

ORGANIZACIÓN MUNDIAL DEL COMERCIO

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28 de julio de 1999

(99-3190)

Comité de Valoración en Aduana

Original: inglés

NOTIFICACIONES DE CONFORMIDAD CON EL PÁRRAFO 2 DEL ARTÍCULO 22 DEL ACUERDO RELATIVO A LA APLICACIÓN DEL ARTÍCULO VII DEL ACUERDO GENERAL SOBRE ARANCELES ADUANEROS Y COMERCIO DE 1994

NAMIBIA

Se ha recibido de la Misión Permanente de Namibia la siguiente comunicación, de fecha 16 de junio de 1999.

De conformidad con la decisión adoptada el 12 de mayo de 1995 por el Comité de Valoración en Aduana de la OMC, tengo el honor de notificar al Comité la legislación¹ de la República de Namibia relativa a la valoración en aduana.

¹ El texto íntegro (en inglés solamente) de la *Customs and Excise Act, 1998* puede consultarse en la Secretaría (División de Acceso a los Mercados, Sra. Janet Chakarian-Renouf, despacho 3128).

**GOVERNMENT GAZETTE OF THE
REPUBLIC OF NAMIBIA**

WINDHOEK – 30 June 1998, No. 1900

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OFFICE OF THE PRIME MINISTER

No. 151 – 1998

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 20 of 1998: Customs and Excise Act, 1998.

ACT

To provide for the levying, imposition, payment and collection of customs and excise duties, of a surcharge and of a fuel levy; to prohibit and control the import, export or manufacture of certain goods; and to provide for matters incidental thereto.

(Signed by the President on 12 June 1998)

CHAPTER IX

VALUE

Value for customs duty purposes

75. (1) Subject to this Act, the value for customs duty purposes of any imported goods shall, within the meaning of section 76 and at the time of entry for home consumption, be the transaction value of such goods.

(2) If the value of any individual item of any imported goods, contemplated in subsection (1), is:

(a) N\$ One or more, such value shall for the purpose of assessing the amount of duty payable, be calculated and approximated to the nearest N\$, any amount of 50 cents or less being disregarded for the purposes of such calculations and any amount of more than 50 cents being regarded as N\$ One;

(b) less than N\$ One, such value shall be deemed to be N\$ One.

(3) Unless the context otherwise indicates, any reference in this Act to customs value or to value for duty purposes, in relation to imported goods, shall be deemed to be a reference to value for customs duty purposes.

(4) (a) If the transaction value of any imported goods cannot be ascertained under section 76 or has been incorrectly ascertained by the importer, the Commissioner may in writing determine a value, which value shall, subject to a right of appeal to the High Court of Namibia, for customs duty purposes be deemed to be the value of such goods.

(b) The acceptance by any officer of a bill of entry or the release of any goods as entered shall not be deemed to be a determination under paragraph (a).

(c) Any determination made under paragraph (a) shall, subject to that paragraph, be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force.

(5) The Commissioner may, when he or she deems it expedient, but subject to an appeal to the High Court of Namibia, amend or withdraw any determination contemplated in subsection (4) and make a new determination with effect from:

(a) the date of first entry of the goods concerned;

(b) the date of the determination made under subsection (4);

(c) the date of such new determination; or

(d) the date of such amendment.

(6) An appeal contemplated in subsection (4) or (5) shall be noted within a period of 30 days from the date of the determination, amendment or withdrawal, as the case may be.

(7) Except if:

- (a) a determination has been made under subsection (4)(a) or (5); or
- (b) any false declaration is made for the purposes of subsection (4) or (5),

there shall be no liability for any underpayment of customs duty on any goods after a period of two years from the date of entry of such goods, if such underpayment is due to the acceptance of a bill of entry bearing an incorrect customs value.

(8) Notwithstanding subsection (7), any determination made under subsection (4)(a) following upon an inspection of the books or documents of any importer shall be deemed to have come into operation in respect of the goods entered for customs purposes, on any date two years prior to the date on which the inspection commenced.

(9) (a) Notwithstanding subsections (1) and (4), the value for the purposes of the duty specified in Section B of Part 2 of Schedule 1 shall, in respect of imported goods (other than goods entered in terms of item 412.18 of Schedule 4), be the transaction value thereof plus 15 per cent of such value, plus any non-rebated customs duty payable in terms of Part 1 and Section A of Part 2 of Schedule 1 on such goods, but excluding the duty on such goods specified in that Section B.

