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Committee on Customs Valuation

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

CABO VERDE

The following submission¹, dated 13 May 2015, is being circulated at the request of the delegation of Cabo Verde.

COUNCIL OF MINISTERS

**Decree Law No. 23/2014
As of 2 April**

The Legislative Decree No. 4/2010 of 3 June approved the Customs Code, which had the advantage of not only condense and systematize in a single legal document all the scattered legislation on customs activity, as well as the process to its modernization. The Customs Code (CC) in addition to closely monitor and adapt to national reality the latest trends designed internationally in the field of customs, reflects also the commitments by the Cape Verdean Government on its accession to the World Trade Organization (WTO).

The aforementioned Legislative Decree No. 4/2010 of 3 June provides in Article 23 that the Government will approve the regulations necessary for its implementation and the Customs Code.

Thus, the rules established by this law are intended to develop and complement the provisions of the Customs Code, especially those relating to customs clearance, a procedure that is the essential core of all customs activity. In this context, following the principles of rationalization, simplification and modernization of procedures, reflected in the goals of the Government in the field of e-government, it is important to highlight the regulation of the Customs Information System, which will enhance the establishment at customs of interoperable and accessible IT solutions, the coordination of processes and services that improve and facilitate the supply chain logistics and customs processes.

Customs computer system will also allow a more efficient and rapid clearance, the reduction of administrative costs, the increase of trade, protection of products and security of international trade, as well as the promotion of environmental and consumer protection through better targeted customs controls based on electronic risk management systems.

This system will also have the advantage to Exchange data between the Customs Authorities and the economic operators, as well as with others authorities or services involved in the international movement of goods.

¹ Council of Ministers Decree Law No. 23/2014 of 2 April; Order No. 51/2011 of 30 December 2011; and Circular No. 21/2013/CG/CS of 1 October 2013.

There was also a concern in this law to include materials and solutions contained in earlier legislations to the Customs Code, however, remain fully present in particular as regards processing of orders, relief from custom duties and diplomatic relief from custom duties, national transit procedure, import of personal goods, simplified procedures for customs clearance, simplified customs clearance of postal orders and small parcels, transfers between customs offices and temporary import of containers.

Accordingly:

Under the provisions of Article 23 of Legislative Decree No. 4/2010 of 3 June, approving the Customs Code, and

Using the powers conferred by subparagraph a) of paragraph 2 of article 204 of the Constitution, the Government decrees as follows:

Article 1: Object

It is approved the Customs Code Law, which is an integral part of this legal document and is signed by the Minister of Finance and Planning.

Article 2: Coexistence of lodging methods

1. The coexistence of the customs declarations lodgement on paper and electronically remains until the conditions for the exclusive or predominant lodgement by electronic means are in place.
2. The paper format declarations, after being registered, have the same legal value as the electronic declarations sent and processed in accordance with the law.

Article 3: Place of lodgement

Without prejudice to specific provisions applicable to electronic declarations, the detailed declaration is lodged at the customs Office for the processing of the concerned customs procedures.

Article 4: Official templates

1. The detailed declaration is submitted through the Single Administrative Document (SAD).
2. The approval of new templates for customs declarations, as well as modification to the existing templates, is subject to an ordinance by a Government member responsible for Finance.

Article 5: Exemption from SAD

The Single Administrative Document (SAD) mentioned in the preceding article is not used:

- a) In the case of waiver of written declarations for the introduction of goods for free circulation;
- b) For letter-post items and postal orders of non-commercial nature;
- c) In the case of use of special forms to facilitate the declaration in specific cases or in cases of agreement or arrangements with foreign countries;

Article 6: Special forms

Are presented through specific forms, declarations in reference to:

- a) Separate luggage;
- b) Goods in national transit;
- c) Goods subject to customs duties, including diplomatic;
- d) Clearance of temporary import and re-export of vehicles and containers; and
- e) Clearance of goods under the operation designated "transfer of goods".

Article 7: Number of copies of forms

1. The forms must be submitted in the number of copies needed to fulfil the formalities relating to the customs procedures under which the goods are subjected to.
2. The declaration forms may be supplemented, if necessary, by one or more supplementary forms submitted in number of copies needed to fulfil the formalities relating to the customs procedure under which the goods are subjected to.

Article 8: Supplementary copies

1. In cases when required supplementary copies of the detailed declarations form, the declarant shall use for that purpose and to the extent necessary, supplementary copies of the mentioned form.
2. The supplementary copies must be signed by the declarant, submitted to the customs authorities and endorsed by them in case of acceptance.

