —
 - (a) if delivered personally to the person to whom it is addressed; or
 - (b) if left at his last known place of abode or business or, in the case of a corporate body, at its registered or principal office.
- (9) Any summons, notice, order or other document issued for the purposes of any proceedings under this Act, or an appeal from the decision of the court in such proceedings, may be served by a proper officer.

314. Limitation of Customs action.

Save as otherwise expressly provided in this Act and other Customs legislation and notwithstanding any provision in any other enactment to the contrary, any proceedings for an offence under this Act shall not be commenced, and anything

liable to forfeiture under this Act shall not be seized, after three years from the date of the offence or from the date on which the goods became liable to forfeiture, as the case may be.

315. Protection of witnesses.

- (1) No witness on behalf of the Crown or the Comptroller in any proceedings under this Act shall be compelled to disclose the fact that he received any information relating to any Customs matter, or the nature of any such information, or the name of the person who gave any information.
- (2) No Customs officer appearing as a witness in any proceedings shall be compelled to produce any confidential information or reports made or received by him in his official capacity.

316. Enforcement of court's decisions.

- (1) The obligation to pay a fine imposed by a court's decision under this Act shall not be suspended by any appeal.
- (2) The court may, where it has imposed a fine for an offence against a Customs enactment and such fine without reasonable excuse is not paid within three months, and notwithstanding anything contained in any other law, order the defendant who was convicted of the offence to be imprisoned for —
 - (a) a term not exceeding five years where the fine does not exceed five thousand dollars; or,
 - (b) for a maximum term of ten years where the fine exceeds five thousand dollars.
- (3) Where a defendant who was convicted of an offence under this Act dies before the completion of the payment of a fine imposed by the court —
 - (a) the defendant's estate shall be deemed to be the same person as the defendant and not to be a trust;
 - (b) the executors or administrators shall be responsible for satisfying the obligation set out by the court's decision; and
 - (c) the estate and the executors or administrators shall be jointly and severally liable for the payment of such fine as is payable by the deceased' estate except that the executors or the administrators shall be liable for the payment of such fine as became payable before the defendant died only to the extent of the assets of the estate after satisfying the claims of creditors whose claims rank in priority to the claim of the Crown.
- (4) The Customs authority may, where the Customs authority has good reasons to think that a defendant who was convicted of an offence under this Act has organised his insolvency, apply to the court for an order

deeming those persons who participated in the organisation of such insolvency to be jointly and severally liable for the payment of the fine imposed by the court's decision.

- (5) The Minister may, in circumstances where he deems it appropriate, waive in writing the requirement that the executors or administrators of a deceased individual pay a fine owed.

PART XXIV – APPEALS AGAINST CUSTOMS RULINGS AND DECISIONS

DIVISION I – GENERAL PROVISIONS

317. Right of appeal.

- (1) A person who is dissatisfied with a decision made by the Customs authority which concerns such person directly and individually may appeal, in first instance, to the Comptroller under Division Two of this Part.
- (2) A person who is dissatisfied with a decision of the Comptroller pursuant to this Act may appeal to the Commission under Division Three of this Part.
- (3) A party who is dissatisfied with a decision of the Commission under this Act as being erroneous in point of law may appeal to the Supreme Court.
- (4) Appeals shall be lodged in written or electronic form within the Customs territory.
- (5) Sections 317 to 338 shall not apply to appeals lodged with a view to the annulment, revocation, or amendment, of a decision taken by a judicial authority.

318. Suspension of implementation.

- (1) The submission of an appeal shall not cause implementation of the decision subject to the appeal to be suspended.
- (2) The Customs authority may suspend implementation of the decision subject to appeal, in whole or in part, where it has good reason to suspect that it is inconsistent with the Customs legislation.
- (3) Suspension of a decision subject to appeal shall, where such decision has the effect of causing import duties or export duties to be payable or the amount payable to be increased, be conditional upon the provision of a security.

DIVISION II – APPEAL TO COMPTROLLER

319. Conditions and proceedings.

- (1) Where the amount of duty demanded or any decision of the Customs authority under this Act is disputed by the importer —
 - (a) the amount in dispute shall be paid by the importer under protest and the decision implemented;
 - (b) the importer may, within fifteen working days from the date of payment or after the date on which notice of such decision is given, appeal to the Comptroller in respect of the disputed entry or decision; and
 - (c) the importer in his appeal shall request the Comptroller to reconsider the disputed decision, whether or not such reconsideration is based on information not available at the time of assessment.
- (2) A request made pursuant to subsection (1) shall —
 - (a) state the grounds for disputing the decision made by the Customs authority; and
 - (b) outline the further documentation or information, if any, on which the request is based.
- (3) The Comptroller, after investigating the matter within fifteen working days of the receipt of a request pursuant to subsection (1), and taking into account any further submissions of the importer or his agent, may confirm the original decision or substitute a new decision for the original decision resulting in —
 - (a) an increase, decrease or confirmation of the amount of duty originally determined to be due; or
 - (b) the confirmation or the revocation of the initial decision.
- (4) A person who is dissatisfied with a decision of the Comptroller under this section may, within fifteen working days after the date on which notice of the decision is given, appeal to the Commission pursuant to Division Three of this Part.

DIVISION III – CUSTOMS APPEAL COMMISSION

320. Establishment of Customs Appeal Commission.

- (1) The Minister shall, by regulation pursuant to section 354 establish a body independent of the Customs authority to be known as the Customs Appeal Commission which shall hear and decide appeals by complainants in respect of decisions made by the Comptroller pursuant to this Act and other Customs legislation.

- (2) The Minister may from time to time change the designation of the body referred to in subsection (1).
- (3) The Minister shall, by notice in the Gazette, appoint the members of the Commission, which shall consist of —
 - (a) a Chairman, being an attorney-at-law having been a member of the Bahamas Bar Association for at least seven years; and
 - (b) two assessors, being persons outside of the Customs Department having experience in Customs matters and, by reason of their profession and training, qualified to be members of the Commission.
- (4) Except as otherwise provided in this Act, a person appointed as a member of the Commission shall be appointed for such term, not exceeding three years, as the Minister thinks fit and may from time to time be reappointed.
- (5) Subject to subsection (6), a person appointed as a member of the Commission may at any time —
 - (a) be suspended or removed from office by the Minister for —
 - (i) engaging in any occupation for reward outside the duties of his or her office;
 - (ii) disability;
 - (iii) bankruptcy;
 - (iv) neglect of duty;
 - (v) misconduct proved to the satisfaction of the Minister; or
 - (b) resign their office by writing addressed to the Minister.
- (6) A person shall not be liable to be suspended or removed from office under subsection (5) by reason of engaging in any occupation for reward where his terms of appointment as a member of the Commission permit him to engage in such occupation for reward outside the duties of his office.
- (7) A member of the Commission whose term of office has expired or who has resigned his office shall be deemed to continue to be a member of the Commission for the purpose of deciding any appeal that was wholly heard before the expiration of his term of office or before his resignation took effect, as the case may be.
- (8) A person appointed as a member of the Commission shall, before entering upon the exercise of the duties of his office, take and subscribe an oath before a Judge of the Supreme Court that he will faithfully and impartially perform the duties of his office.
- (9) The Minister may, in the event of the sickness or other incapacity of a member of the Commission, appoint any person who is qualified to be appointed as a member of the Commission to act in the place of such person during the incapacity and any person so appointed shall have

authority to act on behalf of the Commission and, while so acting, shall be deemed to be a member of the Commission.

- (10) No appointment of a person under subsection (9), and no act done by any person by virtue of such appointment, shall in any proceeding be questioned on the ground that the occasion of the appointment had not arisen or had ceased.
- (11) No person appointed as a member of the Commission and no person appointed under subsection (9) shall be personally liable for any act done or omitted to be done by him in good faith in pursuance or intended pursuance of his powers and authorities under this Act.
- (12) The Customs Appeal Commission shall have a seal which shall be judicially noted in all courts.

321. Right to further appeal.

A decision of the Customs Appeal Commission pursuant to this Part may be appealed, on matters of law only, to the Supreme Court.

DIVISION IV – PROCEEDINGS

322. Procedure.

- (1) The procedures of the Customs Appeal Commission shall, subject to this Act and any regulations made under this Act, be determined by the Commission.
- (2) Proceedings before the Commission shall be commenced by the lodging of an application in the prescribed form, together with the prescribed fee, with the Commission.

323. Nature of appeal.

Appeals before the Customs Appeal Commission shall be by way of a hearing *de novo*.

324. Commission may extend time for appeal.

The Commission may, where under this Act a person is entitled to appeal to the Commission within a specified time, on an application made within the specified time extend the time within which the appeal may be brought.

325. Hearing.

- (1) Subject to section 326, the Commission shall as soon as the Commission considers that an appeal is ready to be heard —
 - (a) fix a date, time, and place for the hearing of the appeal; and

- (b) notify the appellant and the Comptroller of the date, time, and place so fixed.
- (2) A notice to an appellant under subsection (1) shall —
 - (a) in addition to the matters referred to in subsection (1), inform the appellant of the provisions of subsection (6); and
 - (b) be served on the appellant by personal service or by post in accordance with this Act.
- (3) At the hearing of an appeal before the Commission, the appellant and the Comptroller respectively —
 - (a) may provide evidence; and
 - (b) shall be given an opportunity to be heard, either in person or by a person authorised by the appellant or Comptroller to appear on his behalf, without regard to whether such person is an attorney-at-law.
- (4) The Commission may, upon proof of service of the notice of the hearing, proceed to determine the appeal where the appellant or the Comptroller, or both, or the person authorised by the appellant or the Comptroller to appear on his behalf, fail to appear before the Commission at the time and place appointed.
- (5) The Commission may require the presence at the hearing of any person having particular expertise on the matter in question to assist the Commission in making its decision.
- (6) The hearing of an appeal before the Commission shall be in private.
- (7) The Commission may —
 - (a) order that any part of any evidence given, or the name of any witness, not be published; and
 - (b) make any order as referred to in paragraph (a) subject to such conditions as the Commission thinks fit.

326. Commission may decide appeal without oral hearing if both parties consent.

- (1) Notwithstanding section 325, the Commission may, if it thinks fit and if both parties consent, decide an appeal without holding an oral hearing.
- (2) The Commission shall, where the Commission at any time during its consideration of an appeal in accordance with subsection (1) decides that an oral hearing should be held, fix a date, time, and place for the hearing of the appeal in accordance with section 325.

327. Commission's powers.

- (1) The Chairman of the Commission shall, for the purposes of dealing with the matters before it, have the powers of a Magistrate in the exercise of its

civil jurisdiction in respect of citing parties and conducting and maintaining order at the hearings of the Commission.

- (2) The Commission in any proceedings may —
 - (a) order a party to pay to the other party such costs and expenses, including witness's expenses, as it considers reasonable; and
 - (b) apportion any costs referred to in paragraph (a) between the parties or any of them in such manner as the Commission thinks fit.
- (3) The Commission may order a party in default to pay to the Government such sum for costs as the Commission considers reasonable where it considers it proper to do so due to failure of the party in default —
 - (a) to prosecute any proceedings at the time fixed for a hearing; or
 - (b) to give adequate notice of the abandonment of any proceedings.

328. Evidence.

- (1) The Commission may receive as evidence any statement, document, information or matter that, in the opinion of the Commission, may assist the Commission to deal effectually with the proceedings, whether or not it would be admissible in a court of law.
- (2) The Commission may take evidence on oath.
- (3) The Commission may permit a person appearing as a witness before it to give evidence by tendering a written statement and, if the Commission thinks fit, verifying it by oath.

329. Power of investigation.

- (1) The Commission, or any person authorised in writing by the Commission, for the purposes of dealing with the matters before it, may —
 - (a) inspect and examine any papers, documents, records, or articles;
 - (b) require any person to produce for examination any papers, documents, records, or articles in the possession or under the control of such person and to allow copies of or extracts from any such papers, documents, or records to be made; and
 - (c) require any person to furnish, in a form approved by or acceptable to the Commission, any information or particulars that may be required by it and any copies of or extracts from any papers, documents, or records in the possession or under the control of such person.
- (2) The Commission may, if it thinks fit, require that any written information or particulars or any copies or extracts furnished under this section be verified by statutory declaration or otherwise as the Commission may require.

- (3) The Commission, for the purposes of dealing with the matters before it, may either of its own motion or on application —
 - (a) order that any information or particulars, or a copy of the whole or part of any paper, document, or record furnished or produced to it, be supplied to any person appearing before the Commission; and
 - (b) in any order under paragraph (a), impose such terms and conditions as the Commission thinks fit in respect of the production of and use to be made of the information, particulars, or copy.
- (4) A person shall have the same privileges as witnesses have in courts of law in relation to the —
 - (a) giving of information to the Commission;
 - (b) answering of questions put by the Commission; and
 - (c) production of papers, documents, records, and articles to the Commission.

330. Power to summon witnesses.

- (1) The Commission may, for the purposes of dealing with the matters before it, either of its own motion or on application, issue in writing a summons requiring any person to attend at the time and place specified in the summons —
 - (a) to give evidence; and
 - (b) to produce any papers, documents, records, or articles in the possession or under the control of such person that are relevant to the matters before the Commission.
- (2) The Commission may, where it has of its own motion issued a witness summons, direct that the amount of fees, allowances and or travelling expenses be paid by the Government.
- (3) A party to the proceedings who has requested the issue of a witness summons shall be liable for payment of the witness's fees, allowances and travelling expenses.

331. Service of summons.

- (1) A summons to a witness may be served by —
 - (a) delivering it to the person summoned; or
 - (b) posting it by registered letter addressed to the person summoned at that person's usual place of residence or business.
- (2) A summons shall —
 - (a) where it is served under subsection (1)(a), be served at least forty-eight hours before the attendance of the witness is required;

- (b) where it is served under subsection (1)(b), be served at least ten working days before the date on which the attendance of the witness is required.
- (3) A summons posted by registered letter shall be deemed for the purposes of subsection (2)(b) to have been served at the time when the letter would be delivered in the ordinary course of postal service.

332. Protection of persons appearing.

A witness giving evidence and a counsel or agent or other person appearing before the Commission shall have the same privileges and immunities as witnesses and counsel in courts of law.

333. Grounds of appeal and burden of proof.

- (1) Subject to subsection (2), the appellant in an appeal shall be limited to the grounds stated in the appellant's notice of appeal and the burden of proof shall be on the appellant.
- (2) The Commission may, either on the application of the appellant or of its own motion, amend the grounds stated in a notice of appeal.

334. Sittings of Commission.

- (1) Sittings of the Commission shall be held at such times and places as the Commission determines.
- (2) The Commission may adjourn a sitting or modify the place of a sitting either before the time of the sitting or at the sitting.

335. Commission may dismiss frivolous or vexatious appeal.

The Commission may at any time dismiss an appeal if it is satisfied that the appeal is frivolous or vexatious.

336. Decision of Commission.

- (1) Every decision of the Commission shall be given in writing with a statement of the reasons for the decision.
- (2) A copy of the decision shall be given to the parties to the appeal and shall be accompanied by a written statement of the provisions of section 337(1).

337. Appeals to the Supreme Court.

- (1) A party who is dissatisfied with a decision of the Commission under this Act as being erroneous in point of law may appeal to the Supreme Court.

- (2) An appeal under this section shall be made by filing a notice of appeal within twenty working days after the date of the decision appealed against or within such further time as the court may allow.
- (3) The appellant shall, where a notice of appeal is filed in accordance with subsection (2), serve within the time specified in that subsection a copy of the notice on the Commission.

338. Stating case for Supreme Court.

- (1) The Commission may, on the application of the appellant or the Customs authority or on its own motion, state a case for the opinion of the Supreme Court on any question of law arising in respect of any appeal that was heard before the Commission.
- (2) The Commission shall give notice to the Comptroller and the appellant of the Commission's intention to state a case under this section.

PART XXV – SECURITIES

339. Requirement to give security.

Pursuant to sections 43 and 44, the Customs authority may require any person to give security for the due compliance by such person with this Act and, pending the giving of any such security, the Customs authority may refuse to permit delivery or exportation of the goods or to pass any entry in relation to them.

340. Provisions relating to giving of security.

- (1) Any security which is required to be given under this Act may be given to the satisfaction of the Customs authority either —
 - (a) by bond, in such sum and subject to such conditions and with such sureties as the Customs authority may reasonably require;
 - (b) by cash deposit; or
 - (c) partly by bond and partly by cash deposit.
- (2) Any security which is required to be given under this Act for any particular purpose may, with the approval of the Customs authority, be given to cover any transactions which the person giving such security may enter into within such period as the Customs authority may approve.
- (3) A bond required to be given under this Act shall be so framed that —
 - (a) the person giving it, and any surety to it, shall be bound to the Customs authority for the due performance of the conditions of the bond; and

- (b) unless sooner discharged by the due performance of its conditions, the bond may be discharged by the Customs authority on the expiration of one year from the date of the bond but without prejudice to the right of the Customs authority to require fresh security.
- (4) The Customs authority shall, where any bond given under this Act is discharged, cause such bond to be cancelled and an endorsement of its cancellation shall be made on the bond.
- (5) Notwithstanding that it or any surety to it is given by a person under the age of eighteen years, a bond given under this Act shall be valid and enforceable as if it were given by a person of full age.
- (6) All securities executed under the Customs laws before the commencement of this Act shall be valid and enforceable as if executed under this Act.

341. Provisions relating to sureties.

- (1) Without prejudice to any right of a surety to any bond given under this Act against the person for whom he is surety, a surety shall be deemed for all the purposes of any bond to be the principal debtor and accordingly a surety shall not be discharged, nor his liability affected, by —
 - (a) the giving of time for payment;
 - (b) the omission to enforce the bond for breach of any of its conditions; or
 - (c) any other act or omission which would not have discharged the bond had he been the principal debtor.
- (2) All sureties executed under any Customs legislation before the commencement of this Act shall be valid and enforceable as if executed under this Act.
- (3) The Customs authority may require the person giving a bond to enter into fresh security where any person being a surety to such bond —
 - (a) dies;
 - (b) becomes bankrupt;
 - (c) enters into any arrangement or composition with, or for the benefit of, his creditors, or
 - (d) departs from The Bahamas without leaving sufficient property in The Bahamas to satisfy the whole amount of the bond.

342. Enforcement of bond.

- (1) The Customs authority may, where the conditions of any bond have not been complied with, take legal proceedings for enforcement of the bond.

- (2) The production of the bond shall, where any legal proceedings are taken pursuant to subsection (1), entitle the Customs authority without further proof to judgement for the stated liability unless the person against whom proceedings are taken proves —
- (a) compliance with all the conditions of the bond;
 - (b) that the bond or surety was not executed by him;
 - (c) that the person has been released from the provision of the bond or surety; or
 - (d) that he has already made satisfaction for the full amount of the bond or surety.

PART XXVI – MISCELLANEOUS PROVISIONS

343. Simplification of the application of the Act.

- (1) The Comptroller may pursuant to section 8 prescribe rules laying down in which cases, and under which conditions, the application of this Act may be simplified and recommend to the Minister any other measures relating to the simplification of the application of this Act.
- (2) The Comptroller shall, in addition to implementing provisions referred to in this Act, adopt rules laying down rules and standards for the interoperability of Customs computer systems to bring about improved co-operation based upon electronic data exchange between —
- (a) the Customs authority and Customs authorities of other countries and territories outside the Customs territory of The Bahamas, and
 - (b) the Customs authority and approved economic operators or other public agencies.

344. Application of Act to postal articles.

- (1) Subject to this section, this Act shall apply to postal articles and to goods contained in postal articles in the same manner as this Act applies to other goods.
- (2) In this section the term "postal article" means any letter, parcel, packet, or other thing received or transmitted by, or through, a postal operator and includes any such articles imported by air courier companies.
- (3) Postal articles may be entered at such place and in such manner as the Minister may direct by Order.
- (4) Any officer in the service of the Post Office or any other authorised person performing any duty in relation to the importation or exportation of any postal article shall perform such duty in accordance with this Act.

- (5) All imported articles and postal articles intended for exportation shall, if the Comptroller so requires, be produced by an officer of the Post Office or any other person authorised to perform any duty in relation to the importation or exportation of any postal article —
 - (a) for examination either —
 - (i) at the port of arrival in or departure from The Bahamas, as the case may be, or
 - (ii) at such other place in The Bahamas as the Customs authority may direct; and
 - (b) such officer or other authorised person shall, for purposes of the examination referred to in paragraph (a), be deemed to be the agent of the importer or exporter.
- (6) The Customs authority may, where goods are imported in postal articles, accept for the purpose of assessing the duty on the goods the Customs declaration on the form provided by the postal administration in the country of origin in lieu of the entry required under the Customs laws.
- (7) The Customs authority may, where goods are exported by post, deem any form or label affixed to the parcel and bearing a description of the contents and a declaration of their value to be the entry required under the Customs laws.
- (8) Unless otherwise provided by law, dutiable goods imported as postal articles shall not be removed from Customs control until all duty chargeable on the goods has been paid.
- (9) A postal article and all its contents shall be deemed to be goods imported or exported contrary to the Customs laws and shall be dealt with in accordance with the Customs laws where such postal article, or any part of its contents, is on examination found —
 - (a) to be conveyed otherwise than in conformity with the Post Office Act (*Ch. 300*);
 - (b) not to agree with any declaration which accompanies or is affixed to such postal article or with any entry, invoice, or other document purporting to relate to its contents and which may be either transmitted with such postal article or produced by the addressee; or
 - (c) to consist of goods prohibited from being conveyed by post or from being imported or exported, as the case may be, or goods regulated by or under the Customs laws imported or exported contrary to any conditions regulating such importation or exportation.
- (10) The time of entry of any goods imported or exported by post shall —
 - (a) in the case of goods imported for home consumption, be deemed to be the time when the duty on such goods is assessed by the Customs authority, except where actual entry is required; and

- (b) in the case of goods exported, be deemed to be the time of the posting of such goods and this shall include the depositing of postal articles with an air courier company.

345. Issuance of guidelines and administrative instructions.

The Customs authority may, for the purpose of providing a consistent national interpretation and application of Customs legislative requirements, issue guidelines and administrative instructions relating to application of provisions of this Act and other Customs legislation.

346. Cooperation between State agencies.

- (1) Controls, other than Customs controls, performed in respect of international goods by competent authorities other than the Customs authority shall be performed in close co-operation with the Customs authority and, wherever possible, at the same time and place so as to create a one-stop-shop concept for the processing of international goods.
- (2) The Customs authority, and other competent authorities, may where necessary for the purposes of minimizing risk —
 - (a) exchange with each other data received in the context of the entry, exit, transit, transfer and end-use of goods moved across the border of the Customs territory; and
 - (b) exchange with the Customs authority or other competent authority of other countries or territories outside the Customs territory the data referred to in paragraph (a).

347. Disclosure of information overseas.

- (1) The Customs authority may disclose any information to an overseas Customs authority, public agency, body, or person, whose functions include —
 - (a) the prevention, detection, investigation, prosecution, or punishment of offences that are or if committed in the Customs territory would be —
 - (i) Customs offences of any kind; or
 - (ii) other offences punishable by imprisonment;
 - (b) the verification of proofs of origin issued in relation to the implementation of an international trade agreement including preferential tariff provisions;
 - (c) the processing of international passengers at the border by public authorities;
 - (d) border security; or

- (e) the protection of public revenue.
- (2) The disclosure of information under subsection (1) shall be —
 - (a) in accordance with an agreement between the Comptroller and the agency, body, or person concerned that complies with subsections (3) and (4);
 - (b) in accordance with provisions of an international trade agreement providing for mutual assistance between the Customs authority and foreign Customs authorities; or
 - (c) in accordance with subsection (8).
- (3) The Comptroller shall not enter into an agreement for the purpose of subsection (2)(a) unless satisfied that it is justified to help prevent, identify, or respond to violations of national laws or —
 - (a) in the case of an agreement with an international agency or body, to help prevent, identify, or respond to actions of a kind whose prevention, identification or responding to is among the functions of the agency or body; or
 - (b) in any other case, to help prevent, identify, or respond to violations of the law of the country or territory concerned.
- (4) For the purposes of subsection (2)(a), an agreement —
 - (a) shall be in writing;
 - (b) shall state criteria for the disclosure of information under it;
 - (c) shall state, in respect of information to be disclosed —
 - (i) the use that the agency, body, or person may make of it;
 - (ii) that either the agency, body, or person shall not disclose it to any other agency, body, or person or the other agencies, bodies, or persons to which the agency, body, or person may disclose any of it and the extent and conditions subject to which, the agency, body, or person may do so;
 - (d) may state —
 - (i) the form in which the information may be disclosed;
 - (ii) the method by which the information may be disclosed; and
 - (e) may be varied from time to time.
- (5) This section shall not limit the general powers of the Comptroller to enter into agreements not related to the disclosure of information with any foreign Customs authority, public agency, body, or person.
- (6) The Customs authority may disclose information to an overseas agency, body, or person without a written agreement specified in subsection (2)(a) where —

- (a) the functions of the agency, body, or person include the prevention, detection, investigation, prosecution, or punishment of Customs offences of any kind or of other offences punishable by imprisonment; and
 - (b) the information is disclosed subject to conditions stating the use that the agency, body, or person may make of it.
- (7) An agreement or arrangement shall continue and have effect as if it had been made or entered into under this section where —
- (a) the Government of The Bahamas or the Comptroller has before the commencement of this Act entered into such agreement or arrangement with any foreign Customs authority, public agency, body, or person; and
 - (b) such agreement or arrangement could have been made or entered into under this section.
- (8) The Comptroller shall not disclose any information under subsection (6) unless satisfied that it relates to a suspected violation of the Customs legislation of The Bahamas or to a suspected violation of the law of the other country concerned.

348. Arrival and departure information.

The Customs authority may, for the purposes of monitoring the movement of means of transport and persons, passenger and crew processing and border security collect and use information about means of transport and persons arriving or departing the Customs territory comprising —

- (a) details of means of transport movements including the —
 - (i) craft name,
 - (ii) means of transport registration number or identifier,
 - (iii) estimated date and time of arrival or departure,
 - (iv) place of origin and destination;
- (b) personal information including the person's —
 - (i) name,
 - (ii) date of birth,
 - (iii) gender,
 - (iv) passport number,
 - (v) nationality, and
 - (vi) travel movements.