(b) Subsection 1(a) or (3), as the case may be, of section 78 shall *mutatis mutandis* apply to the ascertaining or determination of the value for the purposes of the duty specified in Section B of Part 2 of Schedule 1 in respect of any imported goods entered in terms of item 412.18 of Schedule 4.

Transaction value

76. (1) Subject to this Act, the transaction value of any imported goods shall be the price actually paid or payable in respect of the goods when sold for export to Namibia, adjusted under section 77, subject thereto that:

(a) there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which:

- (i) are imposed or required 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 or such price of the goods is not subject to any term or condition for which a value cannot be determined;

(c) no part of the proceeds of any disposal, use or subsequent resale of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made under section 77; and

(d) subject to subsection (3), the seller and the buyer are not related within the meaning of subsection (2)(a).

- (2) (a) For the purposes of subsection (1)(d), two persons shall be deemed to be related only if:
- (i) they are officers or directors of one another's businesses;
 - (ii) they are legally recognized partners in business;
 - (iii) the one is employed by the other;
 - (iv) any person directly or indirectly owns, controls or holds five per cent or more of the equity share capital of both of them;
 - (v) one of them directly or indirectly controls the other;
 - (vi) both of them are directly or indirectly controlled by a third person;
 - (vii) together they directly or indirectly control a third person; or
 - (viii) they are members of the same household.
- (b) Persons who are associated in business with one another in such a manner that the one is the sole agent, sole distributor or sole concessionary, however described, of the other shall be deemed to be related only if they are so deemed in terms of paragraph (a).
- (c) Every importer of goods which are not exempted by rule shall, when making entry of such goods, declare, in accordance with the procedures prescribed by rule, whether or not he or she is related to the supplier of the goods within the meaning of this section.
- (3) Notwithstanding subsection (1)(d), the fact that a buyer and a seller are related within the meaning of subsection (2)(a) shall not in itself be a ground for not accepting the transaction value, if:
- (a) such relationship did not influence the price paid or payable; or
 - (b) the importer proves that the transaction value closely approximates to:
 - (i) the transaction value of identical or similar goods sold at comparable trade and quantity levels to unrelated buyers in Namibia at or about the same time as the goods to be valued; or
 - (ii) the value, ascertained in terms of subsection (7), of identical or similar goods imported into Namibia at or about the same time as the goods to be valued; or
 - (iii) the value, ascertained in terms of subsection (8), of identical or similar goods imported into Namibia at or about the same time as the goods to be valued.
- (4) (a) If the transaction value of any imported goods cannot be ascertained in terms of subsection (1), such transaction value shall be deemed to be equal to the price actually paid or payable for identical goods in a sale for export to Namibia at the same commercial level and in substantially the same quantity, and exported at or about the same time as the goods to be valued, which price shall be adjusted, with reference to differences in any costs and charges referred to in section 77, on account of differences in distances and modes of transport to the port or place of export.

