
Committee on Customs Valuation

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inglés

**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON
IMPLEMENTATION OF ARTICLE VII OF THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994**

SEPARATE CUSTOMS TERRITORY OF TAIWAN,
PENGHU, KINMEN AND MATSU

The following notification¹, dated 24 May 2002, has been received from the Permanent Mission of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

Comité de l'évaluation en douane

**NOTIFICATION AU TITRE DE L'ARTICLE 22 DE L'ACCORD SUR LA
MISE EN ŒUVRE DE L'ARTICLE VII DE L'ACCORD GÉNÉRAL
SUR LES TARIFS DOUANIERS ET LE COMMERCE DE 1994**

TERRITOIRE DOUANIER DISTINCT DE TAIWAN,
PENGHU, KINMEN ET MATSU

La Mission permanente du Territoire douanier distinct de Taiwan, Penghu, Kinmen et Matsu a fait parvenir au Secrétariat la communication¹ ci-après, datée du 24 mai 2002.

Comité de Valoración en Aduana

**NOTIFICACIÓN DE CONFORMIDAD CON EL ARTÍCULO 22 DEL
ACUERDO RELATIVO A LA APLICACIÓN DEL ARTÍCULO VII
DEL ACUERDO GENERAL SOBRE ARANCELES ADUANEROS
Y COMERCIO DE 1994**

TERRITORIO ADUANERO DISTINTO DE TAIWÁN,
PENGHU, KINMEN Y MATSU

Se ha recibido de la Misión Permanente del Territorio Aduanero distinto de Taiwán, Penghu, Kinmen y Matsu la siguiente comunicación¹, de fecha 24 de mayo de 2002.

¹ In English only./ En anglais seulement./ En inglés solamente.

CUSTOMS LAW²

Promulgated on August 8, 1967. As Amended on July 17, 1968, August 24, 1971, July 27, 1974, July 16, 1976, December 8, 1978, July 18, 1979, February 6, 1980, August 30, 1980, May 6, 1983, January 4, 1985, January 30, 1986, June 29, 1986, July 22, 1991, May 7, 1997 and October 31, 2001.

N. B. In case of any discrepancy between this English translation and the Chinese text, the Chinese text shall prevail.

CHAPTER I GENERAL PROVISIONS

Article 1

The collection of customs duty and the clearance of goods shall be governed by this Law.

Article 2

"Customs duty" is defined as the import duty leviable on goods imported from abroad.

Article 3

Customs duty shall be collected by Customs either on an ad valorem basis or on a specific basis in accordance with the Customs Import Tariff under which different duty rates are classified into two columns, to goods imported from countries or areas having reciprocal treatment with the Republic of China and those having no such treatment. Countries and areas subject to each duty rate shall be listed by the Ministry of Finance, after consulting with the other government agencies concerned and being reported to the Executive Yuan for approval. The Executive Yuan shall then notify the Legislative Yuan of its approval for information. The Customs Import Tariff shall be separately promulgated after enactment through the legislative process.

The Ministry of Finance may establish a Customs Tariff Commission to study and review matters relating to the amendment of the Customs Import Tariff and the levy of special customs duty. The Commission's organization and nomination of its members shall be drawn up by the Ministry of Finance and reported to the Executive Yuan for approval. Staff members for the Commission shall be selected from employees within the statutory quota of the Ministry of Finance.

Article 4

The Customs Import Tariff may, with respect to specified imported goods, stipulate separate tariff rates for different quantities of such goods in order to implement tariff quotas.

Rules governing the methods of allocation, eligibility of application for allocation, collection of premiums, performance bonds, fees and charges and management for the tariff quotas referred to in

² In English only.

the preceding paragraph shall be prescribed by the Ministry of Finance, together with the authorities concerned, and shall be submitted to the Executive Yuan for approval.

Article 5

The duty-payer of the customs duty shall be the consignee of the imported goods, or the bearer of the bill of lading, or the holder of the imported goods, as the case may be.

Article 6

When a duty-payer, who is a legal person, a partnership or a non-legal body, is to be dissolved or liquidated, the liquidator shall, prior to the allocation of the remaining assets, pay customs duty, delinquent fees and fines sequentially according to law.

Any liquidator who violates the provisions of the preceding paragraph shall be liable to payment of the outstanding amount.

Article 7

The customs duty, delinquent fee or fine, levied in accordance with the provisions of this Law, but not collected within five years of the date on which such collection was finally determined, shall no longer be collected. However, this stipulation shall not apply to a case which has been referred to the court for enforced payment prior to the expiration of the five-year period and whose proceedings have not yet been concluded.

Where installment or deferred payments are approved after the collection has been finally determined, the aforesaid five-year period shall commence on the day following the expiration of the installment or deferred payments period.

The provisions of the preceding two paragraphs shall apply *mutatis mutandis* to all charges leviable under this Law.

Article 8

Required customs formalities, as well as import declarations, invoices and other relevant documents submitted by way of on-line transmission to customs computers, or via electronic data transmission, which are recorded on customs computer files, shall be deemed to have completed the formalities required in accordance with this Law.

Customs may, in considering the situation of the implementation of cargo clearance automation, request firms that conduct declaration, transportation, storage, container yard and other business regarding clearance to conduct business by on-line transmission or electronic data transmission.

Regulations governing registration, application procedure, management and any other required matters regarding on-line or transmission referred to in the preceding two paragraphs shall be prescribed by the Ministry of Finance.

Enterprises conducting business in transmitting cargo clearance information to Customs by way of on-line transmission or electronic data transmission of computers shall be subject to approval by the Ministry of Finance. Rules governing approval qualifications, capital requirements, business items, criteria for charges, examination of business hours and other required matters shall be prescribed by the Ministry of Finance.

Article 9

Except for disclosures to personnel or authorities set forth below, customs personnel shall keep confidential all customs declaration information provided to Customs by duty-payers or exporters of goods. Those in violation of this provision shall be subject to disciplinary action. Those accused of violation of the criminal law shall be handed over to the relevant authorities for investigation:

- (1) The duty-payer or the importer of the goods himself/herself or his/her successors;
- (2) The agent or attorney of the duty-payer or the importer of the goods;
- (3) Customs or tax collection authorities;
- (4) Control authorities;
- (5) Authorities which process appeals and/or litigation regarding customs matters;
- (6) Authorities which conduct investigations of cases involving customs matters as prescribed by law;
- (7) Other authorities or personnel which may request that Customs provide customs declaration information as prescribed by law; and
- (8) Authorities or personnel which have been approved by the Ministry of Finance.

The provisions of the preceding paragraph shall not apply where Customs supplies information to government authorities for statistical purposes that does not disclose the name of the duty-payer or importer of goods.

The provisions regarding disclosures by customs personnel in paragraph one shall apply *mutatis mutandis* in the event of a disclosure of information specified in paragraph one by authorities and personnel specified in items (3) to (8) of the same paragraph.

Article 10

Customs can proceed with post-clearance audit of the duty-payer, exporters, and related persons within two years from the date following the release of the imports and/or exports. According to the post-clearance audit result, any duty which is refundable or receivable shall be paid within three years from the date following the release date.

When Customs proceeds with the post-clearance audit referred to in the preceding paragraph, Customs may request the duty-payer, exporters or related persons to provide records, documents, accounting books and/or relevant files or data bases regarding the imports or exports, or notify such relevant persons to go to the office of Customs for inquiry, or designate officers to proceed with an investigation at the premises of such a person. The investigated person shall not evade, interrupt or refuse such an investigation.

The related person referred to in paragraph one means the enterprise operating the business of customs brokerage, transportation, storage, express delivery and any other business, groups or persons.