349. Customs may collect, use or disclose certain information.

The Customs authority may collect, use, or disclose information for any one or more of the following purposes —

- (a) exercising or performing a power, function, or duty under this Act;
- (b) prevention, detection, investigation, prosecution, and punishment of offences that are or if committed in the Customs territory would be —
 - (i) Customs offences of any kind; or
 - (ii) other offences punishable by imprisonment.
- (c) processing of international passengers at the border by State authorities;
- (d) protection of border security; or
- (e) protection of the health and safety of members of the public.

350. Exchange of data and data protection.

- (1) All required exchanges of data, accompanying documents, decisions and notifications between economic operators and the Customs authority shall, wherever possible, be made using electronic data processing techniques.
- (2) The Customs authority may adopt measures laying down exceptions to subsection (1).
- (3) Save where otherwise specifically provided, the Customs authority shall adopt measures laying down —
 - (a) rules defining and governing the messages to be exchanged between Customs offices as required for the application of this Act and other Customs legislation; and
 - (b) a common data set and format of the data messages to be exchanged under provisions of this Act and other Customs legislation.
- (4) The data referred to in subsection (3)(b) shall contain all particulars necessary for risk analysis and the proper application of Customs controls using, where appropriate, international standards and commercial practices.
- (5) All information acquired by the Customs authority in the course of performing its duties shall be covered by appropriate confidentiality undertakings where such information —
 - (a) by its nature is confidential; or
 - (b) is provided on a confidential basis.

- (6) Except for the purposes of Customs controls as provided for under this Act or other Customs legislation, information referred to in subsection (5) —
- (a) subject to paragraph (b), shall not be disclosed by the Customs authority without the express permission of the person or authority that provided it;
 - (b) may be disclosed without permission —
 - (i) where the Customs authority is obliged or authorised to do so pursuant this Act and other legislation in force, particularly in respect of data protection; or
 - (ii) in connection with legal proceedings.
- (7) Communication of confidential data to Customs authorities and other Government agencies of foreign countries shall be permitted only in the framework of an international agreement ensuring an equivalent level of data protection and the disclosure or communication of information shall take place in full compliance with data protection provisions in force.
- (8) The Customs authority and economic operators may exchange any information not specifically required under provisions of this Act and other Customs legislation —
- (a) for purposes of mutual co-operation in the identification and counteraction of risk; and
 - (b) such exchange may take place under a written agreement and may include access by the Customs authority to the computer systems of economic operators.
- (9) Any information provided by one party to the other in the course of the co-operation referred to in subsection (8) shall be confidential unless both parties agree otherwise.

351. Provision of information by and to the Customs authority.

- (1) The Customs authority shall —
- (a) maintain a regular dialogue with economic operators and other agencies involved in international trade in goods; and
 - (b) promote transparency by making the legislation, administrative rulings and application forms pertaining to international trade in goods available to economic operators free of charge and, wherever practical, through the Internet.
- (2) Any person directly or indirectly involved in the accomplishment of Customs formalities shall provide the Customs authority with —
- (a) the requisite documentation and information, irrespective of the medium used; and

- (b) all assistance requested by the Customs authority within the requisite time limits.
- (3) Without prejudice to the possible application of administrative or criminal penalties, the lodging of a summary declaration or goods declaration including a simplified declaration, notification, submission of an application for an authorisation or any other decision, shall render the person concerned responsible for —
 - (a) the accuracy of the information given in the declaration, notification or application, or in any other relevant form;
 - (b) the authenticity of any documents lodged or made available; and
 - (c) where applicable, compliance with all obligations relating to the placing of the goods in question under the Customs procedure concerned or to the conduct of the authorised operations.
- (4) Subsection (3)(a) shall apply also to the provision of any information required by the Customs authority.
- (5) A representative of the person concerned in subsection (3) shall, where the representative lodges a declaration or notification, submits an application or provides requested information, also be responsible for the accuracy of the information given in the declaration, notification or application, or in any other relevant form.
- (6) Information received by the Customs authority from other Government agencies of The Bahamas, or from Customs authorities of foreign countries, shall be used only for the purposes of accomplishing Customs functions.
- (7) All information provided to the Customs authority, which is confidential by reason of its contents or by reason of its way of provision, shall be stored securely.

352. Giving of notice.

- (1) A notice by the Customs authority to a company may be given —
 - (a) by delivery to a person named as a director;
 - (b) by delivery to an employee of the company at the company's head office or principal place of business;
 - (c) by leaving it at the company's registered office;
 - (d) by posting it to the company's registered office or delivering it to a box at a document exchange which the company is using at the time;
 - (e) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the company's registered office or its head office or principal place of business; or

- (f) where the individual who is a director, employee, agent or representative of the company is a registered user of a Customs computerised system and uses the system for the purposes of the business of the company, by transmitting it by electronic means to the registered user —
 - (i) at the company's registered office, head office, or principal place of business; or
 - (ii) in accordance with the normal procedures of operation of the relevant Customs computerised system in relation to that registered user in respect of the business of the company.
- (2) A notice by the Customs authority to an overseas company may be given —
- (a) by delivery to a person named in the overseas register as a director of the overseas company and who is resident in the Customs territory;
 - (b) by delivery to a person being authorised to accept service in the Customs territory of documents on behalf of the overseas company;
 - (c) by delivery to an employee of the overseas company at the overseas company's place of business in the Customs territory;
 - (d) where the overseas company has more than one place of business in the Customs territory, by delivery at the overseas company's principal place of business in the Customs territory;
 - (e) by posting it to the address of the overseas company's principal place of business in the Customs territory or delivering it to a box at a document exchange which the overseas company is then using at the time;
 - (f) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal place of business in the Customs territory of the overseas company;
 - (f) where an individual who is a director, employee, or agent of the overseas company is a registered user of a Customs computerised system and uses the system for the purposes of the business of the overseas company, by transmitting it by electronic means to the registered user —
 - (i) at the principal place of business in the Customs territory of the overseas company; or
 - (ii) in accordance with the normal procedure of operation of the relevant Customs computerised system in relation to that registered user in respect of the business of the overseas company.

- (3) A notice by the Customs authority to a body corporate, other than a company or an overseas company, may be given —
- (a) by delivery to a person who is a principal officer of the body corporate;
 - (b) by delivery to an employee of the body corporate at the principal office or principal place of business of the body corporate;
 - (c) by posting it to the address of the principal office of the body corporate or delivering it to a box at a document exchange which the body corporate is using at the time;
 - (d) by sending it by facsimile machine to a telephone number used for the transmission of documents by facsimile at the principal office or principal place of business of the body corporate; or
 - (e) where an individual who is an employee or agent of the body corporate is a registered user of a Customs computerized system and uses the system for the purposes of the business of the body corporate, by transmitting it by electronic means to the registered user —
 - (i) at the principal office or principal place of business of the body corporate; or
 - (ii) in accordance with the normal procedures of operation of the relevant Customs computerized system in relation to that registered user in respect of the business of the body corporate.
- (4) A notice by the Customs authority to an individual may be given —
- (a) by delivery to such person;
 - (b) by posting it to such person's address or delivering it to a box at a document exchange which such person is using at the time;
 - (c) by sending it by facsimile machine to a telephone number used by such person for the transmission of documents by facsimile; or
 - (d) where the individual is a registered user of a Customs computerised system, by transmitting it by electronic means to such individual in accordance with the normal procedure of operation of the relevant Customs computerised system in relation to such individual.
- (5) For the purposes of this Act, a notice shall be deemed to have been given when it is deemed, in accordance with subsection (6), to be received.
- (6) For the purposes of this Act —
- (a) a notice posted or delivered to a document exchange shall be deemed to be received three working days after it is posted by registered mail;

- (b) a notice sent by facsimile machine shall be deemed to be received on the working day following the day on which it was sent;
 - (c) a notice transmitted by electronic means shall be deemed to be received on the working day following the day on which it was transmitted; and
 - (d) in proving the giving of notice by post or by delivery to a document exchange, it shall be sufficient to prove that —
 - (i) the document was properly addressed;
 - (ii) all postal or delivery charges were paid; and
 - (iii) the document was posted or was delivered to the document exchange.
 - (e) in proving the giving of notice by facsimile machine, it shall be sufficient to prove that the document was properly transmitted by facsimile machine to the person concerned;
 - (f) in proving the transmitting of notice by electronic means, it shall be sufficient to prove that the notice was properly transmitted by electronic means in accordance with the normal operating procedure of the relevant Customs computerised system.
- (7) A notice shall not be deemed to have been given to a person if the person proves that, through no fault on the person's part, the notice was not received within the time specified.

353. Payment by Customs authority out of public money.

The Customs authority may, subject to prescribed regulations, incur expenses without further appropriation than this section to pay all lawful —

- (a) refunds of duty;
- (b) drawbacks of duty;
- (c) refunds of administrative penalties;
- (d) payments of interest pursuant to section 166(1).

354. Regulations to be issued by the Minister.

- (1) The Minister may, from time to time, make regulations for all or any of the following purposes —
 - (a) prescribing the circumstances in and the conditions on which the powers conferred on Customs officers by Part IV may be exercised in relation to a member of the Security Forces, access to a Defence area or a means of transport and any conveyance under the control of the Defence Force;
 - (b) appointing Customs places;

- (c) prescribing the fees to be paid for any licence issued under this Act and the fees for providing certificates, documents or other services to the public;
- (d) prescribing the classes of goods to be stores of means of transport and conditions under which such stores may be shipped free of duty;
- (e) granting a licence to a Customs broker, or suspending and revoking such a licence, for the purposes of section 99;
- (f) adopting measures governing the establishment of authorised economic operators;
- (g) prescribing the conditions under which an entry shall be deemed to have been made and passed under this Act for the purposes of sections 105 and 114;
- (h) exempting specified goods from the requirements of section 104(2) or 113;
- (i) imposing safeguard measures for the purposes of section 142;
- (j) laying down measures for the uniform interpretation, application and administration of rules for the determination of origin for the purposes of sections 150 and 151;
- (k) determining the means of payment to be used for the payment of duties;
- (l) prescribing the minimum amount of duty refundable on goods for the purposes of section 183;
- (m) prescribing the minimum amount of drawback of duty on goods for the purposes of section 187;
- (n) adopting measures for the prolongation or reduction of the period allowed for the deposit and keeping of goods in bonded warehouses;
- (o) authorising the temporary admission of goods in the Customs territory for the purposes of section 197 and the temporary exportation of goods from the Customs territory for the purposes of section 198;
- (p) prescribing the maximum duration of the stay of goods in a free zone;
- (q) specifying the goods whose importation is prohibited or restricted in the Customs territory for the purposes of section 208 and amending from time to time the First Schedule;
- (r) specifying the goods whose exportation is prohibited or restricted from the Customs territory for the purposes of section 209 and amending from time to time the Second Schedule;

- (s) establishing a Customs Appeal Commission and appointing, suspending or removing the members of the Commission for the purposes of section 320;
 - (t) making any provision which may be necessary or desirable to enable the Customs Appeal Commission to publish its decisions;
 - (u) prescribing the conditions for the application of this Act to postal articles for the purpose of section 344;
 - (v) prescribing the fees or charges payable to the Customs authority for the attendance of Customs officers for the purposes of this Act.
- (2) The Minister may also, from time to time, make regulations —
- (a) prescribing for the further, better or more convenient implementation of any of the provisions or purposes of this Act and the conduct of any business relating to the Customs;
 - (b) conferring or providing for exemptions under this Act; and
 - (c) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

355. Regulations for fees and charges.

- (1) Pursuant to section 354 the Minister may from time to time, by Order, make regulations —
- (a) prescribing the amounts of fees and charges payable under this Act, or the method by which they are to be assessed, and the persons liable for payment of the fees and charges;
 - (b) prescribing a rate or rates of charges for the attendance of Customs officers for the purposes of this Act or authorising the Comptroller to determine such rate or rates of charges;
 - (c) providing for the liability of any person to pay any actual and reasonable expenses incurred by a Customs officer in respect of any attendance by such officer for the purposes of this Act;
 - (d) prescribing the person or persons or classes of persons by whom the charges or expenses referred to in paragraphs (b) and (c) shall be paid or authorizing the Comptroller to determine the person by whom they shall be paid.
- (2) Different rates of fees or charges, or both, may be prescribed in accordance with subsection (1)(a) in respect of different classes of persons or on any other differential basis.
- (3) Different rates of charges may be prescribed in accordance with subsection (1)(b) in respect of attendances during the working hours of the Customs authority or on any other differential basis.
- (4) Any regulation made under subsection (1) may —

- (a) prescribe the circumstances in which any fee, charge, or expense may be remitted or waived, in whole or in part; and
- (b) fix a date by which any fee or charge is to be paid.

356. Witnessing of signature.

A document or declaration in written or electronic form required by a Customs enactment to be signed in the presence of the Comptroller or any particular officer shall be as valid as if it had been signed in the presence of the Comptroller or such officer where —

- (a) such document or declaration is signed in the presence of a witness known to and approved by the Comptroller or such officer ; and
- (b) the signature of the witness is known to and approved by the Comptroller or such officer.

357. Time limits.

A period or time limit laid down in this Act or in other Customs legislation shall not be extended or deferred unless otherwise specifically provided in this Act or in other Customs legislation.

358. Repeals.

This Act repeals —

- (a) the Customs Management Act (*Ch. 293*) and other existing Customs legislation;
- (b) the Import Control Regulations Act (*Ch. 298*);
- (c) the Export Control Regulations Act (*Ch. 299*); and
- (d) the Export Manufacturing Industries Encouragement Act (*Ch. 327*).

FIRST SCHEDULE (Section 202)**PROHIBITED AND RESTRICTED IMPORTS****Prohibited Goods**

1. All goods the importation of which is prohibited under the provisions of any law for the time being in force in The Bahamas.
2. (1) Tops and yarns made wholly or partly of goat hair; excluding —
 - (a) cashmere yarns which have been bleached and dyed, mohair yarns, and dehaired China cashmere proved to the satisfaction of the Comptroller of Customs to be China cashmere; and
 - (b) mohair tops originating from the United States of America or the Republic of South Africa, China cashmere (other than dehaired China cashmere), and mohair (other than Van mohair):
Provided that —
 - (i) the goods are imported in unbroken packages as originally shipped from the country of origin; and
 - (ii) the goods are shipped direct from the country of origin to The Bahamas, or if trans-shipped at an intermediate port, are shipped on a through bill of lading, or if shipped to The Bahamas other than from the country of origin, are proved to the satisfaction of the Comptroller of Customs, in the case of goods claimed to originate in the United States of America, the Republic of South Africa or the People's Republic of China to be of the origin claimed, or, in the case of mohair (other than Van mohair), not to be Van mohair.
- (2) Goat hair, or goods mixed with goat hair, and wool or animal hair produced in or exported from or through the United Arab Republic or the Sudan or goods mixed therewith, unless it is proved to the satisfaction of the Comptroller of Customs that the goods have been satisfactorily disinfected abroad and that a sample of the goods has been tested and found to be free from anthrax.
3. Any article which bears a design in the imitation of any currency or banknote or coin in current use in The Bahamas or elsewhere.
4. Goods infringing intellectual property rights.
5. Dredges capable of being used for sponging.
6. Indecent or obscene prints, paintings, photographs, books, cards, lithographic or other engravings, or any other indecent or obscene articles.
7. Infected cattle, sheep or other animals and hides, skins, horns and hoofs or

anything which the Governor-General may on sanitary grounds by Order prohibit to be imported.

8. Meat, provisions, fruit and vegetables and any articles intended for human food which are unfit for human consumption.
9. Oleomargarine, butterine, or other similar substitutes for butter, if invoiced, described or labelled as butter.
10. Sodium fluoracetate (a deadly poison commonly referred to as “1080”).
11. Lysergic acid diethylamide and any compound declared by the Minister by Order to be a compound related to lysergic acid diethylamide.
12. Underwater gun being any manufacture or device other than the device known as a Hawaiian sling whereby a missile may be discharged under water.

Restricted Goods

1. All goods the importation of which is regulated under the provisions of any law for the time being in force in The Bahamas.
2. Firecrackers and impact flash salutes, save those which in the opinion of the Comptroller are not dangerous.
3. Rum, including taffia, unless imported as cargo and duly reported in aircraft or in ships of not less than thirty tons burden, and in casks or other liquid containers, of a content of not less than five gallons or in glass or stone bottles properly packed in cases or in demi-johns, each case or demi-john containing not less than one gallon.
4. Other spirits (not being cordials or perfumed or medicinal spirits) unless imported as cargo and duly reported on aircraft or in ships of not less than thirty tons burden, and in casks or other liquid containers, of a content of at least nine gallons or in glass or stone bottles, properly packed in cases, or in demi-johns, each case or demi-john containing not less than one gallon:

Provided that no whisky or brandy shall be so imported unless the importer produces in respect thereof a certificate of origin and evidence to the satisfaction of the Comptroller that such whisky or brandy has been kept in wood for at least three years since manufacture.

5. Wine, unless imported as cargo and duly reported in aircraft or in ships of not less than thirty tons burden and in casks or other liquid containers, of a content not less than fifteen gallons or bottled and packed in cases, each case containing not less than one and a half gallons:

Provided that packages of less capacity may be imported under such regulations as may be made by the Minister.

6. Trailers, being trailer caravans for use as living quarters, offices, workshops, or similar purposes, unless specially authorised by the Minister.

7. Mechanical games and devices set in operation wholly or partly by the insertion of a coin or token and so constructed as to return mechanically or otherwise to the person inserting the coin or token in certain circumstances, merchandise, a coin, or token, or coins or tokens of greater total value than that of the coin or token inserted; parts and accessories of such games or devices:

Provided that such games, devices and parts and accessories thereof may be imported by a person, club or organisation holding a valid licence issued under the Lotteries and Gaming Act (Chapter 387) but only insofar as the conditions and terms of such licence permit.

8. Mechanical games and devices, other than the games and devices referred to in paragraph 7 above, which are set in operation by the insertion of a coin or token and which by manual, mechanical or electronic means provide a game for play by one or more persons for amusement only, unless specially authorised by the Minister and subject to such conditions as the Minister may direct.

9. Goods imported for the purposes of any business (within the meaning given thereto by section 2 of the Business Licence Act) unless the importer of the goods produces for inspection by the Comptroller –

- (a) a current business licence issued under the provisions of the Business Licence Act, and
- (b) proof that exchange control approval was obtained by the importer from The Central Bank of The Bahamas permitting the expenditure of foreign currency for the purchase of the goods.

10. The following —

- Acetic acid
- Acetic anhydride
- Acetone
- Ammonium
- Anthranilic acid and its salts
- Benzene
- Benzyl Chloride
- Benzyl cyanide
- Bromobenzyl cyanide
- Carbon sulphide
- Chloroform
- Ephedrin and its salts
- Ergometrine and its salts
- Ergotamine

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- Ethyl alcohol
 - Ethylamine and its salts
 - Ethyl or sulphuric ether
 - Hydriodic acid
 - Hydrochloric acid
 - Isosafrole
 - Lysergic acid
 - Methylamine and its salts
 - Methylene Chloride
 - Methyl ethyl ketone
 - 3, 4-Methylenedioxyphenyl-2Propanone
 - N-acetylanthranilic acid and its salts optical isomers and salts of optical isomers
 - N-Ethylephedrine, its salts and optical isomers
 - N-Ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
 - N-Methylephedrine, its salts, optical isomers, and salts of optical isomers
 - N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers
 - Phenylacetic acid and its salts
 - 1-phenyl-2 propanone
 - Phenylpropanolamine and its salts
 - Piperidine
 - Piperonal
 - Potassium carbonate
 - Potassium hydroxide
 - Potassium permanganate
 - Propionic Anhydride
 - Pseudoephedrin and its salts
 - Safrole
 - Sodium carbonate
 - Sodium hydroxide
 - Sodium sulphate
 - Sulphuric acid
 - Toluene
-

- Trichloroethylene

Unless the Comptroller is satisfied that the restricted goods are necessary for use in the manufacturing process of an undertaking licensed under the laws of The Bahamas or for sale as a product in the normal course of business of such an undertaking being a sale which is not otherwise prohibited by those Laws and subject to such conditions as to reporting of the use and disposal of the restricted goods as the Comptroller sees fit.

11. Benzaldehyde (Benzoic aldehyde), Nitroethane and Norpseudoephedrine, unless the Comptroller is satisfied that the aforesaid restricted goods are necessary for use in the manufacturing process of an undertaking licensed under the laws of The Bahamas or for sale as a product in the normal course of business of such an undertaking being a sale which is not otherwise prohibited by those laws and subject to such conditions as to reporting of the use and disposal of such goods as the Comptroller sees fit.

SECOND SCHEDULE (Section 203)**PROHIBITED AND RESTRICTED EXPORTS****Prohibited Goods**

1. All goods the exportation of which is prohibited under any law for the time being in force in The Bahamas.
2. Goods to Kuwait and Iraq.
3. Goods infringing intellectual property rights.

Restricted Goods

1. All goods the exportation of which is regulated under any law for the time being in force in The Bahamas.
2. Otherwise than pursuant to an authority and in conformity with the terms of a certificate of permission of the Minister of Finance, things manufactured or produced more than 100 years before the date of exportation and being —
 - (a) so manufactured or produced by the indigenous people of the former Bahamas Islands; or
 - (b) of zoological, botanical, mineralogical, anatomical, historical, archaeological, ethnographic or numismatic interest to the people of The Bahamas.
3. The following —
 - Acetic acid
 - Acetic anhydride
 - Acetone
 - Ammonium
 - Anthranilic acid and its salts
 - Benzene
 - Benzyl Chloride
 - Benzyl cyanide
 - Bromobenzyl cyanide
 - Carbon sulphide
 - Chloroform
 - Ephedrin and its salts
 - Ergometrine and its salts
 - Ergotamine

- Ethyl alcohol
- Ethylamine and its salts
- Ethyl or sulphuric ether
- Hydriodic acid
- Hydrochloric acid
- Isosafrole
- Lysergic acid
- Methylamine and its salts
- Methylene Chloride
- Methyl ethyl ketone
- 3, 4-Methylenedioxyphenyl-2Propanone
- N-acetylanthranilic acid and its salts optical isomers and salts of optical isomers
- N-Ethylephedrine, its salts and optical isomers
- N-Ethylpseudoephedrine, its salts, optical isomers, and salts of optical isomers
- N-Methylephedrine, its salts, optical isomers, and salts of optical isomers
- N-Methylpseudoephedrine, its salts, optical isomers and salts of optical isomers
- Phenylacetic acid and its salts
- 1-phenyl-2 propanone
- Phenylpropanolamine and its salts
- Piperidine
- Piperonal
- Potassium carbonate
- Potassium hydroxide
- Potassium permanganate
- Propionic Anhydride
- Pseudoephedrin and its salts
- Safrole
- Sodium carbonate
- Sodium hydroxide
- Sodium sulphate
- Sulphuric acid
- Toluene

- Trichloroethylene

Unless the Comptroller is satisfied that the intended recipient is in a country which has ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and has provided the name, address and telephone and telefax numbers of the national authority responsible for implementing Article 12 of the 1988 Convention. Further than the Comptroller of Customs has communicated with the national authority of the importing country and is satisfied that the intended recipient is a legitimate manufacturer and controls to prevent diversion to illegal drug manufacture are in place in that country.

4. Benzaldehyde (Benzoic aldehyde), Nitroethane and Norpseudoephedrine, unless the Comptroller is satisfied that the intended recipient is in a country which has ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 and has provided the name, address and telephone and telefax numbers of the national authority responsible for communicated with the national authority of the importing country and is satisfied that the intended recipient is a legitimate manufacturer and that controls to prevent diversion to illegal drug manufacturers are in place in that country.

THIRD SCHEDULE(Section 146)**VALUATION OF GOODS FOR THE PURPOSES OF THE CUSTOMS TARIFF**

The value of goods which on importation are liable to ad valorem rates of duty shall be appraised according to the provisions set out in sections 1 to 9 of this Schedule.

1. Interpretation.

(1) In this Schedule —

“**buyer**” has the meaning assigned by the regulations;

“**computed value**” means the value determined in accordance with section 8 of this Schedule;

“**country of export**”, or “the country from which any goods are exported”, means the country from which the goods are shipped directly to the Customs territory, or, as the case may be, the country from which the goods are deemed to be shipped pursuant to this Act;

“**deductive value**” means the value determined in accordance with section 7 of this Schedule.

“**goods of the same class or kind**”, means imported goods that —

- (a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and
- (b) for the purposes of —
 - (i) Section 7, were exported from any country; and
 - (ii) Section 8, were produced in and exported from the country in and from which the goods being valued were produced and exported;

“**identical goods**” means imported goods that —

- (a) are the same in all respects, including physical characteristics, quality, and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in the customs territory were supplied, directly, or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

“price paid or payable”, in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods;

“to produce” includes to grow, to manufacture, to drill, and to mine;

“similar goods” means imported goods that —

- (a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation of the goods and the goods being valued;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, artwork, design work, plans, or sketches undertaken in the Customs territory were supplied, directly or indirectly by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

“sufficient information”, in respect of the determination of any amount, difference, or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference, or adjustment;

“transaction value” means the value determined in accordance with sections 3 and 4 of this Schedule.

- (2) For the purposes of this Schedule, persons shall be deemed to be related only if —
 - (a) they are officers or directors of one another’s business;
 - (b) they are legally recognised partners in business;
 - (c) one is the employer of the other;
 - (d) any person directly or indirectly owns, controls, or holds 5 percent or more of the outstanding voting stock or shares of both of them;
 - (e) one of them directly or indirectly controls the other;

- (f) both of them are directly or indirectly controlled by a third person;
 - (g) together they directly or indirectly control a third person; or
 - (h) they are members of the same family.
- (3) For the purposes of this Schedule persons shall be deemed to be members of the same family if —
- (a) they are connected by blood relationship within the fourth degree of relationship;
 - (b) they are married to one another or if one is married to a person who is connected within the fourth degree of relationship to the other; or
 - (c) one has been adopted as the child of the other or as a child of a person who is within the third degree of relationship to the other.
- (4) For the purposes of this Schedule, where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be.
- (5) For the purposes of this Schedule, charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods shall not be regarded as part of the Customs value in any case where —
- (a) the charges are distinguished from the price actually paid or payable for the goods;
 - (b) such goods are actually sold at the price declared as the price actually paid or payable; and
 - (c) the buyer, if required, can demonstrate that —
 - (i) the financing arrangement was made in writing;
 - (ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided.