- (b) If no sale, referred to in paragraph (a) appears to exist, a sale of identical imported goods at either a different commercial or quantity level, or at a different commercial level and quantity level, adjusted to compensate for such differences, shall be used to ascertain the transaction value.
- (c) If in the application of this subsection more than one transaction value is ascertained, the lowest value so ascertained shall be the transaction value of the goods to be valued.
- (5) (a) If the transaction value of any imported goods cannot be ascertained in terms of subsection (4), such transaction value shall be the price actually paid or payable for similar goods in a sale for export to Namibia at the same commercial level and in substantially the same quantity, and exported at or about the same time as the goods to be valued, which price shall be adjusted, with reference to differences in any costs and charges referred to in section 77, on account of differences in distances and modes of transport to the port or place of export.
- (b) If no sale contemplated in paragraph (a) appears to exist, paragraphs (b) and (c) of subsection (4) shall *mutatis mutandis* apply.
- (6) (a) If the transaction value of any imported goods cannot be ascertained in terms of subsection (5), it shall be ascertained in terms of subsection (7) or, if it cannot be ascertained in terms of either subsection (5) or (7), it shall, subject to paragraph (b) be ascertained in terms of subsection (8).
- (b) Notwithstanding paragraph (a), the order of application of subsections (7) and (8) shall, at a request in writing made by the importer concerned and delivered to the Commissioner, be reversed.
- (7) (a) If the imported goods concerned, or identical or similar imported goods are sold in Namibia in the same condition in which they were when imported, the transaction value of the imported goods in terms of this subsection shall be equal to the unit price at which the imported goods, or identical or similar imported goods, are sold in Namibia in the greatest aggregate quantity and at or about the time of import of the goods to be valued, by the importers thereof to persons not related to them, subject to deductions for:
- (i) commissions usually paid or agreed to be paid, or additions usually made for profit and general expenses, including the direct and indirect costs of marketing the goods relative to sales in Namibia of imported goods of the same kind or class as the goods to be valued, irrespective of the country of export;
 - (ii) the costs of transportation, loading, unloading, handling and insurance, and associated costs incidental to the transportation of the goods from the port or place of export in the country of export to the importer's premises in Namibia; or
 - (iii) any duties or taxes paid or payable in Namibia by reason of the import or the sale of the goods in Namibia.
- (b) If neither the imported goods, nor identical nor similar imported goods, referred to in paragraph (a) are sold at or about the time of import of the goods to be valued, the transaction value of the imported goods in terms of this subsection shall, subject to that paragraph, be equal to the unit price at which the imported or identical goods, or similar imported goods, are sold in Namibia in the same condition as that in which they were when imported, at the

earliest date after the import of the goods to be valued, but not later than 90 days after such date of import.

(c) If neither the imported goods nor identical nor similar imported goods referred to in paragraph (a) are sold in Namibia in the same condition as that in which they were imported, and if the importer in writing so requests, the transaction value of the imported goods in terms of this subsection shall be equal to the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Namibia not related to the sellers of such goods, due allowance being made for the value added by such processing and the deductions referred to in that paragraph.

(8) The transaction value of any imported goods in terms of this subsection shall be equal to a computed value, which value shall be computed by means of information supplied by the producer, to the satisfaction of the Commissioner, and shall consist of the sum of:

(a) the cost or value of materials and manufacture or other processing in producing such goods;

(b) the cost of:

(i) packaging, including that of the labour or materials concerned; and

(ii) containers which are dealt with as, for customs purposes, being one with the goods concerned;

(c) the value, apportioned to the imported goods as deemed appropriate by the Commissioner, with due regard to any relevant request by the importer, of any of the following goods and services if supplied directly or indirectly by the importer free of charge or at reduced cost, for use in connection with the production or sale for export of the imported goods, in so far as such value has not been included in the price actually paid or payable in respect of:

(i) materials, components, parts and similar articles forming part of the imported goods;

(ii) tools, dies, moulds and similar articles used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods; or

(iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Namibia and necessary for the production of the imported goods;

(d) the cost of transportation, loading, unloading, handling and insurance, and associated costs incidental to the delivery of the imported goods at the port or place of export in the country of export, and the placing of such goods on board ship or on any vehicle, or in a container as defined in section 1(2), at such port or place; or

(e) an amount for profit and general expenses equal to that generally applicable to the sale of goods of the same class or kind as the imported goods, which are made by producers in the country of export.

(9) If the transaction value of any imported goods cannot be ascertained in terms of subsection (8), the Commissioner may determine such value on the basis of a previous determination or, if no previous determination exists, by the application, as he or she may deem reasonable, of any manner for ascertaining the transaction value in terms of subsection (1), (4), (5), (7) or (8), as the case may be, subject thereto that such determination shall not be based on:

- (a) the selling price in Namibia of goods produced in Namibia;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the selling price of goods on the domestic market of the country of origin or of export of the imported goods;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with subsection (8);
- (e) the price of the goods for export to a country other than Namibia;
- (f) a system of minimum customs values; or
- (g) arbitrary or fictitious values.