Upon proceeding with the post-clearance audit, Customs may request the relevant authorities and/or organizations to provide related information or other documents regarding the imports and exports.

Regulations governing the scope, procedure, required documents and other required matters regarding the post-clearance audit shall be prescribed by the Ministry of Finance.

Article 11

The regulations regarding clearance and management of importation and exportation under this Law shall apply *mutatis mutandis* to those of transshipment and transited goods.

CHAPTER II PROCEDURES GOVERNING CUSTOMS CLEARANCE

Section 1: Import Declaration and Examination

Article 12

Declaration of imported goods must be made to Customs by the duty-payer within fifteen days following the arrival date of the transportation means on which the goods were carried.

Exporters shall declare exported goods to Customs within the prescribed period, before the clearance or departure of the transportation means carrying such goods. Rules governing the declaration, examination and release shall be prescribed by the Ministry of Finance.

Goods referred to in the preceding two paragraphs may proceed with pre-entry declaration prior to importation or exportation. Rules governing the pre-entry declaration of goods shall be prescribed by the Ministry of Finance.

Article 13

Upon import declaration, an import declaration form shall be filled out and submitted along with a bill of lading, invoice, packing list and all other requisite import documents.

Upon export declaration, an export declaration form shall be filled out and submitted along with loading lists, booking notes, packing list, export permits and certificates of inspection required for examination and all other related documents.

The packing list, import or export permits and certificates of inspection required for examination and all other related documents referred to in the preceding two paragraphs may be submitted prior to the release.

Article 14

For the purpose of expediting clearance of imported goods, Customs may release the goods following examination and payment of duty, according to required declaration matters, then carrying out post-release scrutiny of those goods. Except for the duty-payer or related person who has been notified that the imports will be subject to a post-clearance audit, in accordance with Article 10, Customs shall notify the duty-payer of any refundable or recoverable duty found within six months following the released date of the goods. The payment of duty originally made shall be considered final after the expiry of this prescribed period.

For imported goods which are not examined and released with payment of duty under the provisions of the preceding paragraph, and for which Customs is unable to determine immediately the amount of duty payable, Customs may, at the request of the duty-payer, examine and release the goods by allowing the duty-payer to submit documents required for scrutiny and pay an appropriate deposit. Customs shall then conduct a post-release scrutiny in order to determine the amount of duty payable within six months following the release date, failing which the customs value declared by the duty-payer shall be accepted as the basis for determining the amount of customs duty payable.

Under any of the following circumstances, the imported goods shall not be released with payment of duty under the provisions of paragraph one. However, Customs may, at the request of the duty-payer, examine and release the goods by allowing him/her to pay an appropriate deposit and complete customs formalities within a prescribed period. The deposit shall be confiscated if the duty-payer fails to complete the formalities prior to expiry of the prescribed period:

- (1) where the duty-payer fails to file relevant certificates for reduction or exemption of customs duty in time but submission of them will follow;
- (2) where the duty-payer fails to apply for the issuance of an import permit in time but there is a necessity for him/her to apply for clearance and prompt delivery of the imported goods. However, this shall only apply to imported goods for which the importation is permitted;
- (3) where Customs considers it necessary to examine and release the imported goods on payment of a deposit.

Article 15

The responsible person of any transportation means for passengers or cargo, or the owner of the transport, who is entrusted by such responsible person to carry passengers or cargo, shall report to Customs upon the arrival of the transportation means or prior to its departure abroad.

The term "responsible person" referred to in the preceding paragraph refers to the captain of a vessel or an airplane, the master of a train, or the controller of any other transport means.

The owner of the transport conducting business referred to in paragraph one shall register with Customs and pay a deposit. Rules governing customs clearance of transport and operation of transportation for the responsible person and the owner of the transport who is entrusted by such responsible person to transport, the qualifications, conditions, amount and type of deposit, application procedure, registration and change of registration, certificate application and renewals and all other required matters for the owner of transport shall be prescribed by the Ministry of Finance.

Article 16

The duty-payer may, with the approval of Customs, provide an appropriate guarantee in lieu of the customs duty and deposit payable under Article 14 of this Law. Implementation rules thereof shall be prescribed by the Ministry of Finance.

Article 17

Prior to importation, the duty-payer or the duty-payer's agent may apply to Customs for an advance tariff classification ruling of the goods and Customs shall reply in writing.

Upon any changes to the tariff classification referred to in the preceding paragraph, Customs shall state the reason to the duty-payer or the duty-payer's agent in writing. If the duty-payer or the duty-payer's agent can prove that a contract has been entered into, the transaction has been conducted according to the contract and the change in tariff classification will cause loss, the duty-payer or the duty-payer's agent may apply for an extension of the ruling's validity, but such an extension shall not exceed ninety days. Provided that the tariff classification change involves import regulations, the imported goods shall be subject to the import regulation in effect at the time of importation.

If the duty-payer or the duty-payer's agent is dissatisfied with the advance tariff classification ruling issued by Customs, he/she may apply to the Directorate General of Customs, Ministry of Finance for a review prior to the importation of the goods. The Directorate General of Customs, Ministry of Finance, shall then deal with the case in an appropriate manner, unless otherwise excepted with a valid reason.

The implementation rules governing the application procedure for the advance ruling, time limit for Customs' reply and the review procedure of the Directorate General of Customs, Ministry of Finance, shall be prescribed by the Ministry of Finance.

Article 18

Customs formalities, such as declaration and duty payment for goods, may be entrusted to a customs broker. The respective broker shall assign certified employees to be responsible to examine and endorse the customs declaration it submits to Customs on behalf of the duty-payer.

1. The customs broker under the preceding paragraph shall be approved by Customs before conducting the company or business registration, and apply to Customs for the license of customs broker along with the relevant documents after the completion of registration.

The regulations governing capital requirements, qualifications and conditions of the responsible person, the manager of the brokerage firm, and the employee responsible for the declaration, application procedure for approval, registration and any registration changes, certificate application and renewals, operation of customs declaration and any other required matters shall be prescribed by the Ministry of Finance.

Article 19

With imported or exported goods, Customs may examine or exempt examination either by authorization or by application. Customs may, if necessary, withdraw samples. The quantity of the sample withdrawn shall be limited to the quantity required for examination.

The method, time and location of the examination, the withdrawal of samples, and the scope of exemption referred to in the preceding paragraph shall be prescribed by the Ministry of Finance.

When the goods are examined pursuant to paragraph one, it shall be the responsibility of the duty-payer or the exporter to attend to the transportation, unpacking or the opening of the cases, as well as the restoration of such packages to their original form or condition, with all expenses thus incurred being borne by him.

Article 20

The time and place of loading and unloading of all imported and exported goods shall be designated by Customs. In case the goods are of a perishable or dangerous nature, or for any special reason approved by Customs, such loading and unloading will not be subject to time and place limitations.

Article 21

When imported goods are not released by Customs, exported goods, examined and sealed by Customs and/or supervised by Customs, which apply to be transported within the territory of the Republic of China, may be approved by Customs to be transported via bonded transport.

The owner of the bonded transport referred to in the preceding paragraph shall register with Customs and pay a deposit. Rules governing the qualifications, conditions, amount and type of deposit, application procedure, registration and any registration changes, certificate application and renewals, management and use of bonded transport and any other required matters shall be prescribed by the Ministry of Finance.

Article 22

Imported or exported goods not released by Customs may be temporarily stored on warehouse or container yard.

The firm operating the warehouse or container yard shall register with Customs and pay a deposit. Rules governing qualifications, conditions, amount and type of deposit, application procedure, registration and any registration changes, certificate application and renewals, storage,

movement and management of goods and containers, and any other required matters shall be prescribed by the Ministry of Finance.