2. Primary basis of appraisal of goods and subsidiary methods of Customs valuation.

- (1) The value for duty of goods shall be appraised on the basis of the transaction value of the goods in accordance with the conditions set out in sections 3 and 4 of this Schedule.
- (2) Where the Customs value of goods cannot be determined in accordance with subsection (1) of this section, it shall be determined by proceeding sequentially through paragraphs (a), (b), (c) and (d) as laid down in subsection (3) of this section to the first such paragraph of this subsection

- (3) under which the Customs value can, in the opinion of the Customs authority, be determined; It is only when such value cannot be determined under a particular paragraph as set out in subsection (3) of this section that the provisions of the next paragraph in a sequence established by virtue of this subsection shall be applied.
- (3) Pursuant to subsection (2) of this section, the Customs value shall be, subject to the provision that the order of paragraphs (c) and (d) shall be reversed if the importer so request —
- (a) the transaction value of identical goods sold for the export to the Customs territory of The Bahamas and exported at or about the same time as the goods being valued;
 - (b) the transaction value of similar goods sold for export to the Customs territory of The Bahamas and exported at or about the same time as the goods being valued;
 - (c) the value based on the unit price at which the imported goods, or identical or similar goods are sold within the Customs territory of The Bahamas in the greatest aggregate quantity to persons not related to the sellers (deductive value); and
 - (d) the computed value of the goods consisting of the sum of —
 - (i) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
 - (ii) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to The Bahamas;
 - (iii) the cost or value of —
 - 1. transport and insurance of the imported goods, and
 - 2. loading and handling charges associated with the transport of the imported goods to the place of introduction into the Customs territory of the Bahamas.
- (4) Where the Customs value of imported goods cannot be determined under subsections (1) or (3) of this section, the value for duty of those goods shall be determined as specified under section 9 of this Schedule.

3 Transaction value as primary basis of valuation

- (1) The Customs value of imported goods shall be their transaction value, that is, the price paid or payable for the goods when sold for export to the Customs territory, adjusted in accordance with section 4 of this Schedule, if —

- (a) there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that —
 - (i) are imposed by law;
 - (ii) limit the geographical area in which the goods may be resold;
or
 - (iii) do not substantially affect the value of the goods;
 - (b) the sale of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined;
 - (c) where any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with section 4 of this Schedule; or
 - (d) the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time —
 - (i) their relationship did not influence the price paid or payable for the goods; or
 - (ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in subsection (2) of this section.
- (2) In a sale between related persons, for the purpose of showing that the relationship did not influence the transaction value, the importer shall produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as may be prescribed, closely approximates the Customs value of other goods exported at the time or substantially at the same time as the goods being valued, being —
- (a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to the Customs territory between a seller and buyer who are not related at the time of the sale; or
 - (b) the deductive value of identical or similar goods determined in accordance with section 7 of this Schedule; or
 - (c) the computed value of identical or similar goods determined in accordance with section 8 of this Schedule.
- (3) In any case where the Customs authority has grounds to believe that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, the Customs authority shall notify the importer of the goods, in writing if so requested by the importer, of the grounds on which the Customs authority formed that opinion, and shall

give the importer a reasonable opportunity to satisfy the Customs authority that the relationship did not influence the price.

- (4) Where subsection (2) of this section applies, the importer shall, without limiting the generality of subsection (2), provide the Customs authority with the following information —
- (a) the nature of the goods being valued;
 - (b) the nature of the industry that produces the goods being valued;
 - (c) the season in which the goods being valued are imported;
 - (d) whether a difference in values is commercially significant;
 - (e) the trade levels at which the sales take place;
 - (f) the quantity levels of the sales;
 - (g) any of the amounts referred to in section 3 of this Schedule;
 - (h) the costs, charges, or expenses incurred by a seller when the seller sells to a buyer to whom the seller is not related that are not incurred when the seller sells to a buyer to whom the seller is related.
- (5) Where —
- (a) in the opinion of the Customs authority, there is not sufficient information to determine any of the amounts required to be added in accordance to section 4 of this Schedule to the price paid or payable in respect of the goods to be valued under this section; or
 - (b) the Customs authority has reason to doubt the truth or accuracy of the declared Customs value and, after having sought further explanation or other evidence that the declared Customs value represents the total amount actually paid or payable for the imported goods, the Customs authority is still not satisfied that the Customs value can be determined under this section,

the Customs value shall not be determined under this section and the Customs authority may determine the Customs value of the goods by proceeding sequentially through articles 5 to 9 of this Schedule to the first such section of this Schedule under which the Customs value can, in the opinion of the Customs authority, be determined.

4. Adjustment of price paid or payable.

- (1) In determining the transaction value of goods under section 3 of this Schedule, the price paid or payable for the goods shall be adjusted —
- (a) by adding thereto amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to —

- (i) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to the buyer's agent for the service of representing the buyer overseas in respect of the purchase of the goods;
- (ii) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are shipped to the customs territory; and
- (iii) the value of any of the following goods and services —
 1. Materials, component parts, and other goods incorporated in the imported goods;
 2. Tools, dies, moulds, and other goods utilised in the production of the imported goods;
 3. Materials consumed in the production of the imported goods;
 4. Engineering, development work, artwork, design work, plans, and sketches undertaken elsewhere than in the customs territory and necessary for the production of the imported goods,
determined in accordance with subsection (2) of this section, that are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;
- (iv) royalties and licence fees, including payments for patents, trademarks, and copyrights in respect of the imported goods that the buyer must pay, directly or indirectly, as a condition of the sale of the goods for export to the Customs territory, exclusive to charges for the right to reproduce the imported goods within the Customs territory;
- (v) the value of any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller;
- (vi) the value of any materials, component parts, and other goods incorporated in the imported goods for the purpose of repair to, or refurbishment of, those goods prior to export of the

- goods to the Customs territory, and the price paid for the service of repair or refurbishment, as the case may be;
- (vii) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods until the goods have left the country of export if such costs, charges and expenses are paid or payable by the buyer, directly or indirectly, to or for the benefit of the seller as a condition of the transaction;
- (b) by deducting therefrom amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to —
- (i) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of, the imported goods from the time the goods have left the country of export, other than any cost, charge, or expense referred to in sub-paragraph (ii) 2 of this paragraph; and
- (ii) any of the following costs, charges, or expenses —
1. Any reasonable cost, charge, or expense that is incurred for the construction, erection, assembly, or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported;
 2. Any reasonable cost, charge, or expense that is incurred in respect of the transportation or insurance of the goods within the Customs territory and any reasonable cost, charge, or expense associated therewith;
 3. Any Customs duties or other taxes payable in the Customs territory by reason of the importation of sale of the goods,
if the cost, charge, or expense is identified separately from the balance of the price paid or payable for the goods;
- (c) by disregarding any rebate of, or other decrease in, the price paid or payable for the goods that is effected after the goods are imported;
- (d) in respect of carrier media bearing data or instructions, by deducting the value of the data or instructions from the price paid or payable for the goods if —
- (i) the value of the data or instructions is distinguished from the cost or value of the carrier media; and

- (ii) the data or instructions are not incorporated in data processing equipment.
- (2) The value of the goods and services described in subsection (1) (a) (iii) of this section shall be determined —
 - (a) in the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued —
 - (i) by ascertaining —
 1. their cost of acquisition where they were acquired by the buyer from a person who was not related to him at the time of their acquisition;
 2. their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to the buyer at the time of their acquisition but who did not produce them; or
 3. their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
 - (ii) by adding thereto —
 1. the cost of their transportation to the place of production of the goods being valued; and
 2. the value added to them by any repairs or modification made to them after they were so acquired or produced;
 - (b) in the case of tools, dies, moulds, and other goods, utilised in the production of the goods being valued —
 - (i) by ascertaining —
 1. their cost of acquisition where they were acquired by the buyer from a person who was not related to the buyer at the time they were so acquired;
 2. their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to the buyer at the time they were so acquired but who did not produce them; or
 3. their cost of production where they were produced by the buyer or a person related to the buyer at the time of their production; and
 - (ii) by adding thereto —
 1. the cost of their transportation to the place of production of the goods being valued;

2. the value added to them by any repairs or modification made to them after they were so acquired or produced; and
- (iii) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced;
- (c) in the case of engineering, development work, art work, design work, plans and sketches, undertaken elsewhere than within the Customs territory and necessary for the production of the goods being valued by ascertaining —
 - (i) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to the buyer at the time they were so acquired or leased and are not generally available to the public;
 - (ii) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to the buyer at the time they were so acquired or leased, but who did not produce them and are not generally available to the public;
 - (iii) the cost to the public of obtaining them where they are available generally to the public; or
 - (iv) the cost of production thereof where they were produced by the buyer or a person related to the buyer at the time of their production.
- (3) For the purposes of paragraph (d) of subsection (1) of this section, the expression “carrier media” does not include integrated circuits, semi-conductors and similar devices, or articles incorporating such circuits or devices; and the expression “data or instructions” does not include sound, cinematic, or video recordings.
- (4) Where any adjustment in terms of the forgoing clause cannot, in the opinion of the Customs authority, be made because there is not sufficient information, the transaction value of the goods being valued cannot be determined under section 3 of this Schedule.

5. Transaction value of identical goods as Customs value.

- (1) Subject to subsections (2) to (4) of this section, where the Customs value of imported goods cannot, in the opinion of the Commissioner General, be determined under section 3 of this Schedule, the Customs value of the goods shall be the transaction value of identical goods in respect of a sale of those goods for export to the Customs territory if that transaction value is the Customs value of the identical goods and the identical goods were

exported at the same or substantially the same time as the goods being valued and were sold under the following conditions —

- (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
 - (b) in the same or substantially the same quantities as the goods being valued.
- (2) Where the Customs value of imported goods cannot be determined under subsection (1) of this section because identical goods were not sold under the conditions described in subsection (1) (a) and (b) of this section, there shall be substituted therefor identical goods sold under any of the following conditions —
- (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued but in quantities different from the quantities in which those goods were sold;
 - (b) to a buyer at a trade level different from that of the buyer of the goods being valued but in the same or substantially the same quantities as the quantities in which those good were sold; or
 - (c) to a buyer at a trade level different from that of the buyer of the goods being valued and in quantities different from the quantities in which those goods were sold.
- (3) For the purposes of determining the Customs value of imported goods under subsection (1) of this section, the transaction value of identical goods shall be adjusted by adding thereto or deducting therefrom, as the case may be, amounts to account for —
- (a) commercially significant differences between the costs, charges, and expenses referred to in section 4 (1) (a) (vii) of this Schedule in respect of the identical goods and those costs, charges, and expenses in respect of the goods being valued that are attributable to differences in distances and modes of transport;
 - (b) where the transaction value is in respect of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subsection (2) of this section, differences in the trade levels of the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be,
- if each amount can, in the opinion of the Customs authority, be determined on the basis of sufficient information.
- (4) Where there is not sufficient information to determine any amount referred to in subsection (3) or the adjustment therefor in relation to the transaction value of identical goods, and the Customs value of goods cannot be so determined, the Customs value of the goods being valued

shall not be determined on the basis of the transaction value of those identical goods under this article.

- (5) Where, in relation to imported goods being valued, there are two or more transaction values of identical goods that meet all the requirements set out in subsections (1) and (3) of this section or where there is no such transaction value but there are two or more transaction values of identical goods sold under the conditions described in any of paragraphs (a) to (c) of subsection (2) of this section that meet all the requirements set out in this section that are applicable by virtue of subsection (2) of this section, the Customs value of the goods being valued shall be determined on the basis of the lowest such transaction value.

6. Transaction value of similar goods as Customs value

- (1) Subject to subsection (2) of this section and subsection (2) to (4) of section 5 of this Schedule, where the Customs value of imported goods cannot, in the opinion of the Customs authority, be determined under section 5 of this Schedule, the Customs value of the goods shall be the transaction value of similar goods in respect of a sale of those goods for export to the Customs territory if that transaction value is the Customs value of the similar goods and the similar goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions —
 - (a) to a buyer at the same or substantially the same trade level as the buyer of the goods being valued; and
 - (b) in the same or substantially the same quantities as the goods being valued.
- (2) subsections (2) to (4) of section 5 of this Schedule shall apply to this clause in respect of similar goods as if every reference in those clauses to “identical goods” were a reference to “similar goods”.

7. Deductive value as Customs value.

- (1) Subject to subsections (4) and (5) of section 3 of this Schedule, where the Customs value cannot be determined under section 6 of this Schedule, the Customs value of the goods shall be deductive value in respect of the goods.
- (2) Where the goods being valued or identical good or similar goods are sold in the Customs territory in the condition in which they were imported at the same or substantially the same time as the time of importation of the goods being valued, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subsection (5) of this section, determined in accordance with that clause and adjusted in accordance with section (6) of this section, at which the greatest number

of units of the goods being valued or identical goods or similar goods are so sold.

- (3) Where the goods being valued or identical goods or similar goods are sold in the Customs territory in the condition in which they were imported before the expiration of ninety days after the importation of the goods being valued but are not so sold at the same or substantially the same time as the time of that importation, the deductive value of the goods being valued shall be the price per unit in respect of sales described in subsection (5) of this section, determined in accordance with that clause and adjusted in accordance with subsection (6) of this section, at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold at the earliest date after the importation of the goods being valued.
- (4) Where the goods being valued or identical goods or similar goods are not sold in the Customs territory in the circumstances described in subsection (2) or subsection (3) of this section, but the goods being valued, after being assembled, packages, or further processed in the Customs territory, are sold in the Customs territory before the expiration of ninety days after the importation thereof and the importer of the goods being valued requests that this section be applied in the determination of the Customs value of those goods, the deductive value of the goods being valued shall be the price per unit, in respect of sales described in subsection (5) of this section, determined in accordance with that clause and adjusted in accordance with subsection (6) of this section, at which the greatest number of units of the goods being valued are so sold.
- (5) For the purposes of subsections (2) to (4) of this article, the price per unit in respect of any goods being valued or identical goods or similar goods, shall be determined by ascertaining the unit price in respect of sales of the goods at the first trade level after their importation to persons who —
 - (a) are not related to the person from whom they buy the goods at the time the goods are sold to them; and
 - (b) have not supplied, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any of the goods or services referred to in section 4 (1) (a) (iii) of this Schedule,

at which the greatest number of units of the goods is sold where, in the opinion of the Customs authority, a sufficient number of such sales have been made to permit a determination of the price per unit of the goods.

- (6) For the purposes of subsections (2) to (4) of this section, the price per unit in respect of any goods being valued, identical goods or similar goods, shall be adjusted by deducting therefrom an amount equal to the aggregate of —

- (a) an amount, determined in accordance with subsection (7) of this section, equal to —
 - (i) the amount of commission generally earned on a unit basis; or
 - (ii) the amount of profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is generally reflected on a unit basis,
in connection with sales in the Customs territory of goods of the same class or kind as those goods;
- (b) reasonable costs, charges, and expenses that are incurred in respect of the transportation and insurance of the goods within the Customs territory and reasonable costs, charges, and expenses associated therewith to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a) of this clause;
- (c) the costs, charges, and expenses referred to in section 4 (1) (b) (ii) of this Schedule incurred in respect of the goods, to the extent that an amount for such costs, charges, and expenses is not deducted in respect of general expenses under paragraph (a) of this clause;
- (d) any Customs duties or other taxes payable in the Customs territory by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under paragraph (a) of this clause;
- (e) where subsection (4) of this section applies, the amount of the value added to the good that is attributable to the assembly, packaging, or further processing in the Customs territory of the goods, if the amount is determined, in the opinion of the Collector, on the basis of sufficient information.
- (7) The amount considered to be equal to the amount of commission or the amount for profit and general expenses referred to in subsection (6) (a) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted account principles that is supplied —
 - (a) by or on behalf of the importer of the goods being valued; or
 - (b) where the information supplied by or on behalf of the importer of the goods being valued is not sufficient information, but an examination of sales within the Customs territory of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can be obtained.
- (8) Where an amount referred to in subsection (6) (e) of this section in respect of any goods being valued cannot, in the opinion of the Customs authority,

be determined on the basis of sufficient information, the Customs value of the goods cannot be determined on the basis of the deductive value under subsection (4) of this section.

8. Computed value as Customs value.

- (1) Subject to subsections (3) and (5) of section 3 of this Schedule, where the Customs value of imported goods cannot, in the opinion of the Customs authority, be determined under section 7 of this Schedule, the Customs value of the goods shall be the computed value in respect of those goods.
- (2) The computed value of the goods being valued is the aggregate of amounts equal to —
 - (a) the costs, charges, and expenses incurred in respect of, or the value of —
 - (i) materials employed in producing the goods being valued; and
 - (ii) the production or other processing of the goods, being values determined on the basis of —
 1. the commercial accounts of the producer of the goods being valued; or
 2. any other sufficient information relating to the production of the goods being valued, that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued, including, without limiting the generality of the foregoing,
 - (iii) the costs, charges, and expenses referred to in section 4 (1) (a) (ii) of this Schedule;
 - (iv) the value of any of the goods and services referred to in section 4 (1) (a) (iii) and (vi) of this Schedule, determined and apportioned to the goods being valued are referred to in that article, whether or not such goods and services have been supplied free of charge or at a reduced cost;
 - (v) the costs, charges, and expenses incurred by the producer in respect of engineering, development work, artwork, design work, plans, or sketches undertaken within the Customs territory that were supplied, directly or indirectly, by the buyer of the goods being valued of use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods,

apportioned to the goods being valued as referred to in section 4 (1) (a) (iii) of this Schedule.

- (b) the amount, determined in accordance with subsection (4) of this section, for profit and general expenses, considered together as a whole, generally reflected in sales for export to the Customs territory of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers within the Customs territory who are not related to the producers from whom they buy the goods at the time the goods are sold to them.
- (3) For the purposes of this section the expression “general expenses” means the direct and indirect costs, charges, and expenses of producing and selling goods for export, other than the costs, charges, and expenses referred to in subsection (2) (a) of this section.
- (4) The amount of profit and general expenses referred to in subsection (2) (b) of this section shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally acceptable accounting principles of the country of production of the goods being valued and that is supplied —
 - (a) by or on behalf of the producer of the goods being valued; or
 - (b) where the information supplied by or on behalf of the producer of the goods being valued is not sufficient information, by an examination of sales for export to the Customs territory of the narrowest group or range of goods of the same class or kind from which sufficient information can be obtained.

9. Residual basis of valuation.

- (1) Where the Customs value of imported goods cannot be determined under sections 1 to 8 of this Schedule, it shall be determined on information available in the Customs territory on the basis of a value derived from the methods of valuation set out in articles 2 to 7 of this Schedule interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a Customs value of the goods.
- (2) A Customs value shall not be determined under this section on the basis of —
 - (a) the selling price in the Customs territory of goods produced in the Customs territory;
 - (b) a system which provides for the acceptance for Customs purposes of the higher of two alternative values;
 - (c) the price of goods on the domestic market of the country of exportation;

- (d) the cost of production, other than computed values that have been determined for identical or similar goods in accordance with section 8 of this Schedule;
- (e) the price of goods for export to a country other than the Customs territory, unless the goods were imported into the Customs territory of The Bahamas;
- (f) minimum Customs values; or
- (g) arbitrary or fictitious values.

FOURTH SCHEDULE(Sections 150(5), 151(2) and 153)**RULES AND CRITERIA USED FOR DETERMINING THE ORIGIN OF
GOODS IN THE CONTEXT OF THE ECONOMIC PARTNERSHIP
AGREEMENT****PART I****GENERAL PROVISIONS****1. Interpretation**

For the purposes of this schedule —

“**added value**” means the ex-works price minus the customs value of third country materials;

“**Agreement**” means the Economic Partnership Agreement;

“**CARIFORUM States**” means the territories of Antigua and Barbuda, The Bahamas, The Barbados, Belize, Dominica, The Dominican republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago;

“**chapters**” and “**headings**” mean the chapters and the four-digit headings used in the nomenclature which makes up the Harmonised Commodity Description and Coding System, referred to in this Schedule as ‘the Harmonised System’ or ‘HS’;

“**classified**” refers to the classification of a product or material under a particular heading;

“**consignment**” means products which are either sent simultaneously from one exporter to one consignee or covered by a single transport document covering their shipment from the exporter to the consignee or, in the absence of such a document, by a single invoice;

“**customs value**” means the value as determined in accordance with Section 146 of the Customs Act and its Third Schedule;

“**ex-works price**” means the price paid for the product ex works to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used, minus any internal taxes paid which are, or may be, repaid when the product obtained is exported;

“**goods**” means both materials and products;

- “manufacture”** means any kind of working or processing including assembly or specific operations;
- “material”** means any ingredient, raw material, component or part used in the manufacture of the product;
- “OCT”** means the Overseas countries and territories as defined in Annex IX to this Schedule;
- “other ACP States”** means the countries listed in Annex XI to this Schedule;
- “product”** means the product being manufactured, even if it is intended for later use in another manufacturing operation;
- “Special Committee on Customs Cooperation and Trade Facilitation”** means the body established in the framework of the Economic Partnership Agreement, which has the following functions —
- (a) monitoring the implementation of and administration of the provisions of the Chapter 4 of Part II, Title I of the Economic Partnership Agreement;
 - (b) carrying out the tasks and functions set down in the Protocol I on Rules of origin of the Economic partnership Agreement;
 - (c) providing s forum for consultation between the Parties to the Agreement with regard to the obligations provided under the Protocol I on mutual administrative assistance in Customs matters;
 - (d) enhancing cooperation and dialogue between the Parties on tariff matters, Customs legislation and procedures, mutual administrative assistance in Customs matters rules of origin and administrative cooperation; and
 - (e) discussing issues relating to technical assistance activities.
- “territory” or “territories”** means a country or a group of countries including their territorial waters with whom The Bahamas have entered into an arrangement on preferential treatment of goods or granted such preferential treatment;
- “value of materials”** means the customs value at the time of importation of the non-originating materials used, or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory concerned;
- “value of originating materials”** means the value of such materials as defined in subparagraph (g) applied *mutatis mutandis*;

TITLE II

DEFINITION OF THE CONCEPT OF “ORIGINATING PRODUCTS”

2. General requirements.

- (1) For the purposes of this Schedule the following products shall be considered as originating in a territory Party to the Economic Partnership Agreement or in The Bahamas —
 - (a) products wholly obtained in the territory within the meaning of Section 6 of this Schedule; and
 - (b) products obtained in a territory incorporating materials which have not been wholly obtained there, provided that such materials have undergone sufficient working or processing in the territory within the meaning of Section 7 of this Schedule.
- (2) For the purpose of implementing this Schedule, the territories of the CARIFORUM States shall be considered as being one territory. Originating products made up of materials wholly obtained or sufficiently worked or processed in two or more CARIFORUM States shall be considered as products originating in the CARIFORUM State where the last working or processing took place, provided the working or processing carried out there goes beyond that referred in section 8 of this Schedule.

3. Cumulation in the EC Party.

- (1) For the purpose of section 2 of this Schedule, materials originating in The Bahamas, in the other CARIFORUM States, in the OCT or in the other ACP States shall be considered as materials originating in the EC Party when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in section 8 of this Schedule.
- (2) For the purpose of section 2 of this Schedule, working and processing carried out in the Bahamas, in the other CARIFORUM States, in the OCT or in the other ACP States shall be considered as having been carried out in the EC Party, when the materials undergo subsequent working or processing in the EC Party going beyond that referred to in section 8 of this Schedule.
- (3) The cumulation provided for in subsections 1 and 2 of this section may only be applied with respect to the OCT and the other ACP States provided that —
 - (a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative co-operation which ensures a correct implementation of this section;

- (b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Schedule;
- (c) the EC Party provides The Bahamas, through the European Commission, with details of agreements on administrative co-operation with the other countries or territories referred to in this section. The European Commission shall publish in the *Official Journal of the European Union* (C series) and The Bahamas shall publish according to their own procedures the date on which the cumulation provided for in this section may be applied with those countries or territories listed in this section which have fulfilled the necessary requirements.

4. Cumulation in the Bahamas.

- (1) For the purpose of section 2 of this Schedule, materials originating in the EC Party, in other CARIFORUM States, in the OCT or in the other ACP States shall be considered as materials originating in The Bahamas when incorporated into a product obtained there. It shall not be necessary that such materials have undergone sufficient working or processing, provided they have undergone working or processing going beyond that referred to in section 8.
- (2) For the purpose of section 2 of this Schedule, working and processing carried out in the EC Party, in other CARIFORUM States, in the OCT or in the other ACP States shall be considered as having been carried out in The Bahamas, when the materials undergo subsequent working or processing in The Bahamas going beyond that referred to in section 8.
- (3) The cumulation provided for in subsections 1 and 2 of this section may only be applied with respect to the OCT and the other ACP States provided that —
 - (a) the countries involved in the acquisition of the originating status and the country of destination have concluded an agreement on administrative co-operation which ensures a correct implementation of this section;
 - (b) materials and products have acquired originating status by the application of the rules of origin identical to those given in this Schedule;
 - (c) The Bahamas will provide the EC Party, through the European Commission, with details of agreements on administrative co-operation with the other countries or territories referred to in this section. The European Commission shall publish in the *Official Journal of the European Union* (C series) and the Bahamas shall publish according to their own procedures the date on which the

cumulation provided for in this section may be applied with those countries or territories listed in this section which have fulfilled the necessary requirements.

5. Cumulation with neighbouring developing countries.

- (1) At the request of The Bahamas, materials originating in a neighbouring developing country listed in Annex VIII of this Schedule shall be considered as materials originating in The Bahamas when incorporated into a product obtained there.
- (2) It shall not be necessary that such materials have undergone sufficient working or processing, provided that —
 - (a) the working or processing carried out in The Bahamas exceeds the operations listed in section 8;
 - (b) The Bahamas, the other CARIFORUM States, the EC Party and the neighbouring developing countries concerned have concluded an agreement on adequate administrative co-operation procedures which will ensure correct implementation of this paragraph.
- (3) For the purpose of determining whether the products originate in the neighbouring developing country as defined in Annex VIII of this Schedule, the provisions of this Schedule shall apply.