Article 9: Forms used in various procedures

Whenever a form is used with various successive customs procedures, the customs authorities shall ensure the consistency of the constant elements in the declarations relating to the various procedures in question.

Article 10: Filling out the forms

1. The form must be filled in accordance with the instructions contained therein and taking into account the additional information foreseen under applicable law.
2. It is mandatory to indicate the TIN of customs services customers in the detailed declaration, the relief from custom duties, the diplomatic relief from custom duties, the National Transit declarations, the pick-up requests, the application and the collection guides.
3. In the detailed declarations the TIN's declaration is made in the space provided for this purpose.
4. The customs agents must identify customers, being also liable for any false or inaccurate statements.

Article 11: Substitution of lost form

In case of a lost order form or document relating thereto, and it is not possible to find it, it is authorized the issue of another one, attaching to it the proof of authorization of issue by the head of the customs office.

Article 12: Schedule for declarations lodgement

1. The lodgement of the declaration, in paper format, must be done during the days and hours of normal operation of that Office.
2. The customs authorities may, however, by the request and expense of the declarant, authorize the lodgement of the declaration outside the business hours of normal operation.
3. The declarations may also be lodged by delivering them to the officials of the customs Office in another place designated for this purpose, in the context of the agreements between customs authorities and the person concerned.
4. The transit declaration shall be lodged and goods shall be presented at the customs office of departure during the days and hours of normal operation established by the customs authorities.

5. The customs office of departure may, at the request and expense of the principal, allow the goods to be presented in another location.

Article 13: Acceptance control

1. The acceptance control is the operation by which it certifies, before registration, that the detailed declarations, on paper format, submitted to apply a customs procedure to the goods, are in accordance and have attached all the mandatory documents.

2. The purpose of the acceptance control is to exercise control over the form ensuring that:

- a) It is the approved template and contains the copies required.
- b) It is written by automated processes;
- c) It includes all required statements, without overwriting or erasures that are not properly observed as an exception;
- d) It is signed and authenticated by the declarant;
- e) Have endorsed the exemption orders or reductions of duties or any special procedure, as well as the documents that proof the benefit;
- f) Attach all licenses and authorizations required for the declared goods.

3. The irregularities in the declaration form and the absence of the mandatory submission documents constitute the declaration rejection reasons.

Article 14: Date of acceptance

The date of acceptance of the declaration shall be affixed to the declaration on paper format.

Article 15: Registration of the declaration by the computer system

1. The detailed declarations are registered by the computer system, upon the request of the declarant.

2. After the automated registration of the detailed declaration, the declarant notes manually on copies in paper format to be submitted at the customs office the registration number assigned by the computer system as well as the respective date corresponding in the SAD.

3. Once the declaration is dully filled it is delivered to the customs Office where it will be processed.

Article 16: Entry into force

This present law comes into force on the day following its publication.

Approved by the Council of Ministers, on 17 January 2014.
José Maria Pereira Neves - Cristina Isabel Lopes da Silva Monteiro Duarte

Promulgated on 17 March.

To be published.

The President of the Republic, JORGE CARLOS DE ALMEIDA FONSECA

REGULATION OF THE CUSTOMS CODE**TITLE I - CUSTOMS CLEARANCE OF GOODS****CHAPTER I - General provisions****Article 1: Object**

This present regulation develops the provisions relating to the clearance contained in the Customs Code, approved by Legislative Decree No. 4/2010 of 3 June.