Article 23

For the purpose of expediting clearance, the express goods may proceed at a specific place.

Rules governing the conditions and location of the establishment, classes, sorting and clearance procedures of the express goods and any other required matters shall be prescribed by the Ministry of Finance.

Article 24

Customs shall follow the Rules of Origin on Imported goods, when determining the origin of imported goods. If necessary, Customs may request the duty-payer to provide the relevant certificate of origin.

The Rules of Origin on Imported Goods shall be prescribed by the Ministry of Finance together with the Ministry of Economic Affairs.

Section 2: Customs Value

Article 25

The customs value of imported goods subject to ad valorem of duties shall be determined and calculated on the basis of the transaction value.

The term "transaction value" referred to in the preceding paragraph means the price actually paid or payable for the imported goods sold from the exporting country to the Republic of China.

The following expenses shall be added into the customs value calculation, provided that such an amount is not already included in the price actually paid or payable for the imported goods:

- (1) commissions, brokerage, the cost of containers and the cost of packing incurred by the buyer;
- (2) the value, apportioned as appropriate, of the following goods and services supplied by the buyer to the seller free of charge or at reduced cost for use in connection with the production or sale for export of the imported goods:
 - (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds, and similar items used in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; and

- (iv) engineering, development, artwork, design, plans and similar items undertaken outside of the Republic of China and necessary for the production of the imported goods;
- (3) royalties and license fees related to the goods being paid by the buyer as a condition of the sale of the goods;
- (4) the proceeds for use or disposal of the goods the buyer accrues to the seller;
- (5) transport cost of the imported goods to the port or place of importation, and loading, unloading and handling charges associated with the transport; or
- (6) the cost of insurance.

Expenses added to the customs value in accordance with the preceding paragraph should be added on the basis of objective, quantifiable information. Where objective and quantifiable data does not exist, the customs value cannot be determined under the provision of this Article.

When Customs is doubtful of the truth and accuracy of the transaction documents provided by the duty-payer, and remains doubtful when the duty-payer either fails to provide an explanation or after the provision of such an explanation, the customs value cannot be determined under the provision of this Article.

Article 26

The transaction value shall not be used as the basis for determining and calculating the customs value of imported goods under any of the following circumstances:

- (1) where there are restrictions as to the use or disposition of the goods by the buyer other than restrictions which: (i) are imposed or required by law or public authorities in the Republic of China; (ii) limit the geographical area in which the goods may be resold; (iii) do not substantially affect the value of the goods;
- (2) where the sale or the price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
- (3) where part of the proceeds of any subsequent use or disposal of the goods by the buyer will accrue to the seller, but where such an amount cannot be determined;
- (4) where the buyer and seller are related and the relationship influences the transaction value.

For the purpose of sub-paragraph four of the preceding paragraph the buyer and seller shall be deemed to be related only if:

- (1) one of them is a manager, board director or supervisor of the other's business;
- (2) they are legally recognized partners in business;

- (3) they are employer and employee;
- (4) one of them directly or indirectly owns, controls or holds five percent or more of the outstanding voting stocks or shares of the other's business;
- (5) one of them directly or indirectly controls the other;
- (6) both of them are directly or indirectly controlled by a third person;
- (7) together they directly or indirectly control a third person; or
- (8) they are spouses or relatives within a third-degree family relationship.

Article 27

If the customs value of the imported goods cannot be determined under the provisions of Article 25, the customs value shall be based upon the transaction value of identical goods sold for export to the Republic of China, exported at or about the same time as the goods being valued. In applying this Article, a reasonable adjustment shall be made to take into account value differences attributable to commercial levels, quantity, transport costs, etc.

The term "identical goods" referred to in the preceding paragraph means goods which are the same in all respects, including country of production, physical characteristics, quality and reputation, as the goods being valued.

Article 28

If the customs value of the imported goods cannot be determined under the provisions of Articles 25 and 27, the customs value shall be based on the transaction value of similar goods sold for export to the Republic of China, exported at or about the same time as the goods being valued. In applying this Article, a reasonable adjustment shall be made to take into account value differences attributable to commercial levels, quantity, transport costs, etc.

The term "similar goods" referred to in the preceding paragraph means goods which, although not alike in all respects, are produced in the same country, perform the same functions, have like characteristics and like component materials, as the goods being valued, and are commercially interchangeable with the goods being valued.

Article 29

If the customs value of the imported goods cannot be determined under the provisions of Articles 25, 27 and 28, the customs value shall be based on a deductive value.

Customs may, according to the request of the duty-payer, reverse the order of application of this article Article 29 and Article 30 for a customs valuation.

The term "deductive value" referred to in paragraph one means the customs value based on the unit price at which the imported goods or identical or similar imported goods, are sold in the Republic of China in the condition as imported, in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods at the first commercial level, are subject to deductions for the following:

- (1) either the commissions usually paid or agreed to be paid, or the additions usually made for profit and general expenses in connection with the sale of the imported goods or imported goods of the same class or kind in the Republic of China;
- (2) the customs duties, and other national taxes payable in the Republic of China by reason of importation and sale of the goods;
- (3) the transport and insurance costs and associated costs incurred within the Republic of China after the importation of the goods.

If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall be based on the unit price at which the imported goods or identical or similar goods are sold in the Republic of China in the condition as imported, within ninety days following the day of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, in the appropriate quantity, at the first sale, subject to deductions for the items enumerated in the preceding paragraph.

If the imported goods are not sold in the condition as imported, then, if the duty-payer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Republic of China who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph three of this Article.

Article 30

If the customs value of the imported goods cannot be determined under the provisions of Articles 25, 27, 28 and 29, the customs value shall be based on a computed value.

The term "computed value" referred to in the preceding paragraph means the sum of the following:

- (1) the costs and expenses of producing the imported goods;
- (2) an amount for profit and general expenses equal to that usually reflected in the sale of the imported goods or imported 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 Republic of China;
- (3) the transport cost of the imported goods to the port or place of importation, loading, unloading and handling charges and insurance costs associated with the transport.

Article 31

If the customs value of the imported goods cannot be determined under the provisions of Articles 25, 27, 28, 29 and 30, the customs value shall be determined using reasonable means on the basis of data available to Customs.

When the customs value is determined in accordance with the preceding paragraph, Customs shall notify the duty-payer in writing of the method used to determine such a value, if requested to do so by the duty-payer.

Article 32

Upon re-importation of machinery, apparatus and appliances sent abroad for repair or assembly, or of goods exported abroad for further processing, the customs value of such goods shall be determined in accordance with the following provisions:

- (1) for machinery, apparatus and appliances sent abroad for repair or assembly, the actual cost of repair or assembly shall be taken as the basis for calculating valuation;
- (2) for goods exported abroad for further processing, the difference between the customs value of such goods following further processing at the time of re-importation and that of imported goods of the same kind at the time of exportation of such goods, prior to further processing, shall be taken as the basis for valuation.

Article 33

In the case of imported goods on which only a rental or royalty is incurred, without a transfer of ownership, the customs value shall be determined on the basis of the rental or royalty amount plus the transportation fee and insurance fee.

In a case in which the duty-payer under declares the rental or royalty referred to in the preceding paragraph, Customs may determine the amount based on the information obtained through investigation; provided, the annual rental or royalty amount is not lower than one tenth of the customs value of the goods.

The imported goods on which duty is collected by rental or royalty pursuant to paragraph one, in addition to the duty collected on rental or royalty, shall be provided a deposit or a guarantee by a credit institute based on the difference between the duty collected by rental or royalty and the total liable duty on the customs value of the imported goods.

The paragraph one applies only to goods whose ownership is not transferable on account of patent rights, trade secrets, or for any other specific reasons approved by the Ministry of Finance as a special case.