6. Wholly obtained products.

- (1) The following shall be considered as wholly obtained in a territory Party to the Agreement or in the territory of The Bahamas —
 - (a) mineral products extracted from their soil or from their seabed;
 - (b) fruit and vegetable products harvested there;
 - (c) live animals born and raised there;
 - (d) products from live animals raised there;
 - (e) products —
 - (i) obtained by hunting or fishing conducted there;
 - (ii) of aquaculture, including mariculture, where the fish are born and raised there;
 - (f) products of sea fishing and other products taken from the sea outside the territorial waters of the EC Party or of the territory of The Bahamas by their vessels;
 - (g) products made aboard their factory ships exclusively from products referred to in (f);
 - (h) used articles collected there fit only for the recovery of raw materials, including used tyres fit only for retreading or for use as waste;

- (i) waste and scrap resulting from manufacturing operations conducted there;
 - (j) products extracted from marine soil or subsoil outside their territorial waters provided that they have sole rights to work that soil or subsoil;
 - (k) goods produced there exclusively from the products specified in (a) to (j).
- (2) The terms “their vessels” and “their factory ships” in subsection 1(f) and (g) shall apply only to vessels and factory ships —
- (a) which are registered in an EC Member State or in The Bahamas;
 - (b) which sail under the flag of an EC Member State or of The Bahamas;
 - (c) which meet one of the following conditions —
 - (i) they are at least 50 % owned by nationals of an EC Member State or of The Bahamas; or
 - (ii) they are owned by companies,
 - 1. which have their head office and their main place of business in an EC Member State or in The Bahamas; and
 - 2. which are at least 50% owned by an EC Member State or by The Bahamas, public entities or nationals of The Bahamas or of that state.
- (3) Notwithstanding the provisions of paragraph 2, the EC Party shall recognize, upon request of The Bahamas, that vessels chartered or leased by operators of The Bahamas be treated as "their vessels" in order to undertake fisheries activities in its exclusive economic zone, provided that the charter or lease agreement, for which operators of the EC Party have been offered the right of first refusal, has been accepted by the Special Committee on Customs Cooperation and Trade Facilitation as providing adequate opportunities for developing the fishing capacity of the The Bahamas and in particular as conferring to The Bahamas the nautical and commercial responsibility for the chartered or leased vessels.

7. Sufficiently worked or processed products.

- (1) For the purposes of section 2 of this Schedule, products which are not wholly obtained are considered to be sufficiently worked or processed when the conditions set out in the List in Annex II of this Schedule are fulfilled.
- (2) The conditions referred to in subsection 1 of this section indicate the working or processing which must be carried out on non-originating materials used in manufacturing and apply only in relation to such

materials. Accordingly, it follows that if a product, which has acquired originating status by fulfilling the conditions set out in the List referred to in subsection 1 above is used in the manufacture of another product, the conditions applicable to the product in which it is incorporated do not apply to it, and no account shall be taken of the non-originating materials which may have been used in its manufacture.

- (3) Notwithstanding subsection 1 of this section, non-originating materials which, according to the conditions set out in Annex II to this Schedule should not be used in the manufacture of a given product may nevertheless be used, provided that —
 - (a) their total value does not exceed 15 per cent of the ex-works price of the product;
 - (b) any of the percentages given in the List for the maximum value of non-originating materials are not exceeded through the application of this subsection.
- (4) Subsection 1 to 3 shall apply except as provided in section 8 of this Schedule.

8. Insufficient working or processing.

- (1) Without prejudice to subsection 2 of this section, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of section 7 of this Schedule are satisfied —
 - (a) operations to ensure the preservation of products in good condition during transport and storage;
 - (b) breaking-up and assembly of packages;
 - (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
 - (d) ironing or pressing of textiles;
 - (e) painting and polishing operations;
 - (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
 - (g) operations to colour sugar or form sugar lumps; partial or total milling of crystal sugar;
 - (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
 - (i) sharpening, simple grinding or simple cutting;
 - (j) sifting, screening, sorting, classifying, grading, matching (including the making-up of sets of articles);
 - (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;

- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
 - (m) simple mixing of products, whether or not of different kinds; mixing of sugar with any other material;
 - (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
 - (o) a combination of two or more operations specified in (a) to (n);
 - (p) slaughter of animals.
- (2) All operations carried out in the EC Party, in The Bahamas or in another CARIFORUM State on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of subsection 1 of this section.

9. Unit of qualification.

- (1) The unit of qualification for the application of the provisions of this Schedule shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the Harmonised System.

Accordingly, it follows that —

- (a) when a product composed of a group or assembly of articles is classified under the terms of the Harmonised System in a single heading, the whole constitutes the unit of qualification;
 - (b) when a consignment consists of a number of identical products classified under the same heading of the Harmonised System, each product must be taken individually when applying the provisions of this Schedule.
- (2) Where, under General Rule 5 of the Harmonised System, packaging is included with the product for classification purposes, it shall be included for the purposes of determining origin.

10. Accessories, parts and tools.

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

11. Sets.

Sets, as defined in General Rule 3 of the Harmonised System, shall be regarded as originating when all component products are originating. Nevertheless, when a set is composed of originating and non-originating products, the set as a whole shall be regarded as originating, provided that the value of the non-originating products does not exceed 15 % of the ex-works price of the set.

12. Neutral elements.

In order to determine whether a product is originating, it shall not be necessary to determine the origin of the following which might be used in its manufacture

- (a) energy and fuel;
- (b) plant and equipment;
- (c) machines and tools;
- (d) goods which do not enter and which are not intended to enter into the final composition of the product.

TITLE III

TERRITORIAL REQUIREMENTS

13. Principle of territoriality.

- (1) The conditions for acquiring originating status set out in Title II must be fulfilled without interruption in The Bahamas, in another CARIFORUM State or the EC Party, except as provided for in section 3 of this Schedule.
- (2) Where originating goods exported from The Bahamas to another country are returned they must be considered as non-originating, unless it can be demonstrated to the satisfaction of the Customs authority that —
 - (a) the returned goods are the same goods as those exported; and
 - (b) they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

14. Direct transport.

- (1) The preferential treatment applies only to products which satisfy the requirements of this Schedule and which are transported directly between the territory of the Bahamas and the EC Party or another CARIFORUM State without entering any other territory. However, products constituting one single consignment may be transported through other territories with, should the occasion arise, trans-shipment or temporary warehousing in

such territories, provided that they remain under the surveillance of the Customs authorities in the country of transit or warehousing and do not undergo operations other than unloading, reloading or any operation designed to preserve them in good condition.

- (2) Evidence that the conditions set out in subsection 1 of this section have been fulfilled shall be supplied to the Customs authority of the importing country by the production of —
 - (a) a single transport document covering the passage from the exporting country through the country of transit; or
 - (b) a certificate issued by the Customs authority of the country of transit —
 - (i) giving an exact description of the products;
 - (ii) stating the dates of unloading and reloading of the products and, where applicable, the names of the ships, or the other means of transport used; and
 - (iii) certifying the conditions under which the products remained in the transit country; or
 - (c) failing these, any substantiating documents.

15. Exhibitions

- (1) Originating products sent from a territory Party to the Agreement for exhibition in The Bahamas and sold after the exhibition for importation in The Bahamas shall benefit from the provisions of the Agreement provided it is shown to the satisfaction of the Customs authority that —
 - (a) an exporter has consigned these products from a territory Party to the Agreement to The Bahamas where the exhibition is held and has exhibited them there;
 - (b) the products have been sold or otherwise disposed of by the exporter to a person in The Bahamas;
 - (c) the products have been consigned during the exhibition or immediately thereafter in The Bahamas;
 - (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration and exhibition.
- (2) A proof of origin must be issued or made out in accordance with the provisions of Title IV and submitted to the Customs authority of The Bahamas in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the conditions under which they have been exhibited may be required.

- (3) Subsection 1 of this section shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under Customs control.

TITLE IV

PROOF OF ORIGIN

16. General requirements.

- (1) Products originating in a territory Party to the Agreement shall, on importation into The Bahamas and products originating in The Bahamas shall, on importation into a territory Party to the Agreement, benefit from a prescribed preferential treatment upon submission of either —
 - (a) a movement certificate EUR.1, a specimen of which appears in Annex III to this Schedule; or
 - (b) in the cases specified in section 21(1) of this Schedule, a declaration, subsequently referred to as the 'invoice declaration', given by the exporter in accordance with section 21(4) of this Schedule.
- (2) Notwithstanding subsection 1 of this section, originating products within the meaning of this Schedule shall, in the cases specified in section 26 of this Schedule, benefit from preferential treatment without it being necessary to submit any of the documents referred to above.
- (3) For the purpose of applying the provisions of this Schedule, the exporters shall endeavour to use a language common to both the Bahamas and the territory Party to the Agreement.

17. Procedure for the issuance of a movement certificate EUR.1.

- (1) A movement certificate EUR.1 shall be issued by the Customs authority of the exporting country on application having been made in writing by the exporter or, under the exporter's responsibility, by his authorised representative.
- (2) For this purpose, the exporter or his authorised representative shall fill out both the movement certificate EUR.1 and the application form, specimens of which appear in Annex III to this Schedule. These forms shall be completed in accordance with the provisions of this Schedule. If they are handwritten, they shall be completed in ink in printed characters. The description of the products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely

filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

- (3) The exporter applying for the issue of a movement certificate EUR.1 shall be prepared to submit at any time, at the request of the Customs authority of the exporting country where the movement certificate EUR.1 is issued, all appropriate documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Schedule.
- (4) A movement certificate EUR.1 shall be issued by the Customs authority of the Bahamas or the territory Party to this Agreement if the products concerned can be considered as products originating in The Bahamas or the territory or in one of the other countries or territories referred to in sections 3, 4 and 5 and fulfil the other requirements of this Schedule.
- (5) The issuing Customs authority shall take any steps necessary to verify the originating status of the products and the fulfilment of the other requirements of this Schedule. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate. The issuing Customs authority shall also ensure that the forms referred to in subsection 2 of this section are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions.
- (6) The date of issue of the movement certificate EUR.1 shall be indicated in Box 11 of the certificate.
- (7) A movement certificate EUR.1 shall be issued by the Customs authority and made available to the exporter as soon as actual exportation has been effected or ensured.

18. Movement certificates EUR.1 issued retrospectively.

- (1) Notwithstanding section 17(7) of this Schedule, a movement certificate EUR.1 may exceptionally be issued after exportation of the products to which it relates if—
 - (a) it was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or
 - (b) it is demonstrated to the satisfaction of the Customs authority that a movement certificate EUR.1 was issued but was not accepted at importation for technical reasons.
- (2) For the implementation of subsection 1, the exporter must indicate in his application the place and date of exportation of the products to which the movement certificate EUR.1 relates, and state the reasons for his request.

- (3) The Customs authority may issue a movement certificate EUR.1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.
- (4) Movement certificates EUR.1 issued retrospectively must be endorsed with the following phrase in English: 'ISSUED RETROSPECTIVELY'
- (5) The endorsement referred to in paragraph 4 shall be inserted in the 'Remarks' box of the movement certificate EUR.1.

19. Issuance of a duplicate movement certificate EUR.1.

- (1) The endorsement referred to in paragraph 4 of section 18 shall be inserted in the 'Remarks' box of the movement certificate EUR.1.
- (2) The duplicate issued in this way must be endorsed with the following word in English: 'DUPLICATE'.
- (3) The endorsement referred to in paragraph 2 shall be inserted in the 'Remarks' box of the duplicate movement certificate EUR.1.
- (4) The duplicate, which must bear the date of issue of the original movement certificate EUR.1, shall take effect as from that date.

20. Issuance of movement certificates EUR.1 on the basis of a proof of origin issued or made out previously.

When originating products are placed under the control of a Customs office, it shall be possible to replace the original proof of origin by one or more movement certificates EUR.1 for the purpose of sending all or some of these products elsewhere. The replacement movement certificate(s) EUR.1 shall be issued by the Customs office under whose control the products are placed.

21. Conditions for making out an invoice declaration.

- (1) An invoice declaration as referred to in Section 13(1)(b) of this Schedule may be made out:
 - (a) by an approved exporter within the meaning of section 22 of this Schedule; or
 - (b) by any exporter for any consignment consisting of one or more packages containing originating products whose total value does not exceed EUR 6 000.
- (2) invoice declaration may be made out if the products concerned can be considered as products originating in a territory Party to the Agreement or the Bahamas and fulfil the other requirements of this Schedule.
- (3) The exporter making out an invoice declaration shall be prepared to submit at any time, at the request of the Customs authority, all appropriate

documents proving the originating status of the products concerned as well as the fulfilment of the other requirements of this Schedule.

- (4) An invoice declaration shall be made out by the exporter by typing, stamping or printing the declaration on the invoice, the delivery note or another commercial document, which describes the products concerned in sufficient detail to enable them to be identified. The text of the invoice declaration appears in Annex IV to this Schedule. The languages in which it may be accepted shall be prescribed by the Minister of Finance if not prescribed by international agreements to which The Bahamas is a party. If the declaration is handwritten, it shall be written in ink in printed characters.
- (5) Invoice declarations shall bear the original signature of the exporter in manuscript. However, an approved exporter within the meaning of Section 22 of this Schedule shall not be required to sign such declarations provided that he gives the Customs authority of the Bahamas a written undertaking that he accepts full responsibility for any invoice declaration which identifies him as if it had been signed in manuscript by him.
- (6) An invoice declaration may be made out by the exporter when the products to which it relates are exported, or after exportation on condition that it is presented in the importing country no longer than two years after the importation of the products to which it relates.

22. Approved exporter.

- (1) The Customs authority may authorise any exporter who makes frequent shipments of products under trade cooperation provisions to make out invoice declarations irrespective of the value of the products concerned. An exporter seeking such authorisation must offer to the satisfaction of the Customs authority all guarantees necessary to verify the originating status of the products as well as the fulfilment of the other requirements of this Schedule.
- (2) The Customs authority may grant the status of approved exporter subject to any conditions which they consider appropriate.
- (3) The Customs authority shall grant to the approved exporter a Customs authorisation number which shall appear on the invoice declaration.
- (4) The Customs authority shall monitor the use of the authorisation by the approved exporter.
- (5) The Customs authority may withdraw the authorisation at any time. They shall do so where the approved exporter no longer offers the guarantees referred to in subsection 1 of this section, does not fulfil the conditions referred to in subsection 2 or otherwise makes an incorrect use of the authorisation.

23. Validity of proof of origin.

- (1) A proof of origin shall be valid for the period specified in the agreements to which Bahamas is a party or otherwise for ten months from the date of issue, and must be submitted within the said period to the Customs authority of the importing country.
- (2) Proof of origin which are submitted to the Customs authority of the importing country after the final date for presentation specified in subsection 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit these documents by the final date set is due to exceptional circumstances.
- (3) In other cases of belated presentation, the Customs authority of the importing country may accept the proofs of origin where the products have been submitted before the said final date.

24. Submission of proof of origin.

Proof of origin shall be submitted to the Customs authority of the importing country in accordance with the procedures applicable in that country. The said authorities may require a translation of a proof of origin and may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of an agreement.

25. Importation by instalments.

Where, at the request of the importer and on the conditions laid down by the Customs authority of the importing country, dismantled or non-assembled products within the meaning of General Rule 2(a) of the Harmonized System falling within Sections XVI and XVII or Heading 73.08 and 94.06 of the Harmonized System are imported by installments, a single proof of origin for such products shall be submitted to the Customs authority upon importation of the first installment.

26. Exemptions from proof of origin.

- (1) Products sent as small packages from private persons to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the submission of a proof of origin, provided that such products are not imported by way of trade and have been declared as meeting the requirements of this Schedule and where there is no doubt as to the veracity of such a declaration. In the case of products sent by post, this declaration can be made on customs declaration CN22/CN23 or on a sheet of paper Ced to that document.

- (2) Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.
- (3) Furthermore, the total value of these products shall not exceed EUR 500 in the case of small packages or EUR 1 200 in the case of products forming part of travellers' personal luggage.

27. Information procedure for cumulation purposes.

- (1) When Section 3(1) of this Schedule is applied, the evidence of originating status within the meaning of this Schedule of the materials coming from a territory or The Bahamas shall be given by a movement certificate EUR.1 or by the supplier's declaration given by the exporter in the territory from which the materials came.
- (2) When section 3(2) of this Schedule is applied, the evidence of the working or processing carried out in a territory or The Bahamas shall be given by the supplier's declaration given by the exporter in the territory from which the materials came.
- (3) A separate supplier's declaration shall be made up by the supplier for each consignment of material on the commercial invoice related to that shipment or in an annex to that invoice, or on a delivery note or other commercial document related to that shipment which describes the materials concerned in sufficient detail to enable them to be identified.
- (4) The supplier's declaration may be made out on a pre-printed form.
- (5) The suppliers' declarations shall bear the original signature of the supplier in manuscript. However, where the invoice and the supplier's declaration are established using electronic data processing methods, the supplier's declaration need not be signed in manuscript provided the responsible official in the supplying company is identified to the satisfaction of the customs authorities in the State where the suppliers' declarations are established. The said Customs authority may lay down conditions for the implementation of this subsection.
- (6) The supplier's declarations shall be submitted to the Customs authority in the exporting country requested to issue the movement certificate EUR 1.
- (7) The supplier making out a declaration must be prepared to submit at any time, at the request of the Customs authority of the country where the declaration is made out, all appropriate documents proving that the information given on this declaration is correct.

28. Supporting documents.

The documents referred to in sections 17(3) and 21(3) of this Schedule used for the purpose of proving that products covered by a movement certificate EUR.1 or an invoice declaration can be considered as products originating in a territory Party to the Agreement or The Bahamas and fulfil the requirements of this Schedule for preferential treatment may consist *inter alia* of the following —

- (a) direct evidence of the processes carried out by the exporter or supplier to obtain the goods concerned, contained for example in his accounts or internal bookkeeping;
- (b) documents proving the originating status of materials used, issued or made out in a territory Party or The Bahamas in the cases referred to in sections 3, 4 or 5 of this Schedule where these documents are used in accordance with domestic law;
- (c) documents proving the working or processing of materials in The Bahamas or in a territory Party or in one of the other countries or territories referred to in sections 3 and 4 issued or made out in The Bahamas or in a territory Party or in one of the other countries or territories referred to in sections 3 and 4 where these documents are used in accordance with domestic law;
- (d) movement certificates EUR.1 or invoices declarations proving the originating status of materials used, issued or made out in The Bahamas, in a territory Party or in one of the other countries or territories referred to in sections 3, 4 and 5 of this Schedule and in accordance with this Schedule.

29. Preservation of proof of origin and supporting documents.

- (1) The exporter applying for the issue of a movement certificate EUR.1 shall keep for at least three years the documents referred to in section 17(3) of this Schedule.
- (2) The exporter making out an invoice declaration shall keep for at least three years a copy of this invoice declaration as well as the documents referred to in Section 21(3) of this Schedule.
- (3) The supplier making out a supplier's declaration shall keep for at least three years copies of the declaration and of the invoice, delivery notes or other commercial document to which this declaration is annexed as well as the documents referred to in Section 27(7) of this Schedule.
- (4) The Customs authority issuing a movement certificate EUR.1 shall keep for at least three years the application form referred to in Section 17(2) of this Schedule.

- (5) The Customs authority of the importing country shall keep for at least three years the movement certificates EUR.1 and the invoice declarations submitted to them.

30. Discrepancies and formal errors.

- (1) The discovery of slight discrepancies between the statements made in the proof of origin and those made in the documents submitted to the Customs office for the purpose of carrying out the formalities for importing the products shall not ipso facto render the proof of origin null and void if it is duly established that this document does correspond to the products submitted.
- (2) Obvious formal errors such as typing errors on a proof of origin should not cause this document to be rejected if these errors are not such as to create doubts concerning the correctness of the statements made in this document.

TITLE V

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

31. Administrative conditions for products to benefit from the Agreement.

Products originating within the meaning of this Schedule shall benefit from preferences only on condition that the necessary arrangements, structures and systems required for the implementation and enforcement of the rules and procedures laid down in this Schedule are in place.

32. Notification of information related to Customs authorities.

- (1) A country or a territory Party to the Agreement and The Bahamas shall provide each other with the addresses of the Customs authority responsible for issuing and verifying of movement certificates EUR.1 and invoice declarations or supplier's declarations, and with specimen impressions of the stamps used in their Customs offices for the issue of these certificates. Movement certificates EUR.1 and invoice declarations or supplier's declarations shall be accepted for the purpose of applying preferential treatment from the date the information is exchanged.
- (2) A country or a territory Party and The Bahamas shall inform each other immediately whenever there are any changes to the information referred to in subsection 1 of this section.

33. Mutual assistance.

In order to ensure the proper application of this Schedule, a country or a territory Party and The Bahamas shall assist each other, through the competent Customs administrations, in checking the authenticity of the movement certificates EUR.1, the invoice declarations or the supplier's declarations and the correctness of the information given in these documents. The authorities consulted shall furnish the relevant information concerning the conditions under which the product has been made, indicating especially the conditions in which the rules of origin have been respected in the territory party and The Bahamas.

34. Verification of proof of origin.

- (1) Subsequent verifications of proof of origin shall be carried out at random or based on risk analysis or whenever the Customs authority of the importing country have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Schedule.
- (2) For the purposes of implementing the provisions of subsection 1 of this section, the Customs authority of the importing country shall return the movement certificate EUR.1 and the invoice, if it has been submitted, the invoice declaration, or a copy of these documents, to the Customs authority of the exporting country giving, where appropriate, the reasons for the request for verification. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.
- (3) The verification shall be carried out by the Customs authority of the exporting country. For this purpose, they shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check considered appropriate.
- (4) If the Customs authorities of the importing country decide to suspend the granting of preferential treatment to the products concerned while awaiting the results of the verification, release of the products shall be offered to the importer subject to any precautionary measures judged necessary.
- (5) The Customs authority requesting the verification shall be informed of the results of this verification as soon as possible. These results must indicate clearly whether the documents are authentic and whether the products concerned can be considered as products originating in a territory Party or The Bahamas or in one of the other countries or territories referred to in section 3, 4 and 5 and fulfil the other requirements of this Schedule.
- (6) If in cases of reasonable doubt there is no reply within ten months of the date of the verification request or if the reply does not contain sufficient

information to determine the authenticity of the document in question or the real origin of the products, the requesting Customs authority shall, except in exceptional circumstances, refuse entitlement to the preferences.

- (7) Where the verification procedure or any other available information appears to indicate that the provisions of this Schedule are being contravened, the exporting country on its own initiative or at the request of the importing country shall carry out appropriate enquires or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions and for this purpose the exporting country concerned may invite the participation of the importing country in these enquiries.

35. Verification of supplier's declaration.

- (1) Verification of suppliers' declarations shall be carried out at random or based on risk analysis or whenever the Customs authority of the importing State have reasonable doubt as to the authenticity of the document or the accuracy or completeness of the information concerning the true origin of the materials in question.
- (2) The Customs authority to which a supplier's declaration is submitted may request the Customs authority of the State where the declaration was made to issue an information certificate, a specimen of which appears in Annex VI to this Schedule. Alternatively, the Customs authority to which a supplier's declaration is submitted may request the exporter to produce an information certificate issued by the Customs authority of the State where the declaration was made. A copy of the information certificate shall be preserved by the office which has issued it for at least three years.
- (3) The Customs authority requesting the verification shall be informed of the results thereof as soon as possible. The results must indicate clearly whether the information given in the supplier's declaration is correct and make it possible for the Customs authority to determine whether and to what extent this supplier's declaration could be taken into account for issuing a movement certificate EUR.1 or for making out an invoice declaration.
- (4) The verification shall be carried out by the Customs authority of the country where the supplier's declaration was made out. For this purpose, they shall have the right to call for any evidence or to carry out any inspection of the supplier's account or any other check which they consider appropriate in order to verify the correctness of any supplier's declaration.
- (5) Any movement certificate EUR.1 or invoice declaration issued or made out on the basis of an incorrect supplier's declaration shall be considered null and void.

36. Dispute settlement.

Where disputes arise in relation to the verification procedures referred to in Sections 34 and 35 of this Schedule which cannot be settled between the Customs authority requesting a verification and the Customs authority responsible for carrying out this verification or where they raise a question as to the interpretation of this Schedule, they shall be submitted to the competent authorities and prescribed procedure for resolution. In all cases the settlement of disputes between the importer and the customs authorities of the importing country shall take place under the legislation of that country.

37. Penalties.

Penalties shall be imposed on any person who draws up, or causes to be drawn up, a document which contains incorrect information for the purpose of obtaining a preferential treatment for products.

38. Free zones.

- (1) All necessary steps shall be taken to ensure that products traded under cover of a proof of origin or a supplier's declaration and which in the course of transport use a free zone situated in The Bahamas or in any territory Party, are not substituted by other goods and do not undergo handling other than normal operations designed to prevent their deterioration.
- (2) By means of an exemption to the provisions contained in subsection 1, when originating products are imported into a free zone under cover of a proof of origin and undergo treatment or processing, the authorities concerned shall issue a new movement certificate EUR.1 at the exporter's request, if the treatment or processing undergone complies with the provisions of this Schedule.

39. Derogations.

- (1) Regulations relating to derogations from this Schedule may be made by the Minister after adoption of these derogations by the Special Committee on Customs Cooperation and Trade Facilitation, in favour of products exported from The Bahamas.
- (2) Derogations from this Schedule may be adopted where the development of existing industries or the creation of new industries in The Bahamas justifies the adoption of such derogations
- (3) In order to facilitate the examination by the Special Committee on Customs Cooperation and Trade Facilitation of requests for derogation, The Bahamas shall, by means of the form given in Annex VII to this

Schedule, furnish in support of their request the fullest possible information covering in particular the following —

- (a) description of the finished product;
- (b) nature and quantity of materials originating in third countries nature and quantity of materials originating in The Bahamas or the countries or territories referred to in Articles 3 and 4, or the materials which have been processed in these countries or territories;
- (c) manufacturing processes;
- (d) added value achieved;
- (e) number of employees in the enterprise concerned;
- (f) anticipated volume of exports from The Bahamas;
- (g) other possible sources of supply for raw material;
- (h) reasons for the duration requested in the light of efforts made to find new sources of supply;
- (i) other observations.

TITLE VI

FINAL PROVISIONS

40. Amendment to this Schedule.

The Minister may make regulations for the modification of this Schedule following amendments made by the Joint CARIFORUM-EC Council and the Special Committee on Customs Cooperation and Trade Facilitation established in the context of the Economic Partnership Agreement.

41. Annexes.

The Annexes form an integral part of this Schedule.

ANNEX I TO FOURTH SCHEDULE

Introductory notes to the list in Annex II

(All examples are given for the purpose of explanation only. They are not legally binding)

Note 1

The list sets out the conditions required for all products to be considered as sufficiently worked or processed within the meaning of section 7 of this Schedule.