(10) For the purposes of subsection (7)(a)(ii) or (8)(d):

- (a) goods which are exported to Namibia from any country, but which pass in transit through another country shall, subject to any conditions which may be prescribed by rule, be deemed to have been exported directly from the first-mentioned country; and
- (b) the port or place of export referred to therein shall be the place in the country of export if such goods:
 - (i) are packed in a container as defined in section 1(2) or, if not so packed in a container, placed on board a ship or on any vehicle which conveys such goods from or across the border of such country; or
 - (ii) if they are ships or vehicles and are moving under their own power, finally leave such country for Namibia.

(11) For the purposes of this section and of section 77, unless the context otherwise indicates:

"buying commission", in relation to imported goods, means any fee paid by an importer to his or her agent for representing him or her abroad in the purchase of, and the payment in respect of, the goods;

"goods of the same class or kind", in relation to imported goods, means goods produced by a particular industry or industry sector in the country from which the imported goods were exported, and falling within the same group or range of goods as the imported goods;

"identical goods", in relation to imported goods, means goods produced in the same country and by the same or a different producer as the imported goods and which are the same in all respects, including physical characteristics, quality and appearance, but excluding minor differences in appearance, but does not include goods incorporating or reflecting engineering, development work, art work, design work, plans or sketches undertaken in Namibia;

"price actually paid or payable", in relation to imported goods, means the total amount paid or to be paid, either directly or indirectly, by the buyer to or for the benefit of the seller in respect of the goods, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the goods; and

"similar goods", in relation to imported goods, means goods produced in the same country and by the same or a different producer as the imported goods and which, although not alike in all respects to the imported goods, have, with due regard to their quality and appearance, and the existence of a trade mark, like characteristics and like component materials which enable them to be employed for the same purposes and to be commercially interchangeable, but does not include goods incorporating or reflecting engineering, development work, art work, design work, plans or sketches undertaken in Namibia.

Adjustments to price actually paid or payable

77. (1) In ascertaining the transaction value of any imported goods under section 76(1), there shall be added to the price actually paid or payable in respect of the goods:

(a) to the extent that they are incurred by the buyer but are not included in the price actually paid or payable:

(i) any commission other than a buyer's commission;

(ii) brokerage;

(iii) the cost of packaging, including that of the labour and materials concerned; or

(iv) the cost of containers which are dealt with, for customs purposes, as forming an integral part of the goods;

(b) the value, added to the value of the imported goods as deemed appropriate by the Commissioner, of:

(i) materials, components, parts and similar articles forming part of the goods;

(ii) tools, dies, moulds or similar articles, or materials, used in the production of the goods; or

(iii) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Namibia and necessary for the production of the goods,

if such goods or services are directly or indirectly supplied by the importer, free of charge or at a reduced cost, for use in connection with the production or sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable;

(c) royalties and licence fees in respect of the imported goods, including payments in respect of patents, trademarks or copyright, or for the right to distribute or to resell the goods, payable by the buyer, whether directly or indirectly, as a condition of the sale of the goods for export to Namibia, to the extent that such royalties and fees are not included in the price actually paid or payable, but excluding charges for the right to reproduce the imported goods in Namibia;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and

(e) to the extent that they are not included in the price actually paid or payable in respect of the goods, the cost of transportation, loading, unloading, handling and insurance, and associated costs incidental to delivery of the goods at the port or place of export in the country of export, and placing such goods on board a ship or on any vehicle, or in a container as defined in section 1(2), at such port or place.

(2) In ascertaining the transaction value of any imported goods under section 76(1), there shall be deducted from the price actually paid or payable in respect of the goods, to the extent that they are included in such price, amounts equal to:

(a) the cost of transportation and the cost of loading, unloading, handling and insurance, and associated costs incidental to the transportation of the goods from the port or place of export in the country of export to the port or place of import in Namibia;

(b) any of the following costs, charges or expenses, if identified separately, forming part of the balance of the price actually paid or payable for or in respect of the goods, namely:

(i) any expenditure incurred in respect of the construction, erection, assembly or maintenance of, or technical assistance provided in respect of, the goods after they have been imported;

(ii) the cost of transport and insurance of the goods in Namibia;

(iii) any duties or taxes paid or payable by reason of the import or the sale of the goods in Namibia;

(iv) any duty or tax applicable in the country of export from which the goods have been or will be exempted by way of a refund, drawback, rebate or remission;

(v) commission in respect of the sale of the goods;

(vi) interest charged in respect of the price payable in respect of the goods; or

(vii) any charge for the right to reproduce the imported goods in Namibia.