Article 2: Definitions

1. For the purpose of this legal document, the following definitions shall apply:

- a) "Decision-making customs authority", means the customs authority which carries out the settlement of import duties or other charges which refunds or relief from payment is required and it is competent for the decision of the request;
- b) "Prior authorization of import operations of goods subject to non-automatic license", authorization issued by the competent entity, under the law, to approve the requests for import of goods referred to in subparagraph a) and e) of paragraph 2 of article 5 of Decree Law No. 68/2005 of 31 October;
- c) "Compliance certificate", the declaration issued by the competent administrative entity proving that a particular import operation complies with the constraints and formalities foreseen by law;
- d) "Supervising customs office", the customs Office having jurisdiction over goods which led to the settlement of import duties or other charges which refund or relief from payment is required and that will make the necessary control for the appraisal of the request;
- e) "Settlement customs office", the customs office where is carried out the settlement of import duties and other charges which refund or relief from payment is required;
- f) "Implementing customs office", the competent customs office to ensure proper implementation of the decision for refund or relief from payment of import duties or other charges;
- g) "Identical goods", means the goods that are the same in all aspects, in particular, physical characteristics, quality and commercial reputation, without prejudice of minor differences in appearance;
- h) "Produced goods"; those grown, manufactured and extracted;
- i) "Similar goods", those, although not alike in all aspects, have similar characteristics and composition of materials, which allows them to perform the same functions and be commercially interchangeable;
- j) "Certified operator", anyone who is entitled, under the law, to engage in the commercial activity;
- k) "Country of import", the custom country or territory of import;
- l) "Small private remittances of non-commercial nature", the remittances that fulfill, cumulatively, the following requirements:
 - i. Be occasional;
 - ii. Exclusively containing goods reserved for personal or family use of the recipients;
 - iii. Which, by their nature and quantity, have no commercial character; and
 - iv. Are sent at no cost to the recipient.
- m) "Generally accepted accounting principles", are the ones that are subject to, in a given country and at a given time, a confirmed agreement or a recognized substantial support that establish which resource and economic obligations to be recorded in assets and liabilities, which respective changes are to be mentioned, how to proceed for its evaluation, as well as the information to be disclosed and how and which financial statements should be prepared;
- n) "National transit (NT)" the procedures that allows the transport of goods from one customs office to another, with suspension of duties and other customs charges through a NT declaration;
- o) "NT declaration", document processed by the declarant and registered at the customs office of departure, that follows the goods to the customs office of destination;

- p) "Goods", the captive goods from customs duties and other customs charges which should be subject to order at the customs office of destination;
- q) "Transporter", any natural or legal person, duly licensed by the competent authorities and accredited by customs administration for receiving operations, transport and delivery of goods within the national transit procedures;
- r) "Warehouse keeper", any natural or legal person who operates the activity of storage and safekeeping of goods in the destination customs office and is responsible for their return;
- s) "Transport-unit", any road vehicles, trailers, as well as boats and aircraft, offering security conditions accepted by the customs authorities, in which goods are carried within the national transit procedures;
- t) "Customs office of Departure" the customs office where the national transit operation commences;
- u) "Customs office of Destination" the customs office where the goods must be presented and where the national transit operation is terminated; and
- v) "Transfer of products" process of fuel mixing imported by the concessionaire of warehouses held in the discharge ducts or in the premises of the warehouse itself to obtain a product that meets the specific consumption needs of certain clientele.

2. Slight differences in appearance do not prevent from being considered identical, goods that are the same in all other aspects.

3. Among the factors to be considered in determining whether goods are similar, includes good quality, commercial reputation and the existence of a trademark.

Article 3: Customs clearance

The customs clearance, in accordance with the provisions of the customs code, is a specialized administrative procedure, consisting of an ordered series of acts and physical operations correlated among them, whose ultimate goal is to deliver, in a timely manner, to the economic operators and other interested parties, goods brought into national territory whose are owners or consignees, after the completion of formalities in reference to the destination or procedures which they are assigned and the admissibility controls foreseen by law and imposed by the need to defend and protect the public interest.

Article 4: Customs clearance forms

Customs clearance takes de normal and simplified forms.

Article 5: Simplified customs clearance

1. Are subjected to the simplified customs clearance procedures the goods with non-commercial nature, and the value does not exceed 100,000\$00 (one hundred thousand Cape Verdean escudos) and weighting no more than 150 (one hundred and fifty) kilograms, for each individual remittance and per trip.

2. The provision in paragraph 1 shall not apply to crew members of air or maritime transport and passengers crossing borders frequently.

Article 6: Content of invoices

1. The invoices or other supporting documents of purchase, abroad, of goods imported under the procedures referred to in article 5 shall state the property or properties acquired, the respective quantity and value, as well as identifying the purchaser.

2. Failure to submit invoices or other proof of purchase in accordance with the provisions of the preceding paragraph shall imply the successive resource to the methods foreseen in the customs code, for the purpose of determining the customs value of goods subject to clearance.

CHAPTER II - DETAILED DECLARATION

Article 7: Means of lodgement

1. The detailed declarations are lodged electronically.
2. In the absence or unavailability of the computer system, the procedures take place using the paper format procedure, subject to a possible delivery of the supporting documents electronically, and all applications, communications and other documents delivered must be accompanied by a duplicate copy, which will be returned to the applicant or communicant after it be affixed note, date and signed confirming the receipt of the original.
3. Declarations on paper format, after registration, have the same legal value as the electronic declarations sent and processed in accordance with the law.
4. The procedures performed and the documents delivered in case of unavailability of the system must be integrated, as soon as possible, in the computer system.

Article 8: Acceptance of customs declaration

The customs declaration may be accepted only after the goods to which it relates have been presented to customs authorities or they have been provided sufficient proof that the goods have been placed at their disposal for control purposes.