The rental or usage period of the imported goods as referred to in paragraph one shall be approved by the Ministry of Finance.

Article 34

The exchange rate used for the conversion of foreign currency prices for imported goods liable to ad valorem duty shall be that which is currently published or approved by the relevant foreign exchange authorities. The applicability of such exchange rates shall be defined in an order issued by the Ministry of Finance.

Article 35

In cases where a complete set of machinery, together with all essential equipment used directly with the machinery in the production process, has to be imported in an unassembled and disassembled state, packed separately due to excessive size or for any other reasons, such machinery and equipment shall be liable to duty; duty will be assessed according to their respective tariff classification unless pertinent documents have, prior to importation, been submitted to Customs for verification and have been approved by Customs in which case duty shall be assessed according to the tariff classification applicable to the complete machinery with equipment as one set.

Article 36

With the exception of the machinery which is to be dealt with in accordance with the provisions of the preceding Article, any other goods, which are made up of several different components, imported in a disassembled state or packed separately, shall be liable to duty assessed according to the tariff classification applicable to the goods as one complete unit.

Article 37

For the purpose of determining the correct customs value of imported goods, Customs, besides referring to the declaration documents cited in paragraph one of Article 13, may also take the following additional measures:

- (1) examine any other documents concerning the price of the imported goods sold by the seller to the buyer;
- (2) make inquiries into the transaction value or deductive value of the imported goods or identical or similar goods, and examine past records of customs values assessed for previous shipments;
- (3) investigate account books and vouchers related to the imported goods or identical or similar goods of other sellers;
- (4) explore any other evidence pertinent to valuation.

Section 3: Time Limits for Duty Payment and Administrative Remedy

Article 38

Customs duty shall be paid within fourteen days following the date of receiving the duty memo.

Article 39

Dutiable imported goods shall be released after the duty payment has been paid unless otherwise prescribed in this Law or unless a guarantee has been filed with and approved by Customs.

Article 40

If the duty-payer is dissatisfied with the decision of Customs on the tariff classification, customs value, amount of duty to be made up, or special duty, of the imported goods, may, within thirty days following the date of receiving the duty memo, file a written protest with Customs in the prescribed form, thereby requesting a review of the case and withdrawal of the goods after paying the entire duty amount or providing an appropriate guarantee.

Article 41

With regards to the review application, Customs shall review its decision and make a statement within two months following the day of receiving the application. Customs may, if necessary, extend the time limit and if doing so shall notify the duty-payer. Such an extension shall be limited to only one time and shall not exceed two months.

The original statement shall be delivered to the duty-payer within fifteen days following the date of decision.

Article 42

The duty-payer, if dissatisfied with the review decision referred to in the preceding paragraph, may file an appeal to higher authorities and enter into administrative litigation according to the law.

In case any duty is refunded as a result of an irrevocable decision given on a review, appeal, or in administrative litigation, Customs shall refund it within ten days following the date of decision on the protest or receipt of the original written appeal or administrative litigation notice. The refund shall include duty plus interest payable for the period beginning on the day following the date on which duty was paid by the duty-payer up to the date on which a refund notice or treasury check is issued, calculated on a daily basis according to the annual fixed rate of interest of fixed savings of the Directorate General of Postal Remittance and Savings Bank, effective on the date on which the tax or duty was paid.

In case any duty is recovered as a result of an irrevocable decision given on a review, appeal, or in administrative litigation, Customs shall issue a memo for the recoverable duty and notify the duty-payer to repay the duty, within ten days following the day of decision on the protest or receipt of the original written appeal or administrative litigation notice. The duty to be recovered shall bear interest

for the period beginning on the day following the prescribed tax or duty payment period up to the date on which the memo for the recoverable duty is issued, calculated on a daily basis according to the annual fixed rate of interest of fixed savings, of the Directorate General of Postal Remittance and Savings Bank, effective on the date on which the tax or duty became due.

Article 43

In case of a default on the payment of customs duty, delinquent fee or fine by the duty-payer or the penalized person, Customs may notify the relevant authorities to prohibit the duty-payer or the penalized person from transferring, or creating other rights on, the property within the extent of his/her liability. Where the defaulter is a profit-seeking enterprise, Customs may advise the relevant authority to further restrict it from reducing capital or canceling registration.

Where the duty-payer or penalized person fails to pay the customs duty, delinquent fee or fine according to the provisions of this Law and there is an indication of concealing or transferring his/her property in order to evade compulsory execution, Customs may request the court for a provisional seizure of his/her property without providing a guarantee. However, this shall not apply in the case where the duty-payer or penalized person has already provided a sufficient guarantee.

Where the duty-payer or penalized person fails to pay the customs duty or fine amount prescribed, the judicial authority or the Ministry of Finance may request the Bureau of Immigration of the Ministry of the Interior in writing to restrict him/her from leaving this country. In the case of a legal person, partnership or non-legal body, its responsible person or representative may be restricted from leaving this country. Such restrictions shall be removed after a sufficient guarantee has been provided by him/her. Implementation rules governing such restrictions shall be prescribed by the Executive Yuan.

CHAPTER III PRIVILEGED DUTY TREATMENT

Section 1: Duty Exemption

Article 44

The following imported articles are exempt from customs duty:

- (1) articles imported for use by the President and the Vice President of the Republic of China;
- (2) articles imported for official or personal use by diplomatic and consular officials of foreign embassies, legations and consulates stationed in the Republic of China, and articles imported by other organizations and personnel that are entitled to diplomatic privileges, provided that the foreign governments concerned are extending reciprocal privileges to the Republic of China;
- (3) mail pouches imported by diplomatic missions and articles for personal use brought in by government agency officials returning from overseas posts following the expiry of their terms of office;

- (4) arms and ammunition, military equipment, vehicles, vessels, aircraft and accessories thereof, and supplies imported solely for military use by military authorities and armed forces;
- (5) relief articles imported by or donated to government agencies or public welfare and charity societies conducting relief work;
- (6) articles necessary for educational, research, or experimental purposes imported by public and private schools or other educational or research institutions, compatible with the respective nature of their establishment; athletic equipment and apparatus required by sports organizations for training and participating in international athletic contests; provided that both categories are finished products;
- (7) monopoly goods imported by monopoly agencies solely for monopolized sales;
- (8) decoration medals, insignia and other similar articles for use as tokens of commendation conferred by foreign governments or organizations;
- (9) official and private documents and the like;
- (10) advertising matter and samples of no commercial value or within the limited value;
- (11) marine products caught at sea by fishing boats of the Republic of China; or marine products, whose quantities are within the limit prescribed by the Ministry of Finance, caught at sea and shipped back by fishing boats of the Republic of China belonging to a government-approved overseas company invested in by citizens of the Republic of China.
- (12) wrecked vessels, aircraft and their respective equipment salvaged from the sea;
- (13) vessels registered with the Republic of China, engaged in trade for two years, and permitted to be dismantled on account of overage or for any other reasons; however, non fixtures on board these ships such as articles and tools for ships' use, foreign goods' stocks, bunker coal and oil, shall not be exempt from duty;
- (14) fuel and materials used solely on ships, aircraft and other means of transport engaged in international trade; however, in the case of international carriers registered with a foreign government, granting duty-free privileges is subject to reciprocal treatment by that foreign government to carriers of the Republic of China;
- (15) personal effects, carried by passengers for their own use;
- (16) petty parcels imported by post within the limited value;
- (17) pharmaceutical products or medical apparatus imported by government agencies in order to prevent epidemics;
- (18) equipment and articles imported by government agencies for emergency aid.

- (19) articles for personal use brought in by sailors, holding citizenship of the Republic of China and a domestic household registration, returning from foreign countries or transferring to another port.