(3) For the purposes of subsection (1)(e) or (2)(a):

(a) goods which are exported to Namibia from any country, but pass in transit through any other country shall, subject to such conditions as may be prescribed by rule, be deemed to have been exported directly from the first-mentioned country; and

(b) the port or place of export referred to in any of those subsections shall be the place in the country of export where the goods concerned:

(i) are packed in a container as defined in section 1(2) or, if not so packed in a container, placed on board a ship or on any vehicle which conveys them from, or across any border of, such country; or

(ii) if ships or vehicles referred to in subparagraph (i) are ships or vehicles moving under their own power, finally leave such country for Namibia.

Value for excise duty purposes

78. (1) (a) For the purpose of assessing the excise duty on any goods manufactured in Namibia and specified in Section B of Part 2 of Schedule 1, the value of such goods shall, subject to this section, be deemed to be the full and final market price (before deduction of any discounts other than cash discounts) at which, at the time of sale, such or similar goods are freely offered for sale for consumption in Namibia, for purposes of trade in the principal markets of Namibia in the ordinary course of trade, in the usual wholesale quantities and in the condition and the usual packaging ready for sale in the retail trade, to any wholesaler in Namibia not deemed to be related as specified in section 76(2)(a) under fully competitive conditions, which value shall include:

- (i) the cost of packaging and packages;
- (ii) all other expenses incidental to placing the goods on any vehicle for delivery to the purchaser; and
- (iii) any non-rebated excise duty payable in terms of Section A of that Part of that Schedule on such goods,

excluding the non-rebated excise duty payable in terms of Section B of that Part of that Schedule or any sales tax payable on such goods.

(b) Notwithstanding paragraph (a), the Commissioner may, if goods referred to in that paragraph are not sold to wholesalers in Namibia referred to in that paragraph, or are so sold in quantities which he or she deems to be insignificant in relation to the total quantities of such goods sold in Namibia, regard any other class of purchaser of such goods as such a wholesaler, and may make such adjustment to the price charged by the manufacturer to such class of purchaser as he or she deems reasonable, having regard to the wholesale functions taken over by such manufacturer and such class of purchaser, and to such other factors relating to such price as he or she may deem relevant.

(c) For the purposes of this subsection the Commissioner may in writing determine:

- (i) the quantity which shall be deemed to be the usual wholesale quantity;
- (ii) the packaging which shall be deemed to be the usual packaging ready for sale in the retail trade; or
- (iii) the cost of packaging or packages or any other expenses incidental to placing the goods on any vehicle.

(2) (a) For the purpose of assessing the excise duty on any goods:

- (i) specified in Section A of Part 2 of Schedule 1 (other than goods specified in items 117.01.10 and 117.05 to 117.30), the value of such goods shall be the price paid or payable in respect of such goods when sold for home consumption in the ordinary course of trade, in the usual trade packaging, where applicable, to any buyers not deemed to be related as specified in section 76(2)(a), plus any non-rebated excise duty payable in terms of Section B of that Part of that Schedule, but excluding the

non-rebated excise duty payable in terms of Section A of that Part of that Schedule, fuel levy or any sales tax payable on such goods;

(ii) specified in items 117.01.10 and 117.05 to 117.30 of Section A of Part 2 of Schedule 1, the value thereof shall be the price paid or payable in respect of such goods when sold for home consumption in the ordinary course of trade to any buyers not deemed to be related as specified in section 76(2)(a), plus any non-rebated excise duty payable in terms of Section B of that Part of the Schedule, but excluding any sales tax payable on such goods.

(b) For the purpose of paragraph (a) "price paid or payable" means the total payment made or to be made, either directly or indirectly, by the buyer to or for the benefit of the seller in respect of the goods sold, but does not include dividends or other payments passing from the buyer to the seller which do not directly relate to the goods.

(3) If in the opinion of the Commissioner, goods are sold or otherwise disposed of under such conditions that the value thereof cannot be ascertained in terms of subsection (1)(a) or (2), as the case may be, the Commissioner may, in the form and in accordance with the procedures prescribed by rule, determine a value, which value shall, subject to the right of appeal to the court, be deemed to be correct for the purposes of this Act, and any amount due in terms of any such determination shall remain payable as long as such determination remains in force.