Article 9: Beginning and decision of the special customs procedures processes prior to their entrance into the national territory

1. It can be allowed the submission of requests for exemption of customs duties or other customs charges for goods which have not entered the fiscal territory, provided that the respective requests are submitted with all the documentation that is possible to present at that time, namely the identification, invoices, lists, relationships or other documents that would lead to an estimation, as close as possible, of the calculation of real charges payable.
2. Special customs procedures processes must have a quick follow-up, so that they can be finalized with the processing of the respective final orders.
3. In orders of goods imported with the exemptions referred to in paragraph 1, the verification and re-verification shall be, generally, complete and mandatory.

CHAPTER III - Origin of goods

Section I - General provisions

Article 10: Rules of origin

1. The rules of origin represent the conditions that allow determining the economic nationality of goods within the international trade relations.
2. The determination of origin of goods is required whenever there are customs duties or other charges having equivalent effect or restrictions or obligations of customs nature applicable according to the origin of goods, particularly when there is a legal framework comprising a more favourable regime benefiting the goods from certain countries.

Article 11: Types of origin

The origin of goods shall be preferential or non-preferential.

Section II - Non-preferential origin

Article 12: Non-preferential origin

The origin of non-preferential goods is relevant for the purpose of:

- a) Applying the Customs Tariffs with the exception of the preferential tariff measures;
- b) Application of non-tariff measures under the Constitution and the law and that has as generating factor the import of goods; and
- c) Processing and issuing of certificates of origin.

Article 13: Principle of Neutrality

The non-preferential rules of origin are neutral, to the extent that they apply indiscriminately to goods produced in the country and to the goods imported from third countries or exported, without distinction of nationality of its manufacturer.

Article 14: Covered products

The non-preferential rules of origin apply to all products including agricultural, industrial, chemicals and textiles.

Article 15: Territorial Scope

The non-preferential rules of origin are applied throughout the national customs territory.

Article 16: Types of genuine goods

The genuine goods comprise two categories:

- a) The ones wholly obtained or produced in the country; and
- b) Those produced in two or more countries.

Subsection I - Goods wholly obtained or produced in a country

Article 17: Goods wholly obtained or produced in a country

A good is considered to have been wholly obtained or produced in a country when only one country is involved in its production, and has not been used in its production imported materials or materials of unknown origin.

Article 18: Enumeration

1. Are considered goods wholly obtained in a country:

- a) The mineral products extracted there;
- b) The vegetable products harvested there;
- c) The live animals born and raised there;
- d) The products obtained from live animals bred there;
- e) The hunting and fishing products conducted there;
- f) The fishery products and other products taken from the sea, outside the territorial waters of any country, by vessels registered or recorded in that country and flying its flag;
- g) The goods obtained on board of factory ships from the products referred in paragraph f) originating in that country, provided that such factory ships are registered or recorded in it and flying its flag;
- h) The products extracted from the marine soil or subsoil, located outside the territorial waters, provided that it has engaged, for purposes of exploitation, exclusive rights to the same soil or subsoil;
- i) Waste and scrap resulting from manufacturing operations and discarded items, provided it has been collected and are used only for the recovery of raw materials; and

- j) Goods that are produced therein exclusively from goods referred to in subparagraph a) thru i), or from their derivatives, whatever the stage of production.
- 2. The subparagraphs a) thru e) from paragraph 1 refer to products in their natural state, obtained in the territory of a country that did not suffer any further processing.
- 3. The subparagraphs f) thru g) from paragraph 1 refer to products obtained or produced outside the territory of a country.
- 4. The waste and scraps referred to on subparagraph i) are considered as wholly obtained in a country if resulted from manufactured production in that same country.
- 5. The discarded items are considered wholly obtained in a country if collected in the territory of that country and is used only on the recovery of raw materials.
- 6. The discarded items subjected to, in a given country, the manufacturing procedures for purposes other than the recovery of raw materials, are not considered to be wholly obtained there.

Subsection II - Goods manufactured in two or more countries

Article 19: Rule of last substantial operation

- 1. If two or more countries are involved in the production of a good, this is considered to be originated in the country where the last working or processing operation was carried out in accordance of Article 249 of the Customs Codes provided that the following requirements are simultaneously satisfied:
 - a) Be substantial processing or working;
 - b) Be economically justified; and
 - c) Be carried out in a company equipped for that purpose.
- 2. To be considered substantial processing or working this must result in obtaining a new product or representing an important stage of the manufacturing process or the resulting merchandising must have its own specific properties and a composition that did not have, prior to the manufacturing process, not conferring the origin of the final product the transformations that do not change qualitatively the properties of the raw materials used.
- 3. To determine the operation that constitutes the last substantial processing must:
 - a) Distinguish all operations involved in the productions or processing of goods;
 - b) Determine the last transformation during which the goods acquire new qualities and characteristics different from those of materials used in their production;
 - c) Determine which of the operations performed during the working process is the most important operation in relation to the working process considered as a whole.