Note 2

1. First two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonized System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns a rule is specified in columns 3 or 4. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rules in columns 3 or 4 apply only to the part of that heading as described in column 2.
2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rules in columns 3 or 4 apply to all products which, under the Harmonized System, are classified in headings of the chapter or in any of the headings grouped together in column 1.
3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rules in columns 3 or 4.
4. Where, for an entry in the first two columns, a rule is specified in both columns 3 and 4, the exporter may opt, as an alternative, to apply either the rule set out in column 3 or that set out in column 4. If no origin rule is given in column 4, the rule set out in column 3 has to be applied.

Note 3

1. The provisions of section 7 of the Fourth Schedule concerning products having acquired originating status which are used in the manufacture of other products apply regardless of whether this status has been acquired inside the factory where these products are used or in another factory.

Example

An engine of heading No 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40 per cent of the ex-works price, is made from "other alloy steel roughly shaped by forging" of heading No ex 7224.

If this forging has been forged in the EC Party from a non-originating ingot, it has already acquired originating status by virtue of the rule for heading No ex 7224 in the list. The forging can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or in another factory in the EC Party. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

2. The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer originating status. Therefore, if a rule provides that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.
3. Without prejudice to Note 3.2 of this Annex where a rule states that "materials of any heading" may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression "manufacture from materials of any heading, including other materials of heading No ..." means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.
4. When a rule in the list specifies that a product may be manufactured from more than one material, this means that any one or more materials may be used. It does not require that all be used.

Example

The rule for fabrics of heading Nos 5208 to 5212 provides that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; it is possible to use one or the other or both.

5. Where a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule. (See also Note 6.3 below in relation to textiles).

Example

The rule for prepared foods of heading No 1904 which specifically excludes the use of cereals and their derivatives does not prevent the use of mineral salts, chemicals and other additives which are not products from cereals. However, this does not apply to products which, although they cannot be manufactured from the particular materials specified in the list, can be produced from a material of the same nature at an earlier stage of manufacture.

Example

In the case of an article of apparel of ex Chapter 62 made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth – even if non-woven cloth cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn – that is the fibre stage.

6. Where, in a rule in the list, two percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. In other words, the maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

Note 4

1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres. It is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, includes fibres that have been carded, combed or otherwise processed but not spun.
2. The term "natural fibres" includes horsehair of heading No 0503, silk of heading Nos 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of heading Nos 5101 to 5105, the cotton fibres of heading Nos 5201 to 5203 and the other vegetable fibres of heading Nos 5301 to 5305.
3. The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials not classified in Chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.
4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of heading Nos 5501 to 5507.

Note 5

1. Where for a given product in the list a reference is made to this note, the conditions set out in column 3 shall not be applied to any basic textile

materials, used in the manufacture of this product, which, taken together, represent 10 per cent or less of the total weight of all the basic textile materials used. (See also Notes 5.3 and 5.4 below).

2. However, the tolerance mentioned in Note 5.1 may only be applied to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials —

- (1) silk,
- (2) wool,
- (3) coarse animal hair,
- (4) fine animal hair,
- (5) horsehair,
- (6) cotton,
- (7) paper-making materials and paper,
- (8) flax,
- (9) true hemp,
- (10) jute and other textile bast fibres,
- (11) sisal and other textile fibres of the genus Agave,
- (12) coconut, abaca, ramie and other vegetable textile fibres,
- (13) synthetic man-made filaments,
- (14) artificial man-made filaments,
- (15) current conducting filaments
- (16) synthetic man-made staple fibres of polypropylene,
- (17) synthetic man-made staple fibres of polyester,
- (18) synthetic man-made staple fibres of polyamide,
- (19) synthetic man-made staple fibres of polyacrylonitrile,
- (20) synthetic man-made staple fibres of polyimide,
- (21) synthetic man-made staple fibres of polytetrafluoroethylene,
- (22) synthetic man-made staple fibres of polyphenylene sulphide,
- (23) synthetic man-made staple fibres of polyvinyl chloride,
- (24) other synthetic man-made staple fibres,
- (25) artificial man-made staple fibres of viscose,
- (26) other artificial man-made staple fibres,
- (27) yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped,
- (28) yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped,

- (29) products of heading No 5605 (metallised yarn) incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of a transparent or coloured adhesive between two layers of plastic film,
- (30) other products of heading No 5605.

Example

A yarn of heading No 5205 made from cotton fibres of heading No 5203 and synthetic staple fibres of heading No 5506 is a mixed yarn. Therefore, non-originating synthetic staple fibres that do not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) may be used up to a weight of 10 per cent of the yarn.

Example

A woollen fabric of heading No 5112 made from woollen yarn of heading No 5107 and synthetic yarn of staple fibres of heading No 5509 is a mixed fabric. Therefore synthetic yarn which does not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) or woollen yarn that does not satisfy the origin rules (which require manufacture from natural fibres, not carded or combed or otherwise prepared for spinning) or a combination of the two may be used provided their total weight does not exceed 10 per cent of the weight of the fabric.

Example

Tufted textile fabric of heading No 5802 made from cotton yarn of heading No 5205 and cotton fabric of heading No 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being made from yarns classified in two separate headings or if the cotton yarns used are themselves mixtures.

Example

If the tufted textile fabric concerned had been made from cotton yarn of heading No 5205 and synthetic fabric of heading No 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

3. In the case of products incorporating "yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped" this tolerance is 20 per cent in respect of this yarn.
4. In the case of products incorporating "strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of an adhesive between two layers of plastic film", this tolerance is 30 per cent in respect of this strip.

Note 6

1. In the case of those textile products, which are marked in the list by a footnote referring to this Introductory Note, textile trimmings and accessories which do not satisfy the rule set out in the list in column 3 for the made up products concerned may be used provided that their weight does not exceed 10% of the total weight of all the textile materials incorporated.

Textile trimmings and accessories are those classified in Chapters 50 to 63. Linings and interlinings are not be regarded as trimmings or accessories.

2. Any non-textile trimmings and accessories or other materials used which contain textiles do not have to satisfy the conditions set out in column 3 even though they fall outside the scope of Note 3.5.
3. In accordance with Note 3.5, any non-originating non-textile trimmings and accessories or other product, which do not contain any textiles, may, anyway, be used freely where they cannot be made from the materials listed in column 3.

Example

XXXI. For example, if a rule in the list says that for a particular textile item, such as a blouse, yarn must be used, this does not prevent the use of metal items, such as buttons, because they cannot be made from textile materials.

4. Where a percentage rule applies, the value of trimmings and accessories must be taken into account when calculating the value of the non-originating materials incorporated.

Note 7

1. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, the "specific processes" are the following —
 - (a) vacuum distillation;
 - (b) redistillation by a very thorough fractionation process (For the purpose of subheadings 2712 90 31 to 2712 90 39, the term 'crude' shall be taken to apply to products of a natural colour higher than 3 by the ASTM D 1500 method, if their viscosity at 100 °C is $9 \times 10^{-6} \text{ m}^2 \text{ s}^{-1}$ or higher by ASTM D 445 method);
 - (c) cracking;
 - (d) reforming;
 - (e) extraction by means of selective solvents;
 - (f) the process comprising all the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride;

- neutralization with alkaline agents; decolorization and purification with naturally active earth, activated earth, activated charcoal or bauxite;
- (g) polymerization;
 - (h) alkylation;
 - (i) isomerization.
2. For the purposes of heading Nos 2710, 2711 and 2712, the "specific processes" are the following —
- (a) vacuum distillation;
 - (b) redistillation by a very thorough fractionation process;
 - (c) cracking;
 - (d) reforming;
 - (e) extraction by means of selective solvents;
 - (f) the process comprising all the following operations: processing with concentrated sulphuric acid, oleum or sulphuric anhydride; neutralization with alkaline agents; decolorization and purification with naturally active earth, activated earth, activated charcoal or bauxite;
 - (g) polymerization;
 - (h) alkylation;
 - (I) isomerization;
 - (j) in respect of heavy oils falling within heading No ex 2710 only, desulphurization with hydrogen resulting in a reduction of at least 85 per cent of the sulphur content of the products processed (ASTM D 1266-59 T method);
 - (k) in respect of products falling within heading No 2710 only, deparaffining by a process other than filtering;
 - (l) in respect of heavy oils falling within heading No ex 2710 only, treatment with hydrogen at a pressure of more than 20 bar and a temperature of more than 250°C with the use of a catalyst, other than to effect desulphurization, when the hydrogen constitutes an active element in a chemical reaction. The further treatment with hydrogen of lubricating oils of heading No ex 2710 (e.g. hydrofinishing or decolorization) in order, more especially, to improve colour or stability shall not, however, be deemed to be a specific process;
 - (m) in respect of fuel oils falling within heading No ex 2710 only, atmospheric distillation, on condition that less than 30 per cent of these products distils, by volume, including losses, at 300°C by the ASTM D 86 method;

- (n) in respect of heavy oils other than gas oils and fuel oils falling within heading No ex 2710 only, treatment by means of a high-frequency electrical brush-discharge.
- 3. For the purposes of heading Nos ex 2707, 2713 to 2715, ex 2901, ex 2902 and ex 3403, simple operations such as cleaning, decanting, desalting, water separation, filtering, colouring, marking, obtaining a sulphur content as a result of mixing products with different sulphur contents, any combination of these operations or like operations do not confer origin.

ANNEX II TO FOURTH SCHEDULE

**List of working or processing required to be carried out
On non-originating materials in order that the product
Manufactured can obtain originating status**

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
Chapter 01	Live animals	All the animals of Chapter 1 used must be wholly obtained
Chapter 02	Meat and edible meat offal	Manufacture in which all the materials of Chapters 1 and 2 used must be wholly obtained
ex Chapter 03	Fish and crustaceans, molluscs and other aquatic invertebrates; except for:	All the materials of Chapter 3 used must be wholly obtained
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of the ex-works price of the product
0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption	Manufacture in which the value of any materials of chapter 3 used does not exceed 15% of the ex-works price of the product
ex 0306	Crustaceans, whether in shell or not, dried, salted or in brine; crustaceans; in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15% of the ex-works price of the product
ex 0307	Molluscs, whether in shell or not, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15 % of ex-works price of the product
ex Chapter 04	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included; except for :	Manufacture in which all the materials of Chapter 4 used must be wholly obtained
0403	Buttermilk, curdled milk and cream, yoghurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa	Manufacture in which : - all the materials of Chapter 4 used must be wholly obtained; - any fruit juice (except those of pineapple, lime or grapefruit) of heading No 2009

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		used must already be originating;
		- the value of any materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product
ex Chapter 05	Products of animal origin, not elsewhere specified or included; except for :	Manufacture in which all the materials of Chapter 5 used must be wholly obtained
ex 0502	Prepared pigs', hogs' or boars' bristles and hair	Cleaning, disinfecting, sorting and straightening of bristles and hair
Chapter 06	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	Manufacture in which: <ul style="list-style-type: none"> - all the materials of Chapter 6 used must be wholly obtained; - the value of all the materials used does not exceed 50 % of the ex-works price of the product
Chapter 07	Edible vegetables and certain roots and tubers	Manufacture in which all the materials of Chapter 7 used must be wholly obtained;
Chapter 08	Edible fruit and nuts; peel of citrus fruits or melons	Manufacture in which: <ul style="list-style-type: none"> - all the fruit and nuts used must be wholly obtained; - the value of any materials of Chapter 17 used does not exceed 30 % of the value of the ex-works price of the product
ex Chapter 09	Coffee, tea, maté and spices; except for:	Manufacture in which all the materials of Chapter 9 used must be wholly obtained
0901	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion	Manufacture from materials of any heading
0902	Tea, whether or not flavoured	Manufacture from materials of any heading

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex 0910	Mixtures of spices	Manufacture from materials of any heading	
Chapter 10	Cereals	Manufacture in which all the materials of Chapter 10 used must be wholly obtained	
ex Chapter 11	Products of the milling industry; malt; starches; insulin; wheat gluten; except for :	Manufacture in which all the cereals edible vegetables, roots and tubers of heading No 0714 or fruit used must be wholly obtained	
ex 1106	Flour, meal and powder of the dried, shelled leguminous vegetables of heading No 0713	Drying and milling of leguminous vegetables of heading No 0708	
1101	Wheat or meslin flour	Manufacture from materials of any heading except that of the product	
Chapter 12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder	Manufacture in which all the materials of Chapter 12 used must be wholly obtained	
1301	Lac; natural gums; resins, gum-resins and oleoresins (for example, balsams)	Manufacture in which the value of any materials of heading No 1301 used may not exceed 50% of the ex-works price of the product	
1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other mucilages and thickeners, whether or not modified, derived from vegetable products;		
	- Mucilages and thickeners, modified, derived from vegetable products	Manufacture from non-modified mucilages and thickeners	
	- Other		
Chapter 14	Vegetable plaiting materials; vegetable products not elsewhere specified or	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product Manufacture in which all the materials of Chapter 14 used must	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex Chapter 15	included Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animals or vegetable waxes; except for:	be wholly obtained Manufacture in which all the materials used are classified within a heading other than that of the product
1501	Pig fat (including lard) and poultry fat, other than that of heading no. 0209 or 1503:	
	- Fats from bones or waste	Manufacture from materials of any heading except those of heading Nos 0203; 0206 or 0207 or bones of heading No 0506
	- Other	Manufacture from meat or edible offal of swine of heading No 0203 or 0206 or of meat and edible offal of poultry of heading No 0207
1502	Fats of bovine animals, sheep or goats, other than those of heading No. 1503	
	- Fats from bones or waste	Manufacture from materials of any heading except those of heading Nos 0201, 0202, 0204 or 0206 or bones of heading No 0506
	- Other	Manufacture in which all the materials of Chapter 2 used must be wholly obtained
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified:	
	- Solid fractions	Manufacture from materials of any heading including other materials of heading No 1504
	- Other	Manufacture in which all the materials of Chapters 2 and 3 used must be wholly obtained

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex1505	Refined lanolin	Manufacture from crude wool grease of heading No 1505	
1506	Other animals fats and oils and their fractions, whether or not refined, but not chemically modified:	Manufacture from materials of any heading including other materials of heading No 1506	
	- Solid fractions	Manufacture in which all the materials of Chapter 2 used must be wholly obtained	
	- Other	Manufacture in which all the materials of Chapter 2 used must be wholly obtained	
1507 to 1515	Vegetable oils and their fractions:	Manufacture in which all the materials used are classified within a heading other than that of the product	
	Soya, ground nut, palm, copra, kernel, babassu, tung and oiticica oil, myrtle wax and Japan wax, fractions of jojoba oil and oils for technical or industrial uses other than the manufacture of foodstuffs for human consumption	Manufacture in which all the materials used are classified within a heading other than that of the product	
	- Solid fractions, except for that of jojoba oil	Manufacture from other materials of heading Nos. 1507 to 1515	
	- Other	Manufacture in which all the vegetable materials used must be used must be wholly obtained	
1516	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, interesterified, re-esterified or elaidinized, whether or not refined, but not further prepared	Manufacture in which:	
		- all the materials of Chapter 2 used must be wholly obtained;	
		- all the vegetable materials used must be wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used	
1517	Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this	Manufacture in which:	
		- all the materials of Chapters 2 and 4 used	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	Chapter, other than edible fats or oils or their fractions of heading No 1516	- must be wholly obtained; all the vegetable materials used must be wholly obtained. However, materials of headings 1507, 1508, 1511 and 1513 may be used
ex Chapter 16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates; except for:	Manufacture from animals of Chapter 1
1604 and 1605	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs; Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved	Manufacture in which the value of any materials of Chapter 3 used does not exceed 15% of the ex-works price of the product
ex Chapter 17	Sugars and sugar confectionery; except for :	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
	- Chemically pure maltose and fructose	
	- Other sugars in solid form, flavoured or coloured	Manufacture from materials of any heading including other materials of heading No 1702
	- Other	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
ex 1703	Molasses resulting from the extraction or refining of sugar, flavoured or coloured	Manufacture in which all the materials used must already be originating		Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture in which:		<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
ex Chapter 18	Cocoa and cocoa preparations; except for:	Manufacture in which:		<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
ex 1806	Chocolate and other food preparations containing cocoa: <ul style="list-style-type: none"> - containing 20% or less by weight of materials of Chapter 17 	Manufacture in which all the materials used are classified within a heading other than that of the product		
1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included: <ul style="list-style-type: none"> - Malt extract 			

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- Other	<p>Manufacture from cereals of Chapter 10</p> <p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1902	<p>Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagna, gnocchi, ravioli, cannelloni; couscous, whether or not prepared:</p> <ul style="list-style-type: none"> - Containing 20% less by weight of meat, meat offal, fish, crustaceans or molluscs - Containing more than 20% by weight of meat, meat offal, fish, crustaceans or molluscs 	<p>Manufacture in which all the cereals and derivatives (except durum wheat and its derivatives) used must be wholly obtained</p> <p>Manufacture in which:</p> <ul style="list-style-type: none"> - all cereals and derivatives (except durum wheat and its derivatives) used must be wholly obtained; - all the materials of Chapters 2 and 3 used must be wholly obtained
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms	Manufacture from materials of any heading except potato starch of heading No. 1108
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals (other than maize (corn)) in grain form or in the form of flakes or other worked grains (except	<p>Manufacture:</p> <ul style="list-style-type: none"> - from materials not classified within heading No 1806; - in which all the cereals

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	flour and meal), precooked, or otherwise prepared, not elsewhere specified or included	and flour (except durum wheat and its derivatives and Zea mays (maize) used must be wholly obtained; - in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1905	Bread, pastry, cakes biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	Manufacture in which all the products of Chapter 11 used are originating
ex Chapter 20	Preparations of vegetables, fruit, nuts or other parts of plants; except for:	Manufacture in which all the fruit, nuts or vegetables used must be wholly obtained
ex 2001	Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch prepared or preserved by vinegar or acetic acid	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 2004 and ex 2005	Potatoes in the form of flour, meal or flakes, prepared or preserved otherwise than by vinegar or acetic acid	Manufacture in which all the materials used are classified within a heading other than that of the product
2006	Vegetables, fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter: - Containing 20% or less by weight of added sugar or other sweetening matter	Manufacture in which all the materials used are classified within a heading other than that of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
ex 2008	Containing more than 20% by weight of added sugar or other sweetening matter	Manufacture in which:	<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
	- Nuts, not containing added sugar or spirit	Manufacture in which the value of the originating nuts and oil seeds of heading Nos 0801, 0802 and 1202 to 1207 used exceeds 60% of the ex-works price of the product	
	- Peanut butter; mixtures based on cereals; palm hearts; maize (corn)	Manufacture in which all the materials used are classified within a heading other than that of the product	
	- Other except for fruit and nuts cooked otherwise than by steaming or boiling in water, not containing added sugar, frozen	Manufacture in which:	<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
2009	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter:		
	- Containing 20% or less by weight of added sugar or other sweetening matter	Manufacture in which all the materials used are classified within a heading other than that of the product	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
ex Chapter 21	<ul style="list-style-type: none"> - Containing more than 20% by weight of added sugar or other sweetening matter 	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product 		
2101	Miscellaneous edible preparations; except for: Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof	Manufacture in which all the materials used are classified within a heading other than that of the product		
2101	Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - all the chicory used must be wholly obtained 		
2103	Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, mustard flour or meal or prepared mustard may be used		
	<ul style="list-style-type: none"> - Sauces and preparations therefor; mixed condiments and mixed seasonings 			
	<ul style="list-style-type: none"> - Mustard flour and meal and prepared mustard 	Manufacture from materials of any		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
ex 2104	Soups and broths and preparations therefor	heading	Manufacture from materials of any heading except prepared or preserved vegetables of heading Nos 2002 to 2005
2106	Food preparations not elsewhere specified or included:		
	- Containing 20% or less by weight of materials of Chapters 4 and 17		Manufacture in which all the materials used are classified within a heading other than that of the product
	- Containing more than 20% by weight of materials of chapters 4 and 17		Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
Chapter 22	Beverages, spirits and vinegar; except for:		Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - all the grapes or any material derived from grapes used must be wholly obtained
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and		Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009	other than that of the product; - the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product; - any fruit juice used (except for orange, grape, pineapple, lime and grapefruit juices) must already be originating
2207	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength	Manufacture: - using materials not classified in headings 2207 or 2208, - in which all the grapes or any materials derived from grapes used must be wholly obtained or if all the other materials used are already originating, arrack may be used up to a limit of 5% by volume
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages	Manufacture: - from materials not classified within heading Nos 2207 or 2208, - in which all the grapes or any material derived from grapes used must be wholly obtained or if all the other materials used are already originating, arrack may be used up to a limit of 5% by volume
ex Chapter 23	Residues and waste from the food industries; prepared animal fodder; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 2301	Whale meal; flours, meals and pellets of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption	Manufacture in which all the materials of Chapters 2 and 3 used must be wholly obtained
ex 2303	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product, exceeding	Manufacture in which all the maize used must be wholly obtained

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
2306	40% by weight Oil cake and other solid residues resulting from the extraction of olive oil, containing more than 3% of olive oil	Manufacture in which all the olives used must be wholly obtained
2309	Preparations of a kind used in animal feeding	Manufacture in which: <ul style="list-style-type: none"> - all the cereals, sugar or molasses, meat or milk used must already be originating; - all the materials of Chapter 3 used must be wholly obtained
ex Chapter 24	Tobacco and manufactured tobacco substitutes; except for:	Manufacture in which all the materials of Chapter 24 used must be wholly obtained
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture in which at least 60% by weight of the unmanufactured tobacco or tobacco refuse of heading No 2401 used must already be originating
ex 2403	Smoking tobacco	Manufacture in which at least 60% by weight of the unmanufactured tobacco or tobacco refuse of heading No 2401 used must already be originating
ex Chapter 25	Salt; sulphur; earths and stone; plastering materials, lime and cement; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 2504	Natural crystalline graphite, with enriched carbon content, purified and ground	Enriching of the carbon content, purifying and grinding of crude crystalline graphite
ex 2515	Marble, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of marble (even if already sawn) of a thickness exceeding 25 cm
ex 2516	Granite, porphyry, basalt, sandstone and other monumental and building stone, merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of stone (even if already sawn) of a thickness exceeding 25 cm
ex 2518	Calcined dolomite	Calcination of dolomite not calcined
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically-sealed	Manufacture in which all the materials used are classified within a

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
	containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	heading other than that of the product. However, natural magnesium carbonate (magnesite) may be used		
ex 2520	Plasters specially prepared for dentistry	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product		
ex 2524	Natural asbestos fibres	Manufacture from asbestos concentrate		
ex 2525	Mica powder	Grinding of mica or mica waste		
ex 2530	Earth colours, calcined or powdered	Calcination or grinding of earth colours		
Chapter 26	Ores, slag and ash	Manufacture in which all the materials used are classified within a heading other than that of the product		
ex Chapter 27	Mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product		
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	Operations of refining and/or one or more specific process(es) ¹		
		¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3		
ex 2709	Crude oils obtained from bituminous minerals	Destructive distillation of bituminous materials		
2710	Petroleum oils and oils obtained from bituminous materials, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous materials, these oils being the basic constituents of the preparations	Operations of refining and/or one or more specific process(es) ¹		
		¹ For the special conditions relating to “specific processes” see Introductory Note 7.2		
2711	Petroleum gases and other gaseous hydrocarbons	Operations of refining and/or one or more specific process(es) ¹		
		¹ For the special conditions relating to “specific processes” see Introductory Note 7.2		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
2712	Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes and similar products obtained by synthesis or by other processes, whether or not coloured	Operations of refining and/or one or more specific process(es) ¹ ¹ For the special conditions relating to “specific processes” see Introductory Note 7.2
2713	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous materials	Operations of refining and/or one or more specific process(es) ¹ ¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3
2714	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks	Operations of refining and/or one or more specific process(es) ¹ ¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3
2715	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cutbacks)	Operations of refining and/or one or more specific process(es) ¹ ¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3
ex Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 2805	“Mischmetall”	Manufacture by electrolytic or thermal treatment in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 2811	Sulphur trioxide	Manufacture from sulphur dioxide
ex 2833	Aluminium sulphate	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 2840	Sodium perborate	Manufacture from disodium tetraborate pentahydrate
ex Chapter 29	Organic chemicals; except for:	Manufacture in which all the materials used are classified within a

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex 2901	Acyclic hydrocarbons for use as power or heating fuels	heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product Operations of refining and/or one or more specific process(es) ¹	
		¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3	
ex2902	Cyclanes and cyclones (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels	Operations of refining and/or one or more specific process(es) ¹	
		¹ For the special conditions relating to “specific processes” see Introductory Notes 7.1 and 7.3	
ex 2905	Metal alcoholates of alcohols of this heading and of ethanol	Manufacture from materials of any heading, including other materials of heading No 2905. However, metal alcoholates of this heading may be used, provided their value does not exceed 20% of the ex-works price of the product	
2915	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of headings Nos 2915 and 2916 used may not exceed 20% of the ex-works price of the product	
ex 2932	<ul style="list-style-type: none"> - Internal ethers and their halogenated, sulphonated, nitrated or nitrosated derivatives - Cyclic acetals and internal hemiacetals and their halogenated, sulphonated, nitrated or nitrosated derivatives 	Manufacture from materials of any heading. However, the value of all the materials of heading No 2909 used may not exceed 20% of the ex-works price of the product	
2933	Heterocyclic compounds with nitrogen hetroatom(s) only	Manufacture from materials of any heading. However, the value of all the materials of headings Nos 2932 and 2933 used may not exceed 20% of the ex-works price of the product	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
2934	Nucleic acids and their salts; other heterocyclic compounds	Manufacture from materials of any heading. However, the value of all the materials of headings Nos 2932, 2933 and 2934 used may not exceed 20% of the ex-works price of the product
ex Chapter 30	Pharmaceutical products; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3002	<p>Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products:</p> <ul style="list-style-type: none"> - Products consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses or unmixed products for these uses, put up in measured doses or in forms or packings for retail sale - Other: <ul style="list-style-type: none"> ■ human blood ■ animal blood prepared for therapeutic or prophylactic uses 	<p>Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product</p> <p>Manufacture from materials of any heading, including other materials of heading No 3002. The materials of</p>