Except for the goods referred to in the preceding paragraph, the accumulated customs value of the imported goods in the same shipment, if within the limited value prescribed by the Ministry of the Finance, shall be exempt from customs duty.

Rules governing the scope, items, quantities and limits of customs exemptions referred to in sub-paragraphs 2 to 6, 10, 15, 16 and 19 of paragraph one shall be prescribed by the Ministry of Finance.

Article 45

Imported goods shall be exempt from customs duty under any of the following circumstances:

- (1) Goods lost, damaged or which have deteriorated, hence having no commercial value, while in transit or at the time of unloading, provided that the fact has been reported to Customs at the time of importation.
- (2) Goods lost or damaged by flood, fire or other force majeure, hence having no commercial value, following unloading but prior to release by Customs.
- (3) Goods found to have been broken, leaking, damaged or rotten at the time of Customs' examination, hence having no commercial value, provided it is not due to the negligence of the warehouse keeper or any other party related to the goods.
- (4) Goods to be returned to the exporter at the request of the duty-payer and approved by Customs prior to release.

Article 46

When duty-paid imports are found to have been damaged or not conforming to the specifications and quality as stated in the original contract, thereby necessitating compensation or replacement from the exporter, the imported goods shall be exempt from duty on the condition that the situation is reported to Customs within one month following the date of importation of the original goods, and that all relevant documents submitted to Customs have been verified as accurate.

If the aforementioned goods are either machinery or equipment, the report and application submitted to Customs may be made within three months following the date of installation and test-run of the machinery and equipment.

The imported goods eligible for compensation or replacement referred to in paragraph one shall report for import within six months following the date of receiving the approval notice from Customs. If necessary, an extension, not exceeding six months, may be applied for with Customs before the expiration of such a period.

Article 47

Samples, articles for scientific research, experiments, and/or exhibition, costumes and paraphernalia of entertainment troupes, cinematographic equipment and supplies for making movies and/or television films, instruments and tools needed for installation and repair of machines, containers used for importing cargoes, finished products imported for repair and maintenance, and other articles approved by the Ministry of Finance shall be exempt from customs duty, provided that they are to be re-exported abroad within six months following the date of importation or within the time limit approved by the Ministry of Finance.

If the goods referred to in the preceding paragraph require an extension for the period of re-exportation under special circumstances, an application for an extension stating the reasons shall be submitted to Customs at the port of importation along with relevant documents. If the re-exportation period was approved by the Ministry of Finance, then such an application shall be submitted to the Ministry of Finance.

Article 48

Samples, articles for scientific research, engineering machinery, cinematographic equipment and supplies carried by professionals engaged in making movies and/or television films, instruments and tools needed for installation and repair of machines, articles for exhibition, artwork, containers used for importing cargoes, costumes and paraphernalia of entertainment troupes, motion pictures and video tapes mailed abroad by government agencies and other similar articles approved by the Ministry of Finance shall be exempt from customs duty, provided that they are to be re-imported within one year following the date of exportation or within the time limit approved by the Ministry of Finance.

If the goods referred to in the preceding paragraph require an extension for the period of re-importation under special circumstances, an application for an extension stating the reasons shall be submitted to Customs at the port of importation along with relevant documents. If the re-importation period is approved by the Ministry of Finance, then such an application shall be submitted to the Ministry of Finance.

Article 49

In cases where the goods imported are under duty reduction or exemption with a subsequent deviation from duty reduction or exemption conditions on account of a transfer of ownership or a change in their use, the original duty-payer or the present holder of such goods shall be required to pay duty to Customs at the port of importation, within thirty days following the date of the ownership transfer or the change in the use of the goods imported; the import duty levied shall be according to the value and tariff rate applicable at the time when such a transfer or change occurred. However, the duty shall be exempted after expiry of the time limit prescribed by the Ministry of Finance.

Imported goods on which duties are paid in installments or recorded on accounts shall not be transferred until full payment of such duties is made unless they are under compulsory execution or otherwise approved by Customs as a special case.

Where the imported goods are under compulsory execution or approved as a special case as provided for in the preceding paragraph, the transferee may continue to pay the duties in installments or record them on accounts.

Regulations governing the time limit for the recoverable duty exemption and the means by which to make up the payable duty referred to in paragraph one shall be prescribed by the Ministry of Finance.

Article 50

Raw materials imported for use in processing articles intended for export may be exempt from duty if they are re-exported, and are approved by the Ministry of Finance within one year following the day on which the raw materials were released for entry.

The application for exemption for the re-exported raw materials referred to in the preceding paragraph shall be submitted within six months following the date of exportation.

Article 51

Exports returned for any reason may be exempt from duty as finished products, if they are re-imported within five years following the release date for exportation; however, the import duty originally paid on the raw materials, refunded upon exportation of the goods, must be repaid in full.

The re-imported goods under the preceding paragraph which have a guarantee to be re-exported upon completion of repair or maintenance, within six months following the date of re-importation, shall be exempt from a repayment of duty on raw materials which was refunded upon exportation of the finished goods.

Section 2: Bonding

Article 52

Goods arriving at a port of the Republic of China may, prior to import declaration, apply to Customs for entry of the goods into a bonded warehouse. Goods re-exported within the time limit prescribed for storage in a bonded warehouse may be exempt from paying duty.

During the warehousing period referred to in the preceding paragraph, the owner of the stored goods or the bearer of the warehousing receipt thereof may apply to Customs for permission to arrange, sort, divide up, assemble or repack such goods within the bonded warehouse.

The firm operating the bonded warehouse shall apply to the relevant Customs office for registration and submit a deposit. Rules governing the qualification, conditions, installation and equipment, amount and type of deposit, application procedure, registration and any registration changes, certificate application and renewals, storage and management of goods and any other required matters shall be prescribed by the Ministry of Finance.

Article 53

Export processing factories may be registered, with the approval of Customs and under its supervision, as bonded factories. All imported raw materials, except those ineligible for bonding as co-proclaimed by the Ministry of Finance and the Ministry of Economic Affairs, stored and used in such bonded factories for manufacturing or processing into exported products shall be exempt from customs duties.

Finished products processed or manufactured by bonded factories and raw materials exempted from customs duties, in accordance with the provisions of the preceding paragraph, shall not be moved out of the bonded factories for domestic sale, unless approved by Customs and unless duties have been paid on the finished products or raw materials in the form when they were moved out of the bonded factories.

Bonded factories shall apply to the relevant Customs office for registration. Regulations governing the qualification, conditions, capital requirements, application procedure, installation and equipment, registration and any registration changes, certificate application and renewals, processing, management, clearance, recoverable duty procedures for domestic sales of bonded goods and any other required matters shall be prescribed by the Ministry of Finance.

Article 54

Firms operating the storage, transportation and distribution business of bonded goods at the bonded location may apply to Customs for registration of its location as a logistics center.

Goods stored in a logistics center, if required for the operation referred to in the preceding paragraph, may carry out reconditioning and simple processing.

Exported goods stored in a logistics center which are re-exported in their original form, or after reconditioning or processing, shall be exempted from duty. Domestic goods stored in a logistics center, except for items whose duty refund cancellation has been announced, may apply to offset or refund duty following exportation in accordance with Article 57.

Firms operating a logistics center business shall apply to the relevant Customs office for registration and pay a deposit. Regulations governing qualifications, conditions, capital requirements, amount and type of deposit, application procedure, registration and any registration changes, certificate application and renewals, management and clearance of goods and any other required matters shall be prescribed by the Ministry of Finance.

Article 55

Firms which sell goods to travelers entering or leaving the Republic of China may apply to Customs for registration as a duty-free shop.