Article 20: Auxiliary rules in determining substantial transformation

Are auxiliary rules in determining a substantial transformation:

- a) The change of tariff heading.
- b) A specific manufacturing process;
- c) The value added.

Article 21: Change of tariff heading

The change of tariff heading criterion implies that the product derived from the processing would fall under a tariff heading other than the tariff position assigned to the non-originating materials used in their manufacture.

Article 22: Specific manufacturing process

1. The criterion of specific manufacturing process determines, with relative accuracy, the basic operations that must be carried out on non-originating materials, so that the goods acquire the origin of the country where the manufacturing process took place.
2. This criterion has the advantage of not only implement, in the best way, the requirements of the rule of last substantial transformation, as well as allows producers to focus on a particular manufacturing process rather than external elements to the production of goods, such as the added value and tariff classification.

Article 23: Methods of definition of manufacturing criteria

1. The criteria of the specific manufacturing process can be defined positively or negatively.
2. If these criteria are defined in a positive way, it is indicated the process or manufacturing processes which have to be fulfilled on non-originating materials so that the finished product acquire the origin, through a specific description on the manufacturing operations and/or specifying that certain materials must be originating in the country of manufacture.
3. If these criteria are defined in negative way, it is indicated the process or manufacturing processes that are not considered to be substantial to confer the origin, by specifying the minimum level of manufacturing operation that is not considered as the last substantial transformation.

Article 24: Value added

1. The valued added criterion determines the origin of the goods based on business value, which is the value added to a product in a given country through the manufacturing operations that took place there.
2. This criterion implies that, after the manufacturing operation, the goods have a certain commercial value, in which it includes the commercial value of the materials used in their production, as well as the value of own manufacturing process.
3. The purpose of this criterion is to determine if the value added in the country where the manufacturing operations took place exceeds a level, previously defined, relative to the value of the final product.

Article 25: Ex-works price

1. For the purposes of applying the value added criterion, is taken as a reference the "ex-works price", which serves as a benchmark for all the values that have been added in the production of a good whose origin is to be determined.
2. The term "Ex-works price" is the ex-factory price, of the product obtained, minus any internal taxes which are or may be refunded when the product obtained is exported.
3. The "Ex-works price" includes in particular:
 - a) The value of all the non-originating materials;
 - b) The value of all the originating materials;
 - c) The value of own manufacturing process;
 - d) Overheads from the manufacturer; and
 - e) The profit.
4. The value of non-originating materials used is their customs value at the time of import or, if this is not known or may not be determined, the first ascertainable price paid for such materials in the country of processing being, normally, calculated on the basis of their invoice price.

5. The value of the manufacturing process includes all direct costs, particularly of labor and indirect, for example inspection and management, related to the manufacture of the product.
6. Overheads include all administrative costs incurred, in order to manufacture and sale of the product, such as financing costs, and advertising costs.
7. Profit is the difference between the sum of the value of all the non-originating materials, the value of all the originating materials, the value of the manufacturing process, the overhead of manufacturer and the invoice price, considering that the product is sold ex-works.

Article 26: Operating methods of the value added criterion

The value added criteria may work according to one of the following:

- a) By imposing a minimum threshold value, compared to the "ex-works price" which should be achieved in the country where the manufacturing process takes place so that the product acquires the origin of that country; or
- b) By limiting the amount of non-originating materials which may be used in the manufacture of the product in relation to the "ex-works price".

Article 27: Insufficient transformations to confer the origin

1. Minor transformations, called simple operations, such as labelling or packaging, shall not be considered as substantial transformation, and therefore cannot confer the origin of the final product.

2. Are considered simple operations:

- a) The necessary operations for the preservation of the goods during transport or storage;
- b) The operations to improve the packaging or to prepare goods for shipment;
- c) The simple assembly operations; and
- d) The mixing of products of different origins provided that the characteristics of the resulting product are not essentially different from the characteristics of the products which have been mixed.

Article 28: Deviations in determining the origin

The transformation, although complying with the requirements of last substantial operation, does not confer to the concerned product, the origin of the country where it was made if it is proved that their only objective was to avoid the application in the country, the existing