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
		this description may also be used, provided their value does not exceed 20% of the ex-works price of the product		
	<ul style="list-style-type: none"> ■ blood fractions other than antisera, haemoglobin, blood globulins and serum globulins 	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product		
	<ul style="list-style-type: none"> ■ haemoglobin, blood globulins and serum globulins 	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product		
	<ul style="list-style-type: none"> ■ other 	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product		
3003 and 3004	Medicaments (excluding goods of heading No 3002, 3005 or 3006);	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product		
	<ul style="list-style-type: none"> - Obtained from amikacin of heading No 2941 	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials of heading 3003 or 3004 may be used, provided their value, taken together, does not exceed 20% of the ex-works price of the product		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	<ul style="list-style-type: none"> ■ Other 	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product. However, materials of heading No 3003 or 3004 may be used provided their value, taken together, does not exceed 20% of the ex-works price of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 31	Fertilizers; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used, provided their value does not exceed 20% of the ex-works price of the product
ex 3105	<p>Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorous and potassium; other fertilizers; goods of this Chapter, in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, except for:</p> <ul style="list-style-type: none"> - Sodium nitrate - Calcium cyanamide - Potassium sulphate - Magnesium potassium sulphate 	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used, provided their value does not exceed 20% of the ex-works price of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
ex 3201	Tannins and their salts, ethers, esters and other derivatives	may be used, provided their value does not exceed 20% of the ex-works price of the product		
3205	Colour lakes; preparations as specified in Note 3 to this Chapter based on colour lakes ¹ ¹ Note 3 to chapter 32 says that these preparations are those of a kind used for colouring any material or used as ingredients in the manufacturing of colouring preparations, provided they are not classified in another heading in Chapter 32	Manufacture from tanning extracts of vegetable origin Manufacture from materials of any heading, except headings Nos 3203, 3204 and 3205. However, materials from heading No 3205 may be used provided their value does not exceed 20% of the ex-works price of the product		
ex Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used, provided their value does not exceed 20% of the ex-works price of the product		
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; extracted oleoresins; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Manufacture from materials of any heading, including materials of a different “group” ¹ in this heading. However, materials of the same group may be used, provided their value does not exceed 20% of the ex-works price of the product ¹ A “group” is regarded as any part of the heading separated from the rest by a semi-colon.		
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modeling pastes, “dental waxes” and dental preparations with a basis of plaster; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used, provided their value does not exceed 20% of the ex-works price of the product		
ex 3403	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals, provided they represent less than 70% by weight	Operations of refining and/or one or more specific process(es) ¹ ¹ For the special conditions relating to “specific processes” see Introductory		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
3404	Artificial waxes and prepared waxes:	Notes 7.1 and 7.3
	<ul style="list-style-type: none"> - With a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax - Other 	<p>Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 50% of the ex-works price of the product</p> <p>Manufacture from materials of any heading, except:</p> <ul style="list-style-type: none"> - hydrogenated oils having the character of waxes of heading No 1516; - fatty acids not chemically defined or industrial fatty alcohols having the character of waxes of heading No 3823; - materials of heading No 3404 <p>However, these materials may be used provided their value does not exceed 20% of the ex-works price of the product</p>
ex Chapter 35	Albuminoidal substances; modified starches; glues; enzymes; except for:	<p>Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product</p>
3505	<p>Dextrins and other modified starches (for example, pregelatinised or esterified starches); glues based on starches, or on dextrins or other modified starches:</p> <ul style="list-style-type: none"> - Starch ethers and esters 	<p>Manufacture from materials of any</p>

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
	- Other	heading, including other materials of heading No 3505	
ex 3507	Prepared enzymes not elsewhere specified or included	Manufacture from materials of any heading, except those of heading No 1108	
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture in which the value of all the materials used does not exceed 50 % of the ex-works price of the product	
ex Chapter 37	Photographic or cinematographic goods; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product	
3701	Photographic plates and film in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitized, unexposed, whether or not in packs:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product	
	- Instant print film for colour photography, in packs		
	- Other	Manufacture in which all the materials used are classified within a heading other than heading Nos 3701 or 3702.. However, materials From heading No 3702 may be used provided their value does not exceed 30% of the ex-works price of the product	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		Manufacture in which all the materials used are classified within a heading other than heading No 3701 or 3702. However, materials from heading Nos 3701 and 3702 may be used provided their value taken together, does not exceed 20% of the ex-works price of the product
3702	Photographic film in rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitized, unexposed	Manufacture in which all the materials used are classified within a heading other than heading No 3701 or 3702
3704	Photographic plates, film paper, paperboard and textiles, exposed but not developed	Manufacture in which all the materials used are classified within a heading other than heading No 3701 or 3704
ex Chapter 38	Miscellaneous chemical products; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 3801	- Colloidal graphite in suspension in oil and semi-colloidal graphite; carbonaceous pastes for electrodes	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
	- Graphite in paste form, being a mixture of more than 30% by weight of graphite with mineral oils	Manufacture in which the value of all the materials of heading No 3403 used does not exceed 20% of the ex-works price of the product
ex 3803	Refined tall oil	Refining of crude tall oil
ex 3805	Spirits of sulphate turpentine, purified	Purification by distillation or refining of raw spirits of sulphate turpentine
ex 3806	Ester gums	Manufacture from resin acids
ex 3807	Wood pitch (wood tar pitch)	Distillation of wood tar
3808	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the products

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
3809	packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers) Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the products		
3810	Pickling preparations for metal surfaces; fluxes and other auxiliary preparations for soldering, brazing or welding; soldering, brazing or welding powders and pastes consisting of metal and other materials; preparations of a kind used as cores or coatings for welding electrodes or rods	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product		
3811	Anti-knock preparations, oxidation inhibitors, gum inhibitors, viscosity improvers, anti-corrosive preparations and other prepared additives, for mineral oils (including gasoline) or for other liquids used for the same purposes as mineral oils: <ul style="list-style-type: none"> - Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals - Other 	Manufacture in which the value of all the materials of heading No 3811 used does not exceed 50% of the ex-works price of the product		
3812	Prepared rubber accelerators; compound plasticizers for rubber or plastics, not elsewhere specified or included; anti-oxidizing preparations and other compound stabilizers for rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product		
3813	Preparations and charges for fire-extinguishers; charged fire-extinguishing grenades	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
3814	Organic composite solvents and thinners, not elsewhere specified or included; prepared paint or varnish removers	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3818	Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3819	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3820	Anti-freezing preparations and prepared de-icing fluids	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3822	Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents, whether or not on a backing, other than those of heading No 3002 or 3006	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3823	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols	the product	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
	- Industrial monocarboxylic fatty acids, acid oils from refining	the product	Manufacture in which all the materials used are classified within a heading other than that of the product
	- Industrial fatty alcohols	the product	Manufacture in which all the materials used are classified within a heading other than that of the product
3824	Prepared binders for foundry moulds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:	the product	Manufacture from materials of any heading including other materials of heading No 3823

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
	- The following of this heading:		
	Prepared binders for foundry moulds or cores based on natural resinous products		
	Naphthenic acids, their water insoluble salts and their esters	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex- works price of the product	
	Sorbitol other than that of heading No 2905 Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts		
	Ion exchangers		
	Getters for vacuum tubes		
	Alkaline iron oxide for the purification of gas		
	Ammoniacal gas liquors and spent oxide produced in coal gas purification		
	Sulphonaphthenic acids, their water insoluble salts and their esters		
	Fusel oil and Dippel's oil		
	Mixtures of salts having different anions		
	Copying pastes with a basis of gelatin, whether or not on a paper or textile backing		
	- Other		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
3901 to 3915	<p>Plastics in primary forms, waste, parings and scrap, of plastic; except for heading Nos ex 3907 and 3912 for which the rules are set out below:</p> <ul style="list-style-type: none"> - Addition homopolymerization products in which a single monomer contributes more than 99% by weight to the total polymer content 	<p>Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product</p>	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - the value of all the materials used does not exceed 50% of the ex-works price of the product; - the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product¹
	<ul style="list-style-type: none"> - Other 	<p>Manufacture in which the value of the materials of Chapter 39 used does not exceed 20% the ex-works price of the product¹</p>	<p>¹In the case of the products composed of materials classified within both heading Nos. 3901 to 3906, on the one hand, and within heading Nos 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product</p>

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
Ex 3907	- Copolymer, made from polycarbonate and acrylonitrile-butadienestyrene copolymer (ABS)	other hand, this restriction only applies to that group of materials which predominates by weight in the product Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 50% of the ex-works price of the product ¹		
		¹ In the case of the products composed of materials classified within both heading Nos. 3901 to 3906, on the one hand, and within heading Nos 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product		
3912	- Polyester Cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms	Manufacture in which the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product and/or manufacture from polycarbonate of tetrabromo-(bisphenol A) Manufacture in which the value of the materials classified in the same heading as the product does not exceed 20% the ex-works price of the product		
3916 to 3921	Semi-manufactures and articles of plastic; except for headings Nos ex 3916, ex 3917, ex 3920 and ex 3921, for which the rules are set out below: - Flat products, further worked than only surface-worked or cut into forms other than rectangular (including square); other products, further worked than only surface-worked - Other:	Manufacture in which the value of any materials of Chapter 39 used does not exceed 50% of the ex-works price of the product		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	<p>■ Addition homopolymerization products in which a single monomer contributes more than 99% by weight to the total polymer content</p>	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - the value of all the materials used does not exceed 50% of the ex-works price of the product; - the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product¹ <p>¹In the case of the products composed of materials classified within both heading Nos. 3901 to 3906, on the one hand, and within heading Nos 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product²</p>
	<p>■ other</p>	<p>Manufacture in which the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product¹</p> <p>¹In the case of the products composed of materials classified within both heading Nos. 3901 to 3906, on the one hand, and within heading Nos 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product</p>
ex 3916 and ex 3917	Profile shapes and tubes	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - the value of all the materials used does not exceed 50% of the ex-works price of the product; - the value of any materials of classified within the same heading as the product does not exceed 20% of the ex-works price of the product
ex 3920	- Ionomer sheet or film	Manufacture from a thermoplastic

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- Sheets of regenerated cellulose, polyamides or polyethylene	partial salt which is a copolymer of ethylene and metacrylic acid partly neutralized with metal ions, mainly zinc and sodium The value of any materials of classified within the same heading as the product does not exceed 20% of the ex-works price of the product
ex 3921	Foils of plastic, metalized	Manufacture from highly transparent polyester foils with a thickness of less than 23 micron ¹ ¹ The following foils shall be considered as highly transparent: foils, the optical dimming of which – measured according to ASTM- D 1003-16 by Gardner Hazemeter (i.e. Hazefactor) – is less than 2 percent.”
3922 to 3926	Articles of plastics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 40	Rubber and articles thereof; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 4001	Laminated slabs of crepe rubber for shoes	Lamination of sheets of natural rubber
4005	Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip	Manufacture in which the value of all the materials used, except natural rubber, does not exceed 50% of the ex-works price of the product
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps, of rubber:	
	- Retreaded pneumatic, solid or cushion tyres, of rubber	Retreading of used tyres
	- Other	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex 4017	Articles of hard rubber	Manufacture from materials of any heading, except those of heading Nos 4011 or 4012
ex Chapter 41	Raw hides and skins (other than furskins) and leather; except for:	Manufacture from hard rubber
ex 4102	Raw skins of sheep or lambs, without wool on	Manufacture in which all the materials used are classified within a heading other than that of the product
4104 to 4107	Leather, without hair or wool, other than leather of heading Nos 4108 or 4109	Removal of wool from sheep or lamb skins, with wool on
4109	Patent leather and patent laminated leather; metalized leather	Retanning of pre-tanned leather
Chapter 42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silk worm gut)	Manufacture from leather of heading Nos 4104 to 4107 provided its value does not exceed 50% of the ex-works price of the product
ex Chapter 43	Furskins and artificial fur; manufactures thereof; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 4302	Tanned or dressed furskins, assembled:	Manufacture in which all the materials used are classified within a heading other than that of the product
	- Plates, crosses and similar forms	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins
	- Other	Manufacture from non-assembled, tanned or dressed furskins
4303	Articles of apparel, clothing accessories and other articles of furskin	Manufacture from non-assembled tanned or dressed furskins of heading No 4302
ex Chapter 44	Wood and articles of wood; wood charcoal; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 4403	Wood roughly squared	Manufacture from wood in the rough, whether or not stripped of its bark or merely roughed down

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or finger-jointed	Planning, sanding or finger-jointing
ex 4408	Veneer sheets and sheets for plywood, of a thickness not exceeding 6 mm, sliced, and other wood sawn lengthwise, sliced or peeled of a thickness not exceeding 6 mm, planned sanded or finger-jointed	Splicing, planning, sanding or finger-jointing
ex 4409	Wood continuously shaped along any of its edges or faces, whether or not planned, sanded or finger-jointed: <ul style="list-style-type: none"> - sanded or finger-jointed - beadings and mouldings 	Sanding or finger-jointing Beading or moulding
ex 4410 to ex 4413	Beadings and mouldings, including moulded skirting and other moulded boards	Beading or moulding
ex 4415	Packing cases, boxes, crates, drums and similar packings of wood	Manufacture from boards not cut to size
ex 4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood	Manufacture from riven staves, not further worked than sawn on the two principal surfaces
ex 4418	- Builders' joinery and carpentry of wood	Manufacture in which all the materials used are classified within a heading other than that of the product. However, cellular wood panels, shingles and shakes may be used
	- Beadings and mouldings	Beading or moulding
ex 4421	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading except drawn wood of heading no 4409
ex Chapter 45	Cork and articles of cork; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
4503	Articles of natural cork	Manufacture from cork of heading No 4501

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
Chapter 46	Manufactures of straw, of esparto or of other plaiting materials; basketware and wickerwork	Manufacture in which all the materials used are classified within a heading other than that of the product
Chapter 47	Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 48	Paper and paperboard; articles of paper pulp, of paper or of paperboard; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 4811	Paper and paperboard, ruled, lined or squared only	Manufacture from paper-making materials of Chapter 47
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of heading No 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture from paper-making materials of Chapter 47
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	Manufacturing in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 4818	Toilet paper	Manufacture from paper-making materials of Chapter 47
ex 4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres	Manufacturing in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-
ex 4820	Letter pads	works price of the product Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex 4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape	the product	Manufacture from paper-making materials of Chapter 47
ex Chapter 49	Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product	
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated with or without envelopes or trimmings	Manufacture from materials not classified within heading Nos 4909 or 4911	
4910	Calendars of any kind, printed, including calendar blocks: <ul style="list-style-type: none"> - Calendars of the “perpetual” type or with replaceable blocks mounted on basis other than paper or paperboard - Other 	Manufacturing in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product 	
ex Chapter 50	Silk; except for:	Manufacture from materials not classified in heading Nos 4909 or 4911	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste	
5004 to ex 5006	Silk yarn and yarn spun from silk waste	Manufacture from ¹ : <ul style="list-style-type: none"> - raw silk or silk waste carded or bombed or otherwise prepared for spinning, - other natural fibres not carded or combed or 	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials
5007	Woven fabrics of silk or of silk waste: - Incorporating rubber thread - Other	<p data-bbox="767 567 1126 634">¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p data-bbox="767 725 1063 753">Manufacture from single yarn¹</p> <p data-bbox="767 811 1126 1110">Manufacture from¹: - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or</p> <p data-bbox="767 1144 1126 1443">Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
ex Chapter 51	Wool, fine or coarse animal hair; horsehair yarn and woven fabric; except for:	<p data-bbox="767 1506 1126 1572">¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p data-bbox="767 1586 1126 1686">Manufacture in which all the materials used are classified within a heading other than that of the product</p>

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
5106 to 5110	Yarn of wool, of fine or coarse animal hair or of horsehair	Manufacture from ¹ : <ul style="list-style-type: none"> - raw silk or silk waste carded or combed or otherwise prepared for spinning, - natural fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5111 to 5113	Woven fabrics of wool, of fine or coarse animal hair or of horsehair: <ul style="list-style-type: none"> - Incorporating rubber thread - Other 	<p data-bbox="844 763 1163 835">¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”</p> <p data-bbox="844 976 1139 1003">Manufacture from single yarn¹</p> <p data-bbox="844 1079 1045 1106">Manufacture from ¹ :</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper <p data-bbox="844 1388 865 1414">or</p> <p data-bbox="844 1498 1201 1713">Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the</p>	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex Chapter 52	Cotton; except for:	unprinted fabric used does not exceed 47.5% of the ex-works price of the product
5204 to 5207	Yarn and thread of cotton	<p>¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”</p> <p>Manufacture in which all the materials used are classified within a heading other than that of the product</p> <p>Manufacture from ¹:</p> <ul style="list-style-type: none"> - raw silk or silk waste carded or combed or otherwise prepared for spinning, - natural fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials
5208 to 5212	Woven fabrics of cotton:	<p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”</p>
	<ul style="list-style-type: none"> - Incorporating rubber thread - Other 	<p>Manufacture from single yarn¹</p> <p>Manufacture from ¹:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper

or

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
ex Chapter 53	Other vegetable textile fibres; paper yarn and woven fabrics of paper yarn; except for:	Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product ¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5 Manufacture in which all the materials used are classified within a heading other than that of the product Manufacture from ¹ :	
5306 to 5308	Yarn of other vegetable textile fibres; paper yarn		<ul style="list-style-type: none"> - raw silk or silk waste carded or combed or otherwise prepared for spinning, - natural fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials
5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn: <ul style="list-style-type: none"> - Incorporating rubber thread 	¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”	
			Manufacture from single yarn ¹
		Manufacture from ¹ :	
		<ul style="list-style-type: none"> - coir yarn, - natural fibres, 	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		<ul style="list-style-type: none"> - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper or
		Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product
5401 to 5406	Yarn, monofilament and thread of man-made filaments	¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5 ¹ le yarn1 Manufacture from ¹ : <ul style="list-style-type: none"> - raw silk or silk waste carded or combed or otherwise prepared for spinning, - natural fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials
5407 and 5408	Woven fabrics of man-made filament yarn: <ul style="list-style-type: none"> - Incorporating rubber thread 	¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
-	Other	Manufacture from single yarn ¹
		Manufacture from ¹ :
		<ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper
		<p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
5501 to 5507	Man-made staple fibres	<p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p>Manufacture from chemical materials or textile pulp</p>
5508 to 5511	Yarn and sewing thread of man-made staple fibres	<p>Manufacture from¹ :</p> <ul style="list-style-type: none"> - raw silk or silk waste carded or combed or otherwise prepared for spinning, - natural fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper-making materials

¹For special conditions relating to

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
5512 to 5516	Woven fabrics of man-made staple fibres: - Incorporating rubber thread - Other	<p>products made of a mixture of textile materials, see Introductory Note 5¹</p> <p>Manufacture from single yarn¹</p> <p>Manufacture from ¹:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp, or - paper <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
ex Chapter 56	Wadding, felt and non-wovens; special yarns; twine, cordage, ropes and cables and articles thereof; except for:	<p>¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5¹</p> <p>Manufacture from¹:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - chemical materials or textile pulp, or - paper making materials <p>¹ For special conditions relating to</p>

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
5602	Felt, whether or not impregnated, coated, covered or laminated:	products made of a mixture of textile materials, see Introductory Note 5”
	- Needleloom felt	Manufacture from ¹ : - natural fibres, - chemical materials or textile pulp
		However: - Polypropylene filament of heading No 5402, - Polypropylene fibres of heading No 5503 or 5506 or - Polypropylene filament tow of heading No 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided their value does not exceed 40% of the ex- works price of the product
	- Other	Manufacture from ¹ : - natural fibres, - man-made staple fibres not carded or combed or otherwise prepared for spinning, - chemical materials or textile pulp
5604	Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading No 5404 or 5405, impregnated, coated, covered or sheathed with rubber or	¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
	plastics:		
	- Rubber thread and cord, textile covered		
	- Other	Manufacture from rubber thread or cord, not textile covered	
		Manufacture from ¹ :	
		<ul style="list-style-type: none"> - natural fibres not carded or combed or otherwise processed for spinning, - chemical materials or textile pulp, or - paper-making materials 	
5606	Gimped yarn, and strip and the like of heading No 5404 or 5405, gimped (other than those of heading No 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn; loop wale-yarn	¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5	
		Manufacture from ¹ :	
		<ul style="list-style-type: none"> - natural fibres not carded or combed or otherwise processed for spinning, - chemical materials or textile pulp, or - paper-making materials 	
		¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
Chapter 57	Carpets and other textile floor coverings:		
	- Of needleloom felt	Manufacture from ¹ : <ul style="list-style-type: none"> - natural fibres, or - chemical materials or textile pulp However: <ul style="list-style-type: none"> - Polypropylene filament of heading No 5402, - Polypropylene fibres of heading No 5503 or 5506 or - Polypropylene filament tow of heading No 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided their value does not exceed 40% of the ex-works price of the product - jute fabric may be used as backing 	
	- Of other felt	Manufacture from ¹ : <ul style="list-style-type: none"> - Natural fibres not carded or combed or otherwise processed for spinning, or - Chemical materials or textile pulp 	
	- Other	Manufacture from 1: <ul style="list-style-type: none"> - coir or jute yarn, - synthetic or artificial filament yarn, - natural fibres, or - man-made staple fibres not carded or combed or otherwise processed for spinning Jute fabric may be used as backing	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery; except for:	<p style="text-align: center;">Manufacture from single yarn¹</p> <p style="text-align: center;">Manufacture from¹:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp, <p style="text-align: center;">or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
5805	Hand-woven tapestries of the types gobelins, flanders, aubusson, beauvais and the like, and needle-worked tapestries (for example, petit point, cross stitch), whether or not made up	<p>¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p>Manufacture in which all the materials used are classified within a heading other than that of the product</p>
5810	Embroidery in the piece, in strips or in motifs	<p>Manufacture in which :</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	works price of the product Manufacture from yarn
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon: - Containing not more than 90% by weight of textile materials - Other	Manufacture from yarn
5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading No 5902	Manufacture from chemical materials or textile pulp Manufacture from yarn or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from yarn ¹
5905	Textile wall coverings: - Impregnated, coated, covered or laminated with rubber, plastics or other materials	Manufacture from yarn

¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- Other	<p>Manufacture from¹:</p> <ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp, <p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p> <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”</p>
5906	<p>Rubberized textile fabrics, other than those of heading No 5902</p> <p style="margin-left: 2em;">- Knitted or crocheted fabrics</p>	<p>Manufacture from¹:</p> <ul style="list-style-type: none"> - natural fibres, - man-made staple fibres not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
5907	<ul style="list-style-type: none"> - Other fabrics made of synthetic filament yarn, containing more than 90% by weight of textile materials - Other <p>Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio back-cloths or the like</p>	<p>Manufacture from chemical materials</p> <p>Manufacture from yarn</p> <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5”</p> <p>Manufacture from yarn</p>	<p>or</p> <p>Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendaring, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
5908	<p>Textile wicks, woven, plaited or knitted, for lamps, stoves, lighters, candles or the like; incandescent gas mantles and tubular knitted gas mantle fabric therefor, whether or not impregnated:</p> <ul style="list-style-type: none"> - Incandescent gas mantles, impregnated - Other 	<p>Manufacture from tubular knitted gas mantle fabric</p>	<p>Manufacture in which all the materials used are classified within a heading other than that of the product</p>
5909 to 5911	<p>Textile articles of a kind suitable for</p>		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	industrial use: - Polishing discs or rings other than of felt of heading No 5911 - Woven fabrics, of a kind commonly used in papermaking or other technical uses, felted or not, whether or not impregnated or coated, tubular or endless with single or multiple warp and/or weft, or flat woven with multiple warp and/or weft of heading No 5911	Manufacture from yarn or waste fabrics or rags of heading No 6310 Manufacture from ¹ : <ul style="list-style-type: none"> - coir yarn, - the following materials: - yarn of polytetrafluoroethylene², - yarn, multiple, of polyamide, coated impregnated or covered with a phenolic resin, - yarn of synthetic textile fibres of aromatic polyamides, obtained by polycondensation or m-phenylenediamine and isophthalic acid, - monofil of polytetrafluoroethylene² - yarn of synthetic textile fibres of poly-p-phenylene terphthalamide, - glass fibre yarn, coated with phenol resin and gimped with acrylic yarn² - copolyester monofilaments of a polyester and a resin of terephthalic acid and 1,4-cyclohexane-diethanol and isophthalic acid, - natural fibres, - man-made staple fibres not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp Manufacture from ¹ :

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- Other	<ul style="list-style-type: none"> - coir yarn, - natural fibres, - man-made staple fibres not carded or combed or otherwise processed for spinning, or - chemical materials or textile pulp <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p>²The use of this material is restricted to the manufacture of woven fabrics of a kind used in paper-making machinery Manufacture from fabric¹</p> <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p>
Chapter 60	Knitted or crocheted fabrics	
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted;	
	- Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	<p>Manufacture from fabric ^{1,2}</p> <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5</p> <p>²See Introductory Note</p>
	- Other	<p>Manufacture from yarn¹ :</p> <p>¹For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5” Manufacture from fabric</p>
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted; except for:	
6213 and	Handkerchiefs, shawls, scarves, mufflers,	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
6214	mantillas, veils and the like:		
	- Embroidered	Manufacture from yarn ^{1,2}	
		¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5 ²	
		² See Introductory Note 6	
	- Other	Manufacture from yarn ^{1,2}	
		¹ See Introductory Note 6	
		² For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5	
6217	Other made up clothing accessories; parts of garments or of clothing accessories, other than those of heading No 6212		
	- Embroidered	Manufacture from yarn ¹	
	- Fire-resistant equipment of fabric covered with foil of aluminized polyester	Manufacture from yarn ¹	
	- Interlinings for collars and cuffs, cut out	Manufacture in which :	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
Ex Chapter 63	Other made-up textile articles; sets; worn clothing and worn textile articles; rags; except for:	<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 	¹ See Introductory Note 6 Manufacture in which all the materials used are classified within a heading other than that of the product
6301 to 6304	Blankets, travelling rugs, bed linen etc.; curtains etc.; other furnishing articles:		Manufacture from ² : <ul style="list-style-type: none"> - fibres, or chemical materials or textile pulp
	- Of felt, of nonwovens		Manufacture from yarn ^{1,3}
	- Other :		
	- Embroidered		
	- Other		Manufacture from yarn ^{1,3}
			¹ For special conditions relating to products made of a mixture of textile

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		materials, see Introductory Note 5
		³ For knitted or crocheted articles, not elastic or rubberized, obtained by sewing or assembly pieces of knitted or crocheted fabrics (cut out or knitted directly to shape), see Introductory Note 6
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from yarn ¹
		¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5
6306	Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods:	Manufacture from fabric
6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes, or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated provided their total value does not exceed 25% of the ex-works price of the set
ex Chapter 64	Footwear, gaiters and the like; except for:	Manufacture from materials of any heading except for assemblies of uppers affixed to inner soles or to other sole components of heading No 6406
6406	Parts of footwear (including uppers whether or not attached to soles other than outer soles); removable in-soles, heel cushions and similar articles; gaiters, leggings and similar articles, and parts thereof	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 65	Headgear and parts thereof, except for	Manufacture in which all the materials used are classified within a heading other than that of the product
6503	Felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading No 6501, whether or not lined or trimmed	Manufacture from yarn or textile fibres ¹
		¹ For special conditions relating to products made of a mixture of textile materials, see Introductory Note 5