In the case in which bonded goods stored for sale by duty-free stores are sold to travelers within the time limit and are exported, by way of carrying them out, in their original form, such goods shall be exempted from duty.

Bonded goods of duty-free shops shall be stored in bonded warehouses which specifically provide the storage for duty-shops.

Firms operating a duty-free shop business shall apply to the relevant Customs office for registration and pay a deposit. Regulations governing the qualifications, conditions, capital requirements, application procedure, registration and any registration changes, certificate application and renewals, management, clearance, sales of goods, and any other required matters shall be prescribed by the Ministry of Finance.

Article 56

In the case in which imported goods are returned or exported by transshipment due to a mistake made during loading, excessive unloading or any other special reasons prior to declaration, an application shall be submitted to Customs for approval within fifteen days following the importation date of the transportation carrying such goods; such goods shall be returned in their original form or exported by transshipment within ninety days. In the case in which an application cannot be submitted on time due to rational reasons, the application for storage in a bonded factory shall be submitted to Customs in accordance with Article 52 prior to the stipulated period's expiration.

Goods which were not carried out in accordance with the preceding paragraph may be sold or disposed of, in accordance with paragraph two of Article 68 *mutatis mutandis*.

Section 3: Customs Duty Refunds

Article 57

Customs duty paid on raw materials used in the manufacture of articles intended for export is refundable following exportation of the finished products.

Customs duty leviable on raw materials may be recorded on accounts with guarantees provided by the manufacturers and offset following the exportation of the finished products.

Firms may, within one year and a half following the date on which raw materials were released for importation, apply to Customs, with relevant export documents, for a duty refund or an offsetting of the accounts for export products manufactured from imported raw materials. After the expiration of the prescribed time limit, the application for a duty refund or offset shall be rejected.

The time limit referred to in the preceding paragraph may be extended under special circumstances approved by the Ministry of Finance. Such an extension shall not exceed a period of one year.

Regarding the refund and offsetting of customs duty paid on raw materials, regulations governing the approval standards and calculations of such a refund or offset, application procedure, time limits, guarantees provided, records of the offset on accounts and any other required matters shall be prescribed by the Ministry of Finance.

Article 58

Duty-paid imported goods banned from use by the Government within one year following importation are entitled to a refund of the duty paid, provided they are re-exported or destroyed under Customs supervision within six months following the date of such a ban.

Duty-paid cinematographic films banned from exhibition are entitled to a refund of the duty paid, provided they are re-exported or destroyed under Customs supervision within three months following the date of the ban notice issued by the relevant authority in charge of motion picture censorship.

Article 59

Upon discovery of a disproportionate duty collection or refund, either in an insufficient or excessive amount, the compensated amount shall either be advised of by Customs, or applied for by the duty-payer, whichever the case may be.

The above ruling shall be made within one year following the date on which the disproportionate duty was paid, or one year following the date on which the duty refund notice was issued.

The compensated amount of duty referred to in paragraph one shall be collected or refunded together with the interest payable for the period beginning from the date following that on which the duty was paid, or following the day on which the time limit for the duty payment expired, or following the date on which the duty refund notice was issued by Customs, up to the date on which the duty is compensated, calculated on a daily basis according to the annual fixed interest rate of fixed savings, of the Directorate General of Postal Remittance and Savings Bank, effective on the date on which the duty is either due or paid.

The duty-payer shall pay the disproportionate customs duty and the calculated interest in accordance with the preceding paragraph within fourteen days following the date of receiving the compensation notice from Customs. In the case of delinquent payment made prior to the expiration of the time limit, a delinquent fee shall be levied at the rate of 0.05 percent of the total amount of customs duty unpaid per day, commencing on the date following that on which the prescribed duty payment period expired up to the date on which the outstanding amount of duty is liquidated in full. Should the amount still be outstanding within thirty days, a procedure of compulsory execution shall be undertaken in accordance with the law.

Article 60

In the case of refunded money, Customs shall deduct the outstanding amount from the refund in order to offset the delinquent payment immediately notifying the duty-payer of the balance.

CHAPTER IV CONTRABAND

Article 61

The following contraband shall be prohibited from importation unless otherwise specifically provided for in other laws and regulations:

- (1) counterfeit currency, negotiable securities, bank notes, plates or dies for printing or casting counterfeit currencies;
- (2) gambling apparatus, lottery tickets or any other similar prize tickets issued in foreign countries;
- (3) books, magazines, pictures and any other articles considered obscene and/or indecent;
- (4) publications and other articles propagating Communism;
- (5) articles infringing upon the rights of patents, designs, trademarks, and copyrights;
- (6) other contraband as specified in other laws.

CHAPTER V SPECIAL CUSTOMS DUTY

Article 62

Imported goods that have directly or indirectly received a bounty or other forms of subsidy during the process of manufacture, production, export, or transportation in the country of exportation or origin, thereby causing injury to industry in the Republic of China, may be subject to the imposition of an appropriate countervailing duty in addition to the customs duty leviable under the Customs Import Tariff.

II. ARTICLE 63

Imported goods that are found to have been dumped at a price less than the normal value of its like product, thereby causing injury to industry in the Republic of China, may be subject to the imposition of an appropriate antidumping duty in addition to the customs duty leviable under the Customs Import Tariff.

The "normal value" referred to in the preceding paragraph means the comparable domestic selling price in the country of exportation or origin in the ordinary course of trade. In the absence of such a domestic selling price, the comparable selling price exported to an appropriate third country, or the constructed price consisting of the cost of production in the country of origin plus a reasonable amount for administrative, selling, and other expenses, and normal profit as the basis for comparison.

Article 64

The term "causing injury to industry in the Republic of China" referred to in the preceding two Articles means material injury, threat of material injury to the industry, or material retardation of the establishment of such an industry in the Republic of China.

The amount of countervailing duty to be imposed shall not exceed that of the bounty and subsidy received for the imported goods, and the amount of antidumping duty imposed shall not exceed the dumping margin of the imported goods.

The scope, subject, amount, commencement or termination date for imposing a countervailing or antidumping duty shall be prescribed by the Ministry of Finance after consulting with the relevant authorities, and shall become effective on the date of the public announcement.

Regulations governing the qualification of applicants, application contents, investigations, examinations, opinion statement, disposition procedure and any other required matters regarding the imposition of a countervailing duty and antidumping duty shall be drafted by the Ministry of Finance, together with the relevant authorities, and shall be submitted to the Executive Yuan for approval.

Article 65

Should goods exported from the Republic of China or carried by any means of transport belonging to the Republic of China be accorded discriminatory treatment by an importing country, thereby placing the goods of the Republic of China in a disadvantageous position as compared with those of other countries in the market, the goods shipped from that country to the Republic of China or carried by any means of transport belonging to that country may be liable to payment of an appropriate retaliatory duty as decided by the Ministry of Finance, in addition to the customs duty leviable in accordance with the Customs Import Tariff.

In making the decision as referred to in the preceding paragraph, the Ministry of Finance shall consult with the relevant authorities and report to the Executive Yuan for approval.

Article 66

In the case of dealing with an extraordinary domestic and/or international economic situation, or a situation to accommodate the supply of goods, or to provide a reasonable operational environment, an adjustment of customs duty, within fifty percent of the statutory duty rate as provided for in the Customs Import Tariff, may be made on imported goods. In the case of a specific manufacturing enterprise which has met the prescribed scale or criteria either through a merger or consolidation during a specific period of time, its imported machinery and equipment, as approved in the merger or consolidation plan, may be exempt from customs duty.