(4) The Commissioner may, when he or she deems it expedient, *mutatis mutandis* in accordance with subsection (3), amend or withdraw any determination made under that subsection and may make a new determination with effect from:

- (a) the date of first entry of the goods concerned;
 - (b) the date of the determination made under subsection (3);
 - (c) the date of such new determination; or
 - (d) the date of such amendment,
- as specified in such amendment.

(5) (a) An appeal against any determination under subsection (3) or (4), as the case may be, shall lie to the High Court of Namibia.

(b) An appeal referred to in paragraph (a) shall be noted within a period of 30 days from the date of the determination contemplated in that paragraph.

Value of certain specified goods

79. (1) If any motor vehicle is imported by a natural person for his or her own use and not for sale, the Commissioner may, notwithstanding section 75(1) or (4), but with due regard to section 76, determine a value which shall, subject to a right of appeal to the High Court of Namibia *mutatis mutandis* in accordance with section 75(6), be deemed to be the value for duty purposes of such vehicle.

(2) Notwithstanding subsection (1), if any natural person who was the owner of and has used a motor vehicle referred to in that subsection in any territory outside Namibia, for his or her own use and not for sale, imports such vehicle into Namibia from a territory other than the territory in which it

was produced or manufactured, the Commissioner may determine the value of such vehicle for duty purposes as if it were imported into Namibia from the territory in which it was produced or manufactured.

Value of goods exported

- 80.** (a) For the purposes of this Act, the value of any goods exported from Namibia shall be the price of such goods free on board at the place of despatch from Namibia, which value shall be declared on the bill of entry (export).
- (b) If there is no free on board price in respect of the goods as contemplated in paragraph (a), the value in respect of such goods determined by the Commissioner shall, for the purposes of this Act, be deemed to be the value of such goods.
- (c) If the value of any individual item of any exported goods is, according to any provision of this section:
- (i) in excess of N\$ One and includes a fraction of a N\$ One, such value shall be calculated and approximated to the nearest N\$ One, an amount in excess of 50 cents being regarded as N\$ One; or
 - (ii) less than N\$ One, such value shall be calculated as N\$ One.

Currency conversion

81. (1) The Minister may prescribe the date on and the time at which the price paid or payable in respect of imported goods shall, if expressed in foreign currency, be converted into the currency of Namibia.

- (2) The regulations made under subsection (1) may provide for:
- (a) different dates and times in respect of different kinds or categories of goods imported from different territories; and
 - (b) such conditions relating to such conversion and the payment of the price payable,

as the Minister may so prescribe.

Value of goods not liable to *ad valorem* duty

82. (1) Subject to subsection (2), the customs value of any imported goods shall, to the satisfaction of the Commissioner and in such form and manner as he or she may determine, be declared by the importer on entry of such goods.

(2) The Minister may by regulation exempt any class or kind of goods, or any goods to which circumstances so prescribed apply, from any provision of subsection (1), to the extent specified in the regulations.

Interpretation of sections 75, 76 and 77

83. (1) The interpretation of sections 75, 76 and 77 shall be subject to the agreement concluded at Geneva on 12 April 1979, known as the "Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade", the Interpretative Notes thereto, the Advisory Opinions,

Commentaries and Explanatory Notes, Case Studies and Studies issued under such Agreement on Implementation.

(2) (a) The Commissioner shall obtain and keep in his or her office two copies of the Agreement, Interpretative Notes, Advisory Opinions, Commentaries and Explanatory Notes, Case Studies and Studies referred to in subsection (1), and shall effect to such copies any amendment made to that Agreement, Interpretative Notes, Advisory Opinions, Commentaries and Explanatory Notes, Case Studies or Studies of which he or she is notified by the Secretariat of the Customs Co-Operation Council, Brussels.

(b) When in any legal proceedings any question arises as to the contents of the Agreement, or of any Interpretative Note, Advisory Opinion, Commentary, Explanatory Note, Case Study or Study referred to in subsection (1), or as to the date upon which any amendment thereto was effected as contemplated in paragraph (a), a copy of the relevant document as contemplated in that paragraph, shall be *prima facie* evidence of the contents of such document or of the effective date of any amendment thereto, as the case may be.