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Manufacture from yarn or textile fibres ¹
ex Chapter 66	Umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops, and parts thereof; except for :	Manufacture in which all the materials used are classified within a heading other than that of the product
6601	Umbrellas and sun umbrellas (including walking-stick umbrellas, garden umbrellas and similar umbrellas)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 67	Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 68	Articles of stone, plaster, cement, asbestos, mica or similar materials; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate
ex 6812	Articles of asbestos; articles of mixtures with a basis of asbestos or of mixtures with a basis of asbestos and magnesium carbonate	Manufacture from materials of any heading
ex 6814	Articles of mica, including agglomerated or reconstituted mica, on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)
Chapter 69	Ceramic products	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 70	Glass and glassware; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 7003 ex 7004 and ex 7005	Glass with a non-reflecting layer	Manufacture from materials of heading No 7001
7006	Glass of heading No 7003, 7004 or 7005, bent, edgeworked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials:	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- glass plate substrate coated with dielectric thin film, semi-conductor grade, in accordance with SEMII standards ¹	Manufacture from non-coated glass plate substrate of heading No 7006
	¹ SEMII-Semiconductor Equipment and Materials Institute Incorporated ²	
	- other	
7007	Safety glass, consisting of toughened (tempered) or laminated glass	Manufacture from materials of heading No 7001
7008	Multiple-walled insulating units of glass	Manufacture from materials of heading No 7001
7009	Glass mirrors, whether or not framed, including rear-view mirrors	Manufacture from materials of heading No 7001
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture in which all the materials used are classified within a heading other than that of the product
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading No 7010 or 7018)	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 7019	Articles (other than yarn) of glass fibres	Manufacture from: <ul style="list-style-type: none"> - uncoloured slivers, rovings, yarn or chopped strands, or - -glass wool
ex Chapter 71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 7101	Natural or cultured pearls, graded and temporarily strung for convenience of transport	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
ex 7102, ex 7103 and ex 7104	Worked precious or semi-precious stones (natural, synthetic or reconstructed)	the product		Manufacture from unworked precious or semi-precious stones
7106, 7108 and 7110	Precious metals: - Unwrought			Manufacture from materials not classified within heading No 7106, 7108 or 7110
	- Semi-manufactured or in powder form			Manufacture from unwrought precious metals
ex 7107, ex 7109 and ex 7111	Metals clad with precious metals, semi- manufactured			Manufacture from metals clad with precious metals, unwrought
7116	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)			Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
7117	Imitation jewellery			Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 72	Iron and steel; except for:			Manufacture in which all the materials used are classified within a heading other than that of the product
7207	Semi-finished products of iron or non- alloy steel			Manufacture from materials of heading No 7201, 7202, 7203, 7204 or 7205
7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel			Manufacture from ingots or other primary forms or semi-finished materials of headings No 7206 or 7207
7217	Wire of iron or non-alloy steel			Manufacture from semi-finished materials of heading No 7207
ex 7218	Semi-finished products			Manufacture from materials of headings No 7201, 7202, 7203, 7204

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
7219 to 7222	Flat-rolled products, bars and rods, angles, shapes and sections of stainless steel	or 7205 Manufacture from ingots or other primary forms or semi-finished materials of heading No 7218	
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading No 7218	
ex 7224	Semi-finished products	Manufacture from materials of headings No 7201, 7202, 7203, 7204 or 7205	
7225 to 7228	Flat-rolled products, hot-rolled bars and rods, in irregularly wound coils; angles, shapes and sections, of other alloy steel; hollow drill bars and rods of alloy or non-alloy steel	Manufacture from ingots or other primary forms or semi-finished materials of headings No 7206, 7207, 7218 or 7224	
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading No 7224	
ex chapter 73	Articles of iron or steel; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product	
ex 7301	Sheet piling	Manufacture from materials of heading No 7206	
7302	Railway or tramway track construction materials of iron or steel, the following : rails, checkrails and rackrails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialized for jointing or fixing rails	Manufacture from materials of heading No 7206	
7304, 7305 and 7306	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading No 7206, 7207, 7218 or 7224	
ex 7307	Tube or pipe fittings of stainless steel (ISO No X5CrNiMo 1712), consisting of several parts	Turning, drilling, reaming, threading, deburring and sandblasting of forged blanks the value of which does not exceed 35 % of the ex-works price of the product	
7308	Structures (excluding prefabricated buildings of heading No 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frame-works, doors and windows and their frames and	Manufacture in which all the materials used are classified within a heading other than that of the product. However, welded angles, shapes and sections of heading No 7301 may not be used	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
	thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel			
ex 7315	Skid chain	Manufacture in which the value of all the materials of heading No 7315 used does not exceed 50% of the ex-works price of the product		
ex Chapter 74	Copper and articles thereof; except for:	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product 		
7401	Copper mattes; cement copper (precipitated copper)	Manufacture in which all the materials used are classified within a heading other than that of the product		
7402	Unrefined copper; copper anodes for electrolytic refining	Manufacture in which all the materials used are classified within a heading other than that of the product		
7403	Refined copper and copper alloys, unwrought: <ul style="list-style-type: none"> - Refined copper - Copper alloys and refined copper containing other elements 	Manufacture in which all the materials used are classified within a heading other than that of the product		
7404	Copper waste and scrap	Manufacture from refined copper, unwrought, or waste and scrap of copper		
7405	Master alloys of copper	Manufacture in which all the materials used are classified within a heading other than that of the product		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex Chapter 75	Nickel and articles thereof; except for:	product	Manufacture in which:
			<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
7501 to 7503	Nickel mattes, nickel oxide sinters and other intermediate products of nickel metallurgy; unwrought nickel; nickel waste and scrap	Manufacture in which all the materials used are classified within a heading other than that of the product	
ex Chapter 76	Aluminium and articles thereof; except for	Manufacture in which:	
		<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7601	Unwrought aluminium	Manufacture in which:	
		<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product 	
7602	Aluminium waste or scrap	Manufacture in which all the materials used are classified within a heading other than that of the product	
ex 7616	Aluminium articles other than gauze, cloth, grill, netting, fencing, reinforcing fabric and similar materials (including endless bands) of aluminium wire, and expanded metal of aluminium	Manufacture in which:	
		<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product. However, gauze, cloth, grill, netting, fencing, reinforcing fabric and similar materials (including endless bands) of aluminium wire, or expanded metal of 	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
Chapter 77 ex Chapter 78	Reserved for possible future use in HS Lead and articles thereof; except for:	<ul style="list-style-type: none"> - aluminium may be used; the value of all the materials used does not exceed 50% of the ex-works price of the product <p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
7801	Unwrought lead: <ul style="list-style-type: none"> - Refined lead - Other 	<p>Manufacture from “bullion” or “work” lead</p> <p>Manufacture in which all the materials used are classified within a heading other than that of the product. However, waste and scrap of heading 7802 may not be used</p>
7802	Lead waste and scrap	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 79	Zinc and articles thereof; except for:	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
7901	Unwrought zinc	Manufacture in which all the materials used are classified within a heading other than that of the product. However, waste and scrap of heading No 7902 may not be used

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
7902	Zinc waste and scrap	Manufacture in which all the materials used are classified within a heading other than that of the product
ex chapter 80	Tin and articles thereof; except for:	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product
8001	Unwrought tin	Manufacture in which all the materials used are classified within a heading other than that of the product. However, waste and scrap of heading No 8002 may not be used
8002 and 8007	Tin waste and scrap; other articles of tin	Manufacture in which all the materials used are classified within a heading other than that of the product
Chapter 81	Other base metals; cermets; articles thereof:	
	- Other base metals, wrought; articles thereof	Manufacture in which the value of all the materials classified within the same heading as the product used does not exceed 50% of the ex-works price of the product
	- Other	Manufacture in which all the materials used are classified within a heading other than that of the product
ex Chapter 82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
8206	Tools of two or more of the heading Nos 8202 to 8205, put up in sets for retail sale	Manufacture in which all the materials used are classified within a heading other than heading Nos 8202 to 8205. However, tools of heading Nos 8202 to 8205 may be incorporated into the set provided

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		their value does not exceed 15% of the ex-works price of the set
8207	Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning, or screwdriving), including dies for drawing or extruding metal, and rock drilling or earth boring tools	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
8208	Knives and cutting blades, for machines or for mechanical appliances	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading No 8208	Manufacture in which all the materials used are classified within a heading other than that of the product. However, knife blades and handles of base metal may be used
8214	Other articles of cutlery (for example, hair clippers, butchers' or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture in which all the materials used are classified within a heading other than that of the product. However, handles of base metal may be used
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware	Manufacture in which all the materials used are classified within a heading other than that of the product. However, handles of base metal may be used
ex Chapter 83	Miscellaneous articles of base metal; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 8302	Other mountings, fittings and similar articles suitable for buildings, and automatic door closers	Manufacture in which all the materials used are classified within a heading other than that of the product. However, the other materials of heading No 8302 may be used provided their value does

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex 8306	Statuettes and other ornaments, of base metal	not exceed 20% of the ex-works price of the product Manufacture in which all the materials used are classified within a heading other than that of the product. However, the other materials of heading No 8306 may be used provided their value does not exceed 30% of the ex-works price of the product
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for:	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 8401	Nuclear fuel elements	Manufacture in which all the materials used are classified within a heading other than that of the product ¹
8402	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super heated water boilers	¹ This rule shall apply until 31 December 2005" Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
8403 and ex 8404	Central heating boilers other than those of heading No 8402 and auxiliary plant for central heating boilers	Manufacture in which all the materials used are classified within a heading other than heading No 8403 or 8404
8406	Steam turbines and other vapour turbines	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
		the product		
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product		
8409	Parts suitable for use solely or principally with the engines of heading No 8407 or 8408	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product		
8411	Turbo-jets, turbo propellers and other gas turbines	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 		
8412	Other engines and motors	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product		
ex 8413	Rotary positive displacement pumps	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 		
ex 8414	Industrial fans, blowers and the like	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 		
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity,	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of		
	including those machines in which the humidity cannot be separately regulated	the product		
8418	Refrigerators, freezers and other	Manufacture in which:		

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(1)	(2)	(3) or (4)
ex 8419	refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading No 8415	<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product; - the value of all the non-originating materials used does not exceed the value of the originating materials used
ex 8419	Machines for wood, paper pulp and paperboard industries	<p>Manufacture:</p> <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor	<p>Manufacture:</p> <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product
8423	Weighing machinery (excluding balances of a sensitivity of 5 cg or better), including weight operated counting or checking machines; weighing machine weights of all kinds	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	(4)
8425 to 8428	Lifting, handling, loading or unloading machinery	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 8431 are only used up to a value of 10% of the ex-works price of the product	
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels excavators, shovel loaders, tamping machines and road rollers: - Road rollers	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
	- Other	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 8431 are only used up to a value of 10% of the ex-works price of the product	
8430	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; where, within the above limit, the value of the materials classified within	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
		heading No 8431 are only used up to a value of 10% of the ex-works price of the product
ex 8431	Parts suitable for use solely or principally with road rollers	- Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds	- Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product
8444 to 8447	Machines of these headings for use in the textile industry	- Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 8448	Auxiliary machinery for use with machines of headings Nos 8444 and 8445	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8452	Sewing machines, other than book-sewing machines of heading No 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles:	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
	- Sewing machines (lock stitch only) with heads of a weight not exceeding 16 kg without motor or 17 kg with motor	Manufacture:	- in which the value of all the materials used does not exceed 40% of the ex-works price of the product;
			- where the value of all the non-originating materials used in assembling the head (without motor) does not exceed the value of the originating materials used;
			- the thread tension, crochet and zigzag mechanisms used are already originating
	- Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
8456 to 8466	Machine-tools and machines and their parts and accessories of headings Nos 8456 to 8466	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
8469 to 8472	Office machines (for example, typewriters, calculating machines, automatic data processing machines, duplicating machines, stapling machines)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product	
8482	Ball or roller bearings	Manufacture in which:	- all the materials used are classified within a heading other than that of the product;
			- the value of all the materials used does not exceed 40% of the ex-works price of the product
8484	Gaskets and similar joints of metal sheeting combined with other material or	Manufacture in which the value of all the materials used does not	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals	exceed 40% of the ex-works price of the product
8485	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles; except for:	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of – the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
8501	Electric motors and generators (excluding generating sets)	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 8503 are only used up to a value of 10% of the ex-works price of the product
8502	Electric generating sets and rotary converters	Manufacture: <p>in which the value of all the materials used does not exceed 40% of the ex-works price of the product; where, within the above limit, the materials classified within heading No 8501 or 8503, taken together are only used up to a value of 10% of the ex-works price of the</p> <p style="text-align: center;">product</p>
ex 8504	Power supply units for automatic data-processing machines	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex 8518	Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; audio-frequency electric amplifiers; electric sound amplifier sets	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8519	Turntables (record-decks), record-players, cassette-players and other sound reproducing apparatus, not incorporating a sound recording device	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8520	Magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8521	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8522	Parts and accessories suitable for use solely or principally with the apparatus of heading Nos 8519 to 8521	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8524	Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of chapter 37: - Matrices and masters for the production of records - Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 8523 are only used up to a value of 10% of the ex-works price of the product
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video camera recorders	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
8527	Reception apparatus for radio-telephony, radio-telegraphy or radio broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	used does not exceed the value of the originating materials used Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used	
8528	Reception apparatus for television, whether or not incorporating radio broadcast receivers or sound or video recording or reproducing apparatus; video monitors and video projectors	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used	
8529	Parts suitable for use solely or principally with the apparatus of heading Nos 8525 to 8528 - Suitable for use solely or principally with video recording or reproducing apparatus - Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product Manufacture: - in which the value of all the materials used does not exceed 4% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used	
8535 and 8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits	Manufacture: - in which the value of all the materials used does not	

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(1)	(2)	(3) or (4)
		exceed 40% of the ex-works price of the product; - where within the above limit, the materials classified within heading No 8538 are only used up to a value of 10% of the ex-works price of the product
8537	Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading No 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading No 8517	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where within the above limit, the materials classified within heading No 8538 are only used up to a value of 10% of the ex-works price of the product
ex 8541	Diodes, transistors and similar semiconductor devices, except wafers not yet cut into chips	Manufacture in which: - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
8542	Electronic integrated circuits and microassemblies	Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 8541 or 8542, taken together, are only used up to a value of 10% of the ex-works price of the product
8544	Insulated (including enameled or anodised) wire, cable (including coaxial	Manufacture in which the value of all the materials used does not

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	exceed 40% of the ex-works price of the product
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8547	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating materials apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly other than insulators of heading No 8546; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8548	Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 86	Railway or tramway locomotives, rolling-stock and parts thereof; railway or tramway track fixtures and fittings and parts thereof; mechanical (including electro-mechanical) traffic signaling equipment of all kinds; except for:	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signaling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used doesnot exceed 40% of the ex-works price of the

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex Chapter 87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof; except for:	product Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 	
8710	Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 	
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars: <ul style="list-style-type: none"> - With reciprocating internal combustion piston engine of a cylinder capacity: - Not exceeding 50 cc 	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used 	
	<ul style="list-style-type: none"> - Exceeding 50 cc 	Manufacture:	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	- Other	<ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
Ex 8712	Bicycles without ball bearings	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
8715	Baby carriages and parts thereof	Manufacture from materials not classified in heading No 8714 Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
8716	Trailers and semitrailers; other vehicles, not mechanically propelled; parts thereof	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 88	Aircraft, spacecraft, and parts thereof; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 8804	Rotocrafts	Manufacture from materials of any heading including other materials of

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	heading No 8804 Manufacture in which all the materials used are classified within a heading other than that of the product
Chapter 89	Ships, boats and floating structures	Manufacture in which all the materials used are classified within a heading other than that of the product. However, hulls of heading No 8906 may not be used
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof; except for:	Manufacture in which: all the materials used are classified within a heading other than that of the product; the value of all the materials used does not exceed 40% of the ex-works price of the product
9001	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading No 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9004	Spectacles, goggles and the like, corrective, protective or other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 9005	Binoculars, monoculars, other optical telescopes, and mountings therefor, except for astronomical refracting telescopes and mountings therefor	Manufacture in which: - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product; - the value of all the non-originating materials used

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4) does not exceed the value of the originating materials used
ex 9006	Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than electrically ignited flashbulbs	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product; - the value of all the non-originating materials used does not exceed the value of the originating materials used
9007	Cinematographic cameras and projectors, whether or not incorporating sound recording or reproducing apparatus	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product; - the value of all the non-originating materials used does not exceed the value of the originating materials used
9011	Compound optical microscopes, including those for photomicrography, cinephotomicrography or microprojection	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product; - the value of all the non-originating materials used does not exceed the value of the originating materials used

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
ex 9014	Other navigational instruments and appliances	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses, rangefinders	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
9016	Balances of a sensitivity of 5 cg or better, with or without weights	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
9017	Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs, protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this Chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product	
9018	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments:		
	- Dentists' chairs incorporating dental appliances or dentists' spittoons	Manufacture from materials of any heading, including other materials of heading No 9018	
	- Other	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product 	
9019	Mechano-therapy appliances; massage	Manufacture in which:	

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	apparatus; psychological aptitude-testing apparatus ; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus	<ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
9020	Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters	<p>Manufacture in which:</p> <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
9024	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9025	Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No 9014, 9015, 9028 or 9032	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
9028	Gas, liquid or electricity supply or production meters, including calibrating meters therefor: - Parts and accessories - Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product Manufacture: - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
9029	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading Nos 9014 or 9015; stroboscopes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading No 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionizing radiations	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter; profile projectors	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9032	Automatic regulating or controlling instruments and apparatus	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9033	Parts and accessories (not specified or included elsewhere in this Chapter) for machines, appliances, instruments or apparatus of Chapter 90	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 91	Clocks and watches and parts thereof;	Manufacture in which the value of

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	except for:	all the materials used does not exceed 40% of the ex-works price of the product
9105	Other clocks	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
9109	Clock movements, complete and assembled	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where the value of all the non-originating materials used does not exceed the value of the originating materials used
9110	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	Manufacture: <ul style="list-style-type: none"> - in which the value of all the materials used does not exceed 40% of the ex-works price of the product; - where, within the above limit, the materials classified within heading No 9114 are only used up to a value of 10% of the ex-works price of the product
9111	Watch cases and parts thereof	Manufacture: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
9112	Clock cases and cases of a similar type for other goods of this Chapter, and parts	Manufacture: <ul style="list-style-type: none"> - all the materials used are

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
	thereof	classified within a heading other than that of the product; - the value of all the materials used does not exceed 40% of the ex-works price of the product
9113	Watch straps, watch bands and watch bracelets, and parts thereof:	Manufacture in which the value of all the materials used does not exceed 30% of the ex-works price of the product
	- of base metal, whether or not gold- orsilver-plated, or of metal clad withprecious metal	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
	- Other	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
Chapter 93	Arms and ammunition; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 94	Furniture; bedding, mattresses, mattress supports, cushions and similar stuffed furnishings; lamps and lighting fittings, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like; prefabricated buildings; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product
ex 9401 and ex 9403	Base metal furniture, incorporating unstuffed cotton cloth or a weight of 300 g/m ² or less	Manufacture in which all the materials used are classified in a heading other than that of the product

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status		
(1)	(2)	(3)	or	(4)
		or Manufacture from cotton cloth already made up in a form ready for use of heading No 9401 or 9403, provided: -its value does not exceed 25% of the ex-works price of the product; -all the other materials used are already originating and are classified in a heading other than heading No 9401 or 9403		
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product		
9406	Prefabricated buildings	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product		
ex Chapter 95	Toys, games and sports requisites; parts and accessories thereof; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product		
9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds	Manufacture in which: <ul style="list-style-type: none"> - all the materials used are classified within a heading other than that of the product; - the value of all the materials used does not exceed 50% of the ex-works price of the product 		
ex 9506	Golf clubs and parts thereof	Manufacture in which all the materials used are classified within a heading other than that of the product. However, roughly shaped blocks for making golf club heads may be used		
ex Chapter 96	Miscellaneous manufactured articles; except for:	Manufacture in which all the materials used are classified within a heading other than that of the product		

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status
(1)	(2)	(3) or (4)
ex 9601 and ex 9602 ex 9603	Articles of animal, vegetable or mineral carving materials Brooms and brushes (except for besoms and the like and brushes made from marten or squirrel hair), hand-operated mechanical floor sweepers, not motorized, paint pads and rollers, squeegees and mops	Manufacture from “worked” carving materials of the same heading Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule, which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided their total value does not exceed 15% of the ex-works price of the set
9606	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture in which : - all the materials use are classified within a heading other than that of the product - the value of all the materials used does not exceed 50% of the ex-works price of the product
9608	Ball-points pens; felt-tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; penholders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading No 9609	Manufacture in which all the materials used are classified within a heading other than that of the product. However, nibs or nib-points classified within the same heading may be used
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture in which : - all the materials used are classified within a heading other than that of the product - the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 9613	Lighters and piezo-igniter	Manufacture in which the value of all the materials of the heading No 9613 used does not exceed 30% of the ex-works price of the product
ex 9614	Smoking pipes and pipe bowls	Manufacture from roughly shaped

HS Heading no	Description of product	Working or Processing carried out on non-originating materials that confers originating status	
(1)	(2)	(3)	or (4)
Chapter 97	Works of art, collectors' pieces and antiques	blacks	Manufacture in which all the materials used are classified within a heading other than that of the product

ANNEX III TO FOURTH SCHEDULE

Form for movement certificate

1. Movement certificates EUR.1 shall be made out on the form of which a specimen appears in this Annex. This form shall be printed in one or more of the languages in which the Agreement is drawn up. Certificates shall be made out in one of these languages and in accordance with the provisions of the domestic law of the exporting State if they are handwritten, they shall be completed in ink and in capital letters.
2. Each certificate shall measure 210 x 297mm, a tolerance of up to plus 8mm or minus 5mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 25g/m². It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.
3. The exporting States may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

MOVEMENT CERTIFICATE

1. Exporter (name, full address, country)	EUR.1 No A 000.000	
	See notes overleaf before completing this form	
3. Consignee (name, full address, country) (Optional)	2. Certificate used in preferential trade between	
	and	
	(insert appropriate countries, groups of countries or territories)	
	4. Country, group of countries or territory in which the products are considered as originating	5. Country, group of countries or territory of destination
6. Transport details (Optional)	7. Remarks	
8. Item number; Marks and numbers; Number and kind of package (1); Description of goods		9. Gross mass (kg) or other measure (litres,m ³ ,etc.)
		10. Invoices (Optional)
11. CUSTOMS ENDORSEMENT Declaration certified Export document (2)No Form..... Customs office Issuing country or territory Date (Signature)		12. DECLARATION BY THE EXPORTER I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate. Place and date (Signature)
Stamp		

(1) If goods are not packed, indicate number of articles or state "In bulk" as appropriate
 (2) Complete only where the regulations of the exporting country or territory require

<p>13. Request for verification, to:</p>	<p>14. Result of verification Verification carried out shows that this certificate ()</p>
<p>Verification of the authenticity and accuracy of this certificate is requested</p> <p>..... (Place and date)</p> <p>..... Stamp</p> <p>..... (Signature)</p>	<p><input type="checkbox"/> was issued by the customs office indicated and that the information contained therein is accurate.</p> <p><input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended).</p> <p>..... (Place and date)</p> <p>..... Stamp</p> <p>..... (Signature)</p> <p>() Insert X in the appropriate box.</p>

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

APPLICATION FOR A MOVEMENT CERTIFICATE

1. Exporter <i>(name, full address, country)</i>	<p style="text-align: center;">EUR.1 No A 000.000</p> <p style="text-align: center;">See notes overleaf before completing this form</p>	
	2. Application for a certificate to be used in preferential trade between <p style="text-align: center;">and</p> <p style="text-align: center;"><i>(insert appropriate countries or groups of countries or territories)</i></p>	
3. Consignee <i>(name, full address, country) (Optional)</i>	4. Country, group of countries or territory in which the products are considered as originating	5. Country, group of countries or territory of destination
	7. Remarks	
6. Transport details <i>(Optional)</i>		
8. Item number; Marks and numbers; Number and kind of packages (°); Description of goods	9. Gross mass (kg) or other measure (litres,m ³ ,etc.)	10. Invoices <i>(Optional)</i>

(1) If goods are not packed, indicate number of articles or state "In bulk" as appropriate

DECLARATION BY THE EXPORTER

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enabled these goods to meet the above conditions:

.....
.....
.....
.....
.....

SUBMIT the following supporting documents: (1)

.....
.....
.....
.....
.....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

.....
(Place and date)

.....
(Signature)

(1) For example, import documents, movement certificates, manufacturer's declarations, etc. referring to the products used in manufacture or to the goods re-exported in the same state.

ANNEX IV TO FOURTH SCHEDULE

Invoice declaration

The invoice declaration, the text of which is given below, must be made out in accordance with the footnotes. However, the footnotes do not have to be reproduced.

“The exporter of the products covered by this document (Customs authorisation No ...⁽¹⁾) declares that, except where otherwise clearly indicated, these products are of ...⁽²⁾ preferential origin.”

.....
(Place and date)⁽³⁾

.....
(Signature of the exporter; in addition
the name of the person signing the
declaration has to be indicated in clear
script)⁽⁴⁾

1 When the invoice declaration is made out by an approved exporter within the meaning of section 22 of this Schedule, the authorization number of the approved exporter must be entered in this space. When the invoice declaration is not made out by an approved exporter, the words in brackets shall be omitted or the space left blank.

2 Origin of products to be indicated. When the invoice declaration relates in whole or in part, to products originating in Ceuta and Melilla, the exporter must clearly indicate them in the document on which the declaration is made out by means of the symbol "CM".

3 These indications may be omitted if the information is contained on the document itself.

4 See section 21(5) of this Schedule. In cases where the exporter is not required to sign, the exemption of signature also implies the exemption of the name of the signatory.

ANNEX V A TO FOURTH SCHEDULE

Supplier declaration for products having preferential origin status

I, the undersigned, declare that the goods listed on this invoice

.....
(1)

were produced in(2) and satisfy the rules of origin governing preferential trade between the CARIFORUM States and the EC Party.