The designation of the concerned goods, range of tariff rate adjustment, category for specific manufacturing enterprises, scale or criteria to be met and the dates for commencing and terminating such a tariff rate adjustment or duty exemption shall be drawn up jointly by the Ministry of Finance and the Ministry of Economic Affairs and be submitted to the Executive Yuan for approval. Following approval, the Executive Yuan shall immediately notify the Legislative Yuan of the action taken for information.

The duration of such a tariff rate adjustment shall be limited to one year beginning from the date of commencement to the date of termination. The period of duty exemption for machinery and equipment shall be limited to two years.

In the case of a merged or consolidated manufacturing enterprise as referred to in paragraph one of this Article failing to accomplish the originally approved merger or consolidation plan, or meeting the prescribed scale or criteria following the completion of the merger or consolidation plan, the customs duties originally exempted shall be collected together with the delinquent fee to be levied in accordance with Article 69. The machinery and equipment on which customs duties are exempted shall not be resold or leased to a third party or used to establish a separate manufacturing enterprise within five years following the date of

importation, violation of which shall be dealt with in accordance with the provisions of Article 49.

Article 67

In the case where import relief or special safeguard measures are adopted in accordance with Article 18 of the Foreign Trade Act or other international agreements, the duty rate may be increased, tariff quota may be adopted or additional duties imposed on specified imported goods. The scope and period of which shall be prescribed by the Ministry of Finance, in conjunction with the relevant authorities, and shall be submitted to the Executive Yuan for approval.

The tariff quotas referred to in the preceding paragraph shall be implemented in accordance with the tariff quota implementation rules prescribed in paragraph two of Article four of this Law.

CHAPTER VI PENALTIES

Article 68

In the case of imported goods failing to apply for clearance within the time period prescribed in Article 12, a late fee of NT\$ 18 per day shall be levied beginning from the date following that on which the time period expires.

If the imported goods still fail to apply for clearance following thirty consecutive days of having the late fee imposed, the goods concerned shall be disposed of by Customs by way of sale. If any surplus proceeds of the sale remain following the deduction of the customs duty levied and any other necessary expenses, Customs shall keep the surplus proceeds in temporary custody pending claim by the duty-payer; the duty-payer concerned shall apply for a refund of the surplus proceeds within a period of five years, after which time they shall be surrendered to the government treasury.

Article 69

In the case where the import duty is not paid within the time limit prescribed in Article 38, a delinquent fee shall be levied at the rate of 0.05 percent of the amount of duty per day beginning from the date following that on which the time limit for duty payment expires.

If the import duty remains unpaid after the imposition of the delinquent fee for sixty consecutive days, the ruling prescribed in paragraph two of the preceding Article shall apply *mutatis mutandis*.

Article 70

In the case where Customs conducts an investigation, in accordance with the provisions of Article 10 and Article 37, in which the person being investigated, evades, interrupts or refuses an investigation, rejects, without valid reason, to produce account books, documents and other evidence as may be necessary regarding either the relevant goods or goods of the same kind, or refuses Customs entry into relevant computer files or data bases to investigate relevant information, shall be liable to a fine of not less than NT\$ 3,000 and not more than NT\$30,000. Repeated refusals may entail repeated impositions of fines.

Article 71

The original duty-payer, present holder, transferor and transferee of the goods shall pay the payable duty in accordance with Article 49 within fourteen days following the date of receiving the duty memo from Customs. In the case where customs duty is not paid within the prescribed time period, the procedures referred to in paragraph one of Article 69 shall be undertaken. Should the customs duty still be unpaid within thirty days, the procedure of compulsory execution, in accordance with Article 76, may be undertaken.

If it is discovered that full payment of the customs duty has not been made in accordance with Article 49, a fine equal to the amount of the full duty shall be levied in addition to the customs duty payable.

Article 72

In the case of a delinquent payment of customs duty involving exemptions of customs duties, records on accounts and/or installment payment of customs duties for imported machinery, equipment, apparatus, automobiles and necessary parts and components processed according to law shall be handed over for compulsory execution. In addition, a delinquent fee shall be charged at the rate of 0.05 percent of the total amount of customs duty unpaid or recorded on account per day, commencing from the date following that on which the prescribed time limit for duty payment expired or on which the duty was recorded on the account to the date on which the outstanding amount of duty is paid in full. However, the total amount of the delinquent fee charged should not exceed thirty percent of the amount of customs duty unpaid or recorded on the account.

Article 73

In the case where the finished products or duty-free raw materials of a bonded factory are moved out of the factory for domestic sale, in violation of the provisions of paragraph two of Article 53, such a violation shall be treated as smuggling goods into this country and shall be liable to penalties in accordance with the relevant provisions of the Customs Preventive Law.

Article 74

In the case where the amount of duty recorded on the account for raw materials imported for manufacture of exported products cannot be offset within a prescribed period, a delinquent fee shall be charged at the rate of 0.05 percent of the amount of duty payable per day, in addition to payment of the customs duty so recorded, commencing on the date following the expiration on which the customs duty was recorded to the date on which the outstanding amount of duty is paid in full. However, under any of the following circumstances, the delinquent fee shall not be charged:

- (1) excessive amount of raw materials stored has been approved because of government export controls or coordination with government policy;
- (2) the factory suffers from a disaster under force majeure such as a typhoon, earthquake, fire, flood, etc., certified to be true by the local police or internal revenue office;
- (3) the duty recorded cannot be offset within the prescribed period due to a drastic change in the international economic situation following which an exemption of the delinquent fee has been agreed upon by the Ministry of Finance and the Ministry of Economic Affairs;
- (4) the goods being exported are directly affected by a coup d'etat, war, strike or unforeseeable disaster occurring in the importing country, declared to be true following investigation;
- (5) the goods have been exported prior to the expiration of the prescribed period for duty refund or offsetting of the accounts of customs duty recorded or within six months following the expiration of the prescribed period for filing an application for duty refund or offsetting of the accounts of customs duty recorded.

Article 75

All contraband imported in violation of the provisions of Article 61 of this Law shall be confiscated except as otherwise provided for in other laws.

Article 76

The following amounts leviable or recoverable under this Law shall be handed over to the relevant authority for compulsory execution if the following amounts are not paid after notification by Customs, unless otherwise provided for in this Law:

- (1) customs duty, delinquent fees, late fees and interest.
- (2) fines imposed under this Law;

- (3) expenses incurred in the disposing of, sale or destruction of the imported goods for which no proceeds from the sale are acquired or proceeds of the sale are insufficient to cover the expenses, provided that the duty-payer was notified prior to such a disposing of, sale or destruction;

If the duty-payer wishes to file a protest against the payment of customs duty or other levies as provided for in the preceding paragraph, the procedure prescribed in Articles 40 to 42 shall apply *mutatis mutandis*.

The duty-payer may apply for a suspension handed over for compulsory execution of the amounts leviable or recoverable, as stipulated in paragraph one, provided the duty-payer has requested a review of the case in accordance with the provisions of Article 40 and has provided an appropriate guarantee. However, a guarantee shall not be required again if the imported goods have already been provided an appropriate guarantee for release according to Article 40.

The payment of customs duty as referred to in paragraph one shall take precedence over all claims filed by ordinary creditors.

Article 77

When goods which are prohibited from importation arrive at a port of the Republic of China, Customs shall order the duty-payer to return such goods abroad within a prescribed period. If the duty-payer abandons the goods in writing or fails to return the goods abroad within the prescribed period, the goods may be disposed of by Customs. If there is a sales surplus after deducting the customs duty leviable and any necessary expenses, they shall be surrendered to the government treasury.