I undertake to make available to the Customs authorities, if required, evidence in support of this declaration.

.....
 (3)

.....(4)
(5)

Note

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration. The footnotes do not have to be reproduced.

(1) - If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows:"..... listed on this invoice and marked

.....were produced"

- If a document other than an invoice or an annex to the invoice is used (see Article 27(3)), the name of the document concerned shall be mentioned instead of the word "invoice"

(2) The EC Party, Member State, CARIFORUM State, OCT or other ACP State. Where a CARIFORUM State, an OCT or another ACP State is given, a reference must also be made to the EC Party customs office holding any EUR.1 (s) concerned, giving the No of the certificate(s) concerned and, if possible, the relevant customs entry No involved.

(3) Place and date

(4) Name and function in company

(5) Signature

ANNEX V B TO FOURTH SCHEDULE

Supplier declaration for products not having preferential origin status

I, the undersigned, declare that the goods listed on this invoice(1) were produced in(2) and incorporate the following components or materials which do not have a CARIFORUM State, EC Party, OCT or other ACP State origin for preferential trade:

.....(3)
 (4)(5)

(6)

I undertake to make available to the Customs authorities, if required, evidence in support of this declaration.

.....(7)(8)
(9)

Note

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration. The footnotes do not have to be reproduced.

- (1) - If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows:"..... listed on this invoice and markedwere produced"
- If a document other than an invoice or an annex to the invoice is used (see section 27(3)), the name of the document concerned shall be mentioned instead of the word "invoice"
- (2) The EC Party, Member State, CARIFORUM State, OCT or other ACP State.
- (3) Description is to be given in all cases. The description must be adequate and should be sufficiently detailed to allow the tariff classification of the goods concerned to be determined.
- (4) Customs values to be given only if required
- (5) Country of origin to be given only if required. The origin to be given must be a preferential origin, all other origins to be given as "third country".
- (6) "and have undergone the following processing in [the EC Party] [Member State] [CARIFORUM State] [OCT] [other ACP State], to be added with a description of the processing carried out if this information is required.
- (7) Place and date
- (8) Name and function in company
- (9) Signature

ANNEX VI TO FOURTH SCHEDULE

Information certificate

1. The form of information certificate given in this Annex shall be used and be printed in one or more of the official languages in which the Agreement is drawn up and in accordance with the provisions of the domestic law of the exporting State. Information certificates shall be completed in one of those languages; if they are handwritten, they shall be completed in ink in capital letters. They shall bear a serial number, whether or not printed, by which they can be identified.
2. The information certificate shall measure 210 x 297mm, a tolerance of up to plus 8mm or minus 5mm in the length may be allowed. The paper must be white, sized for writing, not containing mechanical pulp and weighing not less than 25g/m².
3. The national administrations may reserve the right to print the forms themselves or may have them printed by printers approved by them. In the latter case, each form must include a reference to such approval. The forms shall bear the name and address of the printer or a mark by which the printer can be identified.

1. Supplier(1) 2. Consignee (1) 3. Processor (1) 6. Customs office of importation (1) 7. Import document (2) Form No Series..... Date: <input type="text"/> <input type="text"/> <input type="text"/>		INFORMATION CERTIFICATE to facilitate the issue of a MOVEMENT CERTIFICATE for preferential trade between the <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> EUROPEAN COMMUNITY </div>		
		4. State in which the working or processing has been carried out		
		5. For official use		
GOODS SENT TO THE MEMBER STATES OF DESTINATION				
8. Marks, numbers, quantity and kind of package		9. Harmonised Commodity Description and Coding System heading/subheading number (HS code)		10. Quantity (1)
				11. Value (4)
IMPORTED GOODS USED				
12. Harmonised Commodity Description and Coding System heading/subheading number (HS code)			13. Country of origin	14. Quantity (3)
				15. Value (3)(5)
16. Nature of the working or processing carried out				
17. Remarks				
18. CUSTOMS ENDORSEMENT Declaration certified: Document Form No..... Customs office Date: <input type="text"/> <input type="text"/> <input type="text"/> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> Official Stamp </div> (Signature)			19. DECLARATION BY THE SUPPLIER I, the undersigned, declare that the information on this certificate is accurate. (Place) <input type="text"/> <input type="text"/> <input type="text"/> (Date) (Signature)	

(1)(2)(3)(4)(5) See footnotes on verso

<p>REQUEST FOR VERIFICATION The undersigned customs official requests verification of the authenticity and accuracy of this information certificate.</p> <p>_____</p> <p>(Place and date)</p> <p>Official stamp</p> <p>_____</p> <p>(Official's signature)</p>	<p>RESULT OF VERIFICATION Verification carried out by the undersigned customs official shows that this information certificate:</p> <p>a) was issued by the customs office indicated and that the information contained therein is accurate (*)</p> <p>b) does not meet the requirements as to authenticity and accuracy (see notes appended) (*)</p> <p>_____</p> <p>(Place and date)</p> <p>Official stamp</p> <p>_____</p> <p>(Official's signature)</p> <p>(*) Delete where not applicable</p>
---	---

CROSS REFERENCES

- (1) Name of individual or business and full address.
- (2) Optional information.
- (3) Kg, hl, m³ or other measure.
- (4) Packaging shall be considered as forming a whole with the goods contained therein. However, this provision shall not apply to packaging which is not of the normal type for the article packed, and which has a lasting utility value of its own, apart from its function as packaging.
- (5) The value must be indicated in accordance with the provisions on rules of origin.

ANNEX VII TO FOURTH SCHEDULE

Form for application for a derogation

1. Commercial description of the finished product 1.1 Customs classification (HS code)	2. Anticipated annual quantity of exports to the EC Party (weight, No of pieces, meters or other unit)
3. Commercial description of third country materials Customs classification (HS code)	4. Anticipated annual quantity of third country materials to be used
5. Value of third country materials	6. Value of finished products
7. Origin of third country materials	8. Reasons why the rule of origin for the finished product cannot be fulfilled
9. Commercial description of materials originating in States or territories referred to in Articles 3 and 4	10. Anticipated annual quantity of materials originating in States or territories referred to in Articles 3 and 4 to be used
11. Value of materials originating in States or territories referred to in Articles 3 and 4	12. Working or processing carried out in States or territories referred to in Articles 3 and 4 on third country materials without obtaining origin
13. Duration requested for derogation from..... to.....	14. Detailed description of working and processing in the CARIFORUM States:
15. Capital structure of the firm concerned	16. Amount of investments made/foreseen
17. Staff employed/expected	18. Value added by the working or processing in the CARIFORUM States: 18.1 Labour: 18.2 Overheads: 18.3 Others:
19. Other possible sources of supply for materials	20. Possible developments to overcome the need for a derogation
21. Observations	

NOTES

1. If the boxes in the form are not sufficient to contain all relevant information, additional pages may be attached to the form. In this case, the mention "see annex" shall be entered in the box concerned.
2. If possible, samples or other illustrative material (pictures, designs, catalogues, etc) of the final product and of the materials should accompany the form.
3. A form shall be completed for each product covered by the request.

Boxes 3, 4, 5, 7: "third country" means any country or territory which is not referred to in Articles 3 and 4.

Box 12: If third country materials have been worked or processed in the States or territories referred to in Articles 3 and 4 without obtaining origin, before being further processed in the CARIFORUM State requesting the derogation, indicate the working or processing carried out in the States or territories referred to in Articles 3 and 4.

Box 13: The dates to be indicated are the initial and final one for the period in which EUR 1 certificates may be issued under the derogation.

Box 18: Indicate either the percentage of added value in respect of the ex-works price of the product or the monetary amount of added value for unit of product.

Box 19: If alternative sources of material exist, indicate here what they are and, if possible, the reasons of cost or other reasons why they are not used.

Box 20: Indicate possible further investments or suppliers' differentiation which make the derogation necessary for only a limited period of time.

ANNEX VIII TO FOURTH SCHEDULE

Neighbouring developing countries

For the implementation of section 5 of Schedule Four the expression "neighbouring developing country" shall refer to the following list of countries:

- *Colombia;*
- *Costa Rica;*
- *Cuba;*
- *El Salvador;*
- *Guatemala;*
- *Honduras;*
- *Nicaragua;*
- *Panama;*
- *Venezuela;*
- *Mexico.*

ANNEX IX TO FOURTH SCHEDULE

Overseas countries and territories

Within the meaning of this Protocol "overseas countries and territories" shall mean the countries and territories referred to in Part Four of the Treaty establishing the European Community listed below:

(This list does not prejudice the status of these countries and territories, or future changes in their status.)

1. Country having special relations with the Kingdom of Denmark:
XXXII. Greenland.

2. Overseas territories of the French Republic:

XXXIII. New Caledonia,
XXXIV. French Polynesia,
XXXV. French Southern and Antarctic Territories,
XXXVI. Wallis and Futuna Islands.

3. Territorial collectivities of the French Republic:

XXXVII. Mayotte,
XXXVIII. Saint Pierre and Miquelon.

4. Overseas countries of the Kingdom of the Netherlands:

XXXIX. Aruba,
XL. Netherlands Antilles:
= Bonaire,
= Curaçao,
= Saba,
= Sint Eustatius,
= Sint Maarten.

5. British overseas countries and territories:

XLI. Anguilla,
XLII. Cayman Islands,
XLIII. Falkland Islands,
XLIV. South Georgia and South Sandwich Islands,
XLV. Montserrat,
XLVI. Pitcairn,
XLVII. Saint Helena, Ascension Island, Tristan da Cunha

XLVIII. British Antarctic Territory,
XLIX. British Indian Ocean Territory,
L. Turks and Caicos Islands,
LI. British Virgin Islands.

ANNEX X TO FOURTH SCHEDULE

HS/CN-code	Description
1701 1702	Cane or beet sugar and chemically pure sucrose, in solid form Sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel (excl. cane or beet sugar and chemically pure sucrose)
ex 1704 90 corresponding to 1704 90 99	Sugar confectionery, not containing cocoa (excl. chewing gum; liquorice extract containing more than 10% by weight of sucrose but not containing other added substances; white chocolate; pastes, including marzipan, in immediate packings of a net content of 1 kg or more; throat pastilles and cough drops; sugar-coated (panned) goods; gum confectionery and jelly confectionery, including fruit pastes in the form of sugar confectionery; boiled sweets; toffees, caramels and similar sweet; compressed tablets)
ex 1806 10 corresponding to 1806 10 30	Cocoa powder, containing 65% or more but less than 80% by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose
ex 1806 10 corresponding to 1806 10 90 ex 1806 20 corresponding to 1806 20 95	Cocoa powder, containing 80% or more by weight of sucrose (including invert sugar expressed as sucrose) or isoglucose expressed as sucrose Food preparations containing cocoa in blocks, slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg (excl. cocoa powder, preparations containing 18% or more by weight of cocoa butter or containing a combined weight of 25 % or more of cocoa butter and milkfat; chocolate milk crumb; chocolate flavour coating; chocolate and chocolate products; sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa; spreads containing cocoa; preparations containing cocoa for making beverages)
ex 1901 90 corresponding to 1901 90 99	Food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing

HS/CN-code	Description
ex 2101 12 corresponding to 2101 12 98	less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included (excl. food preparations containing no or less than 1,5% milkfat, 5% sucrose (including invert sugar) or isoglucose, 5% glucose or starch; food preparations in powder form of goods of headings 0401 to 0404; preparations for infant use, put up for retail sale; mixes and doughs for the preparations of bakers' wares of heading 1905) Preparations with a basis of coffee (excl. extracts, essences and concentrates of coffee and preparations with a basis of these extracts, essences or concentrates)
ex 2101 20 corresponding to 2101 20 98 ex 2106 90 corresponding to 2106 90 59 ex 2106 90 corresponding to 2106 90 98	Preparations with a basis of tea or maté (excl. extracts, essences and concentrates of tea or maté and preparations with a basis of these extracts, essences or concentrates) Flavoured or coloured sugar syrups (excl. isoglucose syrups, lactose syrup, glucose syrup and maltodextrine syrup)
ex 3302 10 corresponding to 3302 10 29	Food preparations not elsewhere specified or included (excl. protein concentrates and textured protein substances; compound alcoholic preparations, other than those based on odoriferous substances, of a kind used for the manufacture of beverages; flavoured or coloured sugar syrups; preparations containing no or less than 1,5% milkfat, 5% sucrose or isoglucose, 5% glucose or starch) Preparations based on odoriferous substances, of a kind used in the drink industries, containing all flavouring agents characterising a beverage and with an actual alcoholic strength by volume not exceeding 0,5 % (excl. preparations containing no or less than 1,5% milkfat, 5% sucrose or isoglucose, 5% glucose or starch)

ANNEX XI TO FOURTH SCHEDULE

ACP States

Within the meaning of this Protocol “other ACP States” shall mean the States listed below:

- Angola
- Benin
- Botswana
- Burkina Faso
- Burundi
- Cameroun
- Cape Verde
- Central African Republic
- Chad
- Cook Islands
- Comoros
- Ivory Coast
- Democratic Republic of Congo
- Djibouti
- Equatorial Guinea
- Eritrea
- Ethiopia
- Federated States of Micronesia
- Fiji
- Gabon
- Gambia
- Ghana
- Guinea
- Guinea Bissau
- Kenya
- Kiribati
- Lesotho
- Liberia
- Madagascar
- Malawi
- Mali
- Marshall Islands
- Mauritania
- Mauritius
- Mozambique
- Namibia

- Nauru
- Niger
- Niue
- Nigeria
- Palau
- Papua New guinea
- Republic of Congo
- Rwanda
- Samoa
- Sao Tomé & Principe
- Senegal
- Seychelles
- Sierra Leone
- Solomon Islands
- Somalia
- Sudan
- Swaziland
- Tanzania
- Togo
- Tonga
- Tuvalu
- Uganda
- Vanuatu
- Zambia
- Zimbabwe

FIFTH SCHEDULE (Section 53)

CUSTOMS SEARCH WARRANT

To

In accordance with the Customs Management Act, you are hereby authorised to enter and search, by day or by night, any premises, in which you have reasonable grounds to believe that there are any uncustomed goods, or any books or documents relating to uncustomed goods; and if there be any part of the premises so entered, or any container therein, to which you are unable to obtain free access, you may enter such part, or open such container, in such manner as you may think necessary; and on any such entry you may seize, detain and carry away any uncustomed goods or any books or documents relating to uncustomed goods which may be found on such premises or in such containers and which you have reasonable grounds to believe are liable to forfeiture or may afford evidence of the commission of any offence against the Customs laws; and for all such purposes you may use all reasonable force and may require the assistance of, and take with you, other Customs officers or Police officers.

For all of which, this shall be your sufficient warrant.

Given under my hand and the seal of the Customs, this day of,
20 . . .

(Customs seal)

Comptroller of Customs

OBJECTS AND REASONS

The purpose of the Bill is to regulate the Customs protection of the economy of the Commonwealth of The Bahamas and the rights and obligations of persons or legal entities under it.

Clause 1 of the Bill empowers the minister to appoint a date for its enforcement.

Clause 2 defines key words and phrases used in the Bill.

Clauses 3, 4 and 5 provide for the general parameters of application, exceptions to the general parameters and for application outside the Customs territory.

Clause 6 identifies the Bahamas Customs Department as the Customs authority of The Bahamas and sets out its mission, duties and functions.

Clauses 7, 8 and 9 provide for the appointment and removal of the Comptroller, his general authority and powers including powers of delegation.

Clauses 10, 11 and 12 provide for the protection, independence and obligations of Customs officers, the requirement of identity cards and oaths and the Customs flag and symbol.

Clause 13 provides for the designation of Customs places by the Minister.

Clauses 14 through 18 provide for the licensing of Customs controlled areas and the application for, grant or refusal, variation, revocation, suspension and surrender of, a licence.

Clause 19 provides for the payment of duty upon the closing of a Customs controlled area.

Clauses 20 and 21 provide for the provision of Customs facilities by a licensee of a Customs controlled area and for the Comptroller to prescribe the circumstances and period within which no charges shall apply.

Clause 22 provides for patrols and surveillance by Customs officers.

Clause 23 provides for the landing or mooring of Customs craft within the Customs territory.

Clauses 24 through 26 empower a Customs officer to stop and board means of transport within the Customs territory, search means of transport and secure goods on board.

Clause 27 provides for the circumstances in which a Customs officer in charge of a Customs craft may fire on a vessel.

Clauses 28 and 29 provide for the detention of means of transport by the Customs authority and the search of vehicles by Customs officers.

Clauses 30 through 32 provide for the questioning of persons.

Clause 33 provides for the giving of evidence of identity and entitlement to travel to a Customs office.

Clauses 34 and 35 provide for the preliminary search of persons by use of aides and the detention and search of suspected persons.

Clauses 36 and 37 provide for access by Customs officers to Custom controlled areas and the search of premises within such areas.

Clause 38 provides for the examination of goods subject to Customs control.

Clause 39 provides for the examination of goods no longer subject to Customs control.

Clauses 40, 41 and 42 provide for the accounting for and production of goods and the verification of goods declarations.

Clauses 43 and 44 provide for securities for payment of duty and when Customs may require new securities.

Clause 45 empowers Customs officers to require Customs agents and representatives to produce written authority from their principal.

Clause 46 provides for the audit and examination of business records by Customs officers.

Clause 47 sets out the powers of Customs officers in relation to documents.

Clause 48 provides for legal privilege in respect of confidential communications.

Clauses 49 through 52 provide for the translation of documents in a foreign language, the possession and retention and copying

Clauses 53 through 56 provide for the retention of records, documents and goods, Customs, Magistrates', entry and search, and the production of search warrants

Clause 57 provides for the obligation to inform owner or occupier when things are seized

Clause 58 provides for emergency warrants

Clause 59 provides for Customs officers use of approved aids.

Clause 60 provides for the entry of buildings and the conditions applying thereto.

Clause 61 provides for the arrest of offenders.

Clause 62 provide for the arrest of offenders after escape from an officer.

Clause 63 provide for the power to require attendance of witnesses.

Clause 64 provides for the production of evidence and the power to require information.

Clause 65 provide for the detention of dangerous goods.

Clause 66 provide for the use of reasonable force and firearms

Clause 67 provide for goods subject to Customs control.

Clause 68 provide for Customs control principles.

Clause 69 provide for audit verification post-release.

Clause 70 through 71 provide for record keeping and access thereto.

Clause 72 provides for arrival notification.

Clause 73 provides for the answering of questions.

Clause 74 provides for bringing to a ship.

Clauses 75 through 76 provides for the means of transportation to a place other than designated Customs place.

Clause 77 provides for the control of pleasure and small craft.

Clause 78 provides for inward reports.

Clause 79 provides for vessel or aircraft commissioned by the Crown

Clauses 80 through 82 provides for persons arriving, disembarking and presentation of baggage in the Customs territory.

Clause 83 provides for the unloading of aircraft or vessels.

Clauses 84 through 85 provides for approval and conditions for entering and keeping goods in transit shed.

Clauses 86 through 87 provides for departure and embarkation from Customs place.

Clause 88 provides for the presentation of outgoing baggage.

Clause 89 through 90 provides for means of transport and certificate clearance

Clause 91 provides for boarding of Custom officers.

Clause 92 provides for the production of a certificate clearance.

Clause 93 provide for departure to be from Customs place only

Clause 94 provide regulations relating to stores of means of transportation

Clause 95 provides an obligation to clear goods from Customs places.

Clause 96 provides for pre-arrival declaration.

Clause 97 provides for fees and charges related to goods importation and exportation.

Clause 98 provides for owners of goods to make entries.

Clause 99 provide for any person to appoint an authorised agent..

Clause 100 empowers the authorised agent to act.

Clause 101 through 103 provides for the authorised, granting of status and implementing provisions for establishing authorised economic operators

Clauses 104 and 105 provides for the entry and regulations relating to the entry of goods for importation

Clause 106 provides for imported goods to be dealt with accordingly

Clause 107 provides for cancellation and amendments of goods declarations

Clause 108 provides means of transportation imported otherwise than as cargo

Clause 109 provides for samples and illustrations

Clause 110 provides for the transportation of imported goods

Clauses 111 through 112 provides for the removal and temporary removal of goods from Customs controlled area

Clauses 113 through 114 provide for the entry and regulations relating to entry of goods for exportation

Clause 115 provides for exportation of goods to be dealt with according to entry

Clause 116 provides for loading of goods for exportation

Clause 117 provides for keeping goods in temporary storage facilities

Clause 118 provides goods for export not to be landed

Clause 119 provides for exportation time

Clauses 120 through 122 provides for rules and conditions, settlement of disputes arising and application of the results of the examination of goods

Clauses 123 through 124 provides the application of Customs seals and conditions applying to goods for exportation

Clause 125 provides for secure exports scheme which the Comptroller may approve

Clauses 126 through 128 provides for matters to be specified, acknowledgements required, and goods to be exported in secure exports scheme

Clause 129 provides for goods to be exported under secure exports scheme which may be exported under drawback

Clauses 130 and 31 provide for the application of Customs seals and review of goods to be exported under secure exports scheme

Clause 132 provides for the transshipment of goods

Clause 133 provides the definition of coasting trade

Clauses 134 through 135 identifies provisions relating to vessels and aircraft from places outside the Customs territory and limits on coasting trade

Clauses 136 through 137 provides for the clearance of coasting vessels and aircraft and coastwise passengers

Clauses 138 through 139 identifies cargo bookings and the examination of goods in coasting vessels

Clauses 140 through 141 provides exemption of goods for personal use from duties of goods imported and duties and taxes of exported goods

Clauses 142 through 143 provides application of Tariff Act and Tariff Act to goods as presented

Clauses 144 through 145 provide for the use of the harmonised system and appeals to classification decisions

Clause 146 provides the declarant to specify customs value on goods declarations

Clauses 147 through 149 defines the amendment of customs value, implementing provisions and foreign currency

Clause 150 provides the rules for the determination of preferential tariff provisions.

Clause 151 provides the conditions precedent to entry of goods at preferential rates of duty

Clause 152 provides unsubstantiated and incorrect preference claims

Clause 153 provides for cooperation among customs authorities.

Clauses 154 through 161 provides for the assessment and recovery of duty, ie. Duty on imported goods, additional duty imposed, rate of duty, assessment, amendment of assessment, due date for payment, assessment presumed to be correct and payment of duty

Clause 162 provide for goods remaining on board and exported

Clause 163 provide for goods entered in bond for transshipment, export or stores

Clause 164 provides for goods arriving otherwise than cargo, stores or baggage

Clause 165 identifies the obligation to pay duty not suspended by appeal

Clause 166 provides for customs authority to pay interest on duty refunded on appeal

Clause 167 provides limitation of time for amendment of assessments

Clause 168 defines the meaning of “related”.

Clause 169 provides for a charge on goods until duty paid.

Clause 170 provides for recovery of unpaid duty.

Clause 171 provides the rights and duties of Customs authority in recovery of duty.

Clause 172 identifies the release of goods subject to duty.

Clauses 173 through 174 examines liability for duty on goods wrongly removed or missing and for duty of goods unlawfully landed

Clause 175 provides for the effect of payment of duty by one on liability of the other

Clause 176 provides for incidence of altered duties

Clause 177 identifies reimportation of goods exported

Clause 178 provides for Importer, etc., leaving The Bahamas

Clause 179 defines the application of duties

Clause 180 examines goods exported in other than normal package

Clause 181 defines goods subject to ad valorem duty

Clause 182 provide that Customs may refund duty paid in error

Clause 183 provide for refunds and remission of duty

Clause 184 provide for the power to apply refunds towards payment of other Customs debt

Clause 185 identifies recovery of duty refunded in error

Clause 186 provide for goods temporarily imported

Clauses 187 and 188 provide for drawbacks of duty on certain goods and those which do not apply to safeguard measures

Clause 189 identifies categories of warehouses and effects of warehousing

Clause 190 provides for authorised goods, prohibited goods and other restrictions

Clauses 191 and 192 provide for licensing of bonded warehouses and entry of goods in bonded warehouses

Clauses 193 and 194 provide for maintenance and loss or deterioration of goods

Clause 195 empowers the removal of goods from bonded warehouses

Clause 196 provides for the payment of duty

Clause 197 defines prior authorisation and conditions of use of the regime

Clause 198 provides for the payment of duty

Clause 199 defines prior authorisation and conditions of use of the regime

Clause 200 provides for the depositing of goods in Customs warehouses

Clause 201 provides for sale by public auction of goods deposited in Customs warehouses

Clause 202 provides a definition of free zone.

Clause 203 provides for establishment of free zones.

Clause 204 identifies authorised goods, prohibited goods and other restrictions

Clause 205 defines authorised operations

Clause 206 examine the entry and removal of goods

Clause 207 provides for the payment of duty

Clauses 208 and 209 identifies prohibited and restricted imports and exports

Clause 210 provide for the production of licence/permit for goods

Clause 211 provide for goods in transit, for transshipment or as stores for vessel or aircraft

Clause 212 provides for Customs action against goods suspected of infringing certain intellectual property rights

Clause 213 provides for the application for action by the Customs authority

Clause 214 identifies the provision of security

Clause 215 provides for the suspension of clearance procedure

Clause 216 provides for the release of goods

Clause 217 provides for provisions applicable to goods found to infringe intellectual property rights

Clause 218 provides for the liability of the Customs authority and the right holder

Clause 219 provides application for Customs ruling

Clause 220 identify the making of Customs ruling

Clause 221 provides for the advance binding rulings

Clauses 222 and 223 provides for the notice and effect of customs rulings

Clause 224 empowers confirmation of basis of customs ruling

Clause 225 examines the amendment or revocation of customs ruling

Clause 226 provide for the cessation of customs ruling

Clause 227 provide no liability where customs ruling are relied on

Clause 228 provide appeal from rulings or decisions of customs authority and suspension of implementation

Clause 229 identifies rulings or decisions on appeal

Clauses 230 through 231 provide for customs penalty and the imposition of penalty

Clauses 232 through 233 provide no penalty in certain cases and/or general penalty

Clauses 234 through 290 provide for offences toward custom officers such as threatening or resisting, obstructing or interfering with property, carrying away, impersonation, bribery and collusion.

Clause 241 provides for unauthorised persons in certain customs areas.

Clauses 291 to 306 provide for forfeiture and seizure of goods.

Clauses 307 to 316 provide for legal matters.

Clauses 317 to 342 provide for Appeals on Customs rulings and decisions.

Clauses 343 to 358 provide for miscellaneous provisions.