If goods subject to disposing of under the provisions of the preceding paragraph, paragraph two of Article 68 and paragraph two of Article 69 cannot be sold and need to be destroyed, the duty-payer shall be notified of the need to destroy such goods by himself/herself, under Customs supervision, within the prescribed period. Failure to do so by the duty-payer will result in the goods being destroyed by Customs, with any expenses associated with such destruction being borne by the duty-payer and paid to Customs within the prescribed period.

Article 78

In the case whereupon proceeding with registration, the application procedure, management or any other required matters regarding on-line transmission or electronic data transmission of clearance information, the enterprise, conducting the customs declaration, transportation, storage, container yard and any other business related to clearance, violates the regulations prescribed in accordance with Article 8, Customs may warn and request such an enterprise to rectify its behavior within a time period or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case where such an enterprise does not rectify its behavior after the imposition of a fine three consecutive times, a suspension of on-line declaration privileges may be adopted for a period of not more than six months.

Article 79

In the case whereupon proceeding with the importation or exportation clearance, registration change and the certificate application or renewal of the firm which conducts the transportation business, owns the transport, and other required matters, the responsible person, of the transportation means for passengers or cargo or the owner of transport entrusted by the responsible person, violates the regulations prescribed in accordance with paragraph three of Article 15, Customs may warn and request such a person or owner to rectify his/her behavior within a time limit or impose a fine of not less than NT\$ 20,000 and not more than NT\$90,000. The imposition of a fine may be repeated if necessary. In the case where such a person does not rectify his/her behavior after the imposition of a fine three consecutive times, a suspension of importation or exportation declaration privileges may be adopted for a period of not more than six months.

Article 80

In the case whereupon proceeding with registration change, certificate application or renewal, operation of the declaration business or any other required matters, the customs broker violates the regulation prescribed in accordance with paragraph three of Article 18, Customs may warn and request such a broker to rectify his/her behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. The imposition of a fine may be repeated if necessary. In the case that such a customs broker does not rectify his/her behavior after the imposition of a fine three consecutive times, a suspension of on-line declaration privileges may be adopted for a period of not more than six months.

In the case whereupon conducting the business of declaration and examination, endorsement and other required matters, the certified employee violates the regulations prescribed in accordance with paragraph three of Article 18, Customs may warn and request such an employee to rectify his/her behavior within a time limit or impose a fine of not less than NT\$ 2,000 and not more than NT\$5,000. The imposition of a fine may be repeated if necessary. In the case that such an employee does not rectify his/her behavior after the repeated imposition of a fine three consecutive times, a suspension of declaration, examination and endorsement privileges may be adopted for a period of not more than six months, or his/her registration may be repealed.

Article 81

In the case whereupon proceeding with registration change, certificate application and renewal, bonded transport use and management or any other required matters, the owner of the bonded transport violates the regulations in accordance with paragraph two of Article 21, Customs may warn and request such an owner to rectify his/her behavior within a time limit or impose a fine of not less than NT\$ 3,000 and not more than NT\$10,000. The imposition of a fine may be repeated if necessary. In the case such an owner does not rectify his/her behavior after the repeated imposition of a fine three consecutive times, a suspension of loading privileges may be adopted for a period of not more than six months, or his/her registration may be repealed.

Article 82

In the case whereupon proceeding with registration change, certificate application and renewal, storage, movement and management of goods and containers and any other required matters, the firm operating warehouse or container yard violates the regulations prescribed in accordance with

paragraph two of Article 22, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of container and goods storage privileges may be adopted for a period of not more than six months, or its registration may be repealed.

Article 83

In the case whereupon proceeding with the clearance of express goods, sorting of goods and any other required matters, the firm which conducts the express delivery business violates the regulations prescribed in accordance with paragraph two of Article 23, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of the express goods clearance privileges may be adopted for a period of not more than six months.

Article 84

In the case whereupon proceeding with registration change, certificate application or renewal, installation and equipment of the bonded warehouse, storage of goods, management and any other required matters, the firm operating the bonded warehouse violates the regulations prescribed in accordance with paragraph three of Article 52, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of bonded goods storage privileges for a period of not more than six months or a suspension of monthly declaration privileges may be adopted, or its registration may be repealed.

Article 85

In the case whereupon proceeding with registration change, certificate application or renewal, installation and equipment of the bonded factory, processing, management and clearance of bonded goods, payment procedures for duty payable on goods distributed domestically and any other required matters, the firm operating the bonded factory violates the regulations prescribed in accordance with paragraph three of Article 53, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of part or whole of bonded factory business privileges may be adopted for a period of not more than six months, or its registration may be repealed.

Article 86

In the case whereupon proceeding with registration change, certificate application and renewal, management of goods, clearance or any other required matters, the firm operating the logistics center violates the regulations prescribed in accordance with paragraph four of Article 54, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less

than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of goods storage privileges for a period of not more than six months or a suspension of monthly declaration privileges may be adopted, or its registration may be repealed.

Article 87

In the case whereupon proceeding with registration change, certificate application and renewal, management of goods, clearance, distribution and sales or any other required matters, a firm operating a duty-free shop violates the regulations prescribed in accordance with paragraph four of Article 55, Customs may warn and request such a firm to rectify its behavior within a time limit or impose a fine of not less than NT\$ 6,000 and not more than NT\$30,000. Such an imposition of a fine may be repeated if necessary. In the case that such a firm does not rectify its behavior after the repeated imposition of a fine three consecutive times, a suspension of goods storage privileges may be adopted for a period of not more than six months, or its registration may be repealed.

Article 88

In the case whereupon applying for a refund or offsetting of customs duty, proceeding with account records for customs duty on raw materials or any other required matters, the firm applying for a refund and/or offsetting of customs duty for exported goods violates the regulations prescribed in accordance with paragraph five of Article 57, Customs may suspend the account recording privileges for a period of not more than six months.

Article 89

In the case where the firm liable for a deposit pursuant to Article 15, Article 21, Article 22, Article 52 and/or Article 54 fails to pay the payable duty, fees or fines, Customs may offset such a duty, fee or fine against the deposit made.

In the case where such a deposit is insufficient for the deduction referred to in the preceding paragraph, Customs may notify such a firm to make up the shortfall within a prescribed period. In the case where the firm fails to make up the shortfall prior to the expiration of the prescribed period, Customs may suspend business privileges for a period of not more than six months, or repeal its registration.

Article 90

In the event that the goods delivered by bonded transport or stored in a warehouse, container yard, bonded warehouse, or duty-free shop has been found to be deficient due to illegal withdrawal, loss, theft or any other reason, the firm operating such a business shall be responsible to make up any shortfall of the payable import duty.

Article 91

Imported or exported goods which are involved in smuggling, duty evasion or other violations of law shall be dealt with in accordance with the provisions of the Customs Preventive Law and other relevant laws.

CHAPTER VII SUPPLEMENTARY PROVISIONS

Article 92

With Regards to the warehouse, container yard, bonded warehouse and/or logistics center registered in accordance with this Law, and other business designated by Customs, matters which were originally supervised and controlled by Customs may be managed autonomously by such a firm after obtaining approval from Customs by way of authorization or application.

The Customs shall audit the autonomously managed firm on a regular or irregular basis.

Rules regarding matters, scope, required conditions and any other required matters pursuant to paragraph one shall be prescribed by the Ministry of Finance.

Article 93

The duty-payer or exporter and any related person shall maintain all records, documents, accounting books and relevant computer files or data bases, etc, related to the imported or exported goods for five years beginning on the day following that on which the imported or exported goods were released.

Article 94

Customs may collect service charges for special services rendered to transport and imported or exported goods as well as for the issuance of various certificates. Rules governing the collection of such charges shall be prescribed by the Ministry of Finance.

Article 95

Rules governing the implementation of this Law shall be prescribed by the Ministry of Finance.

Article 96

This Law shall take effect on the date of its promulgation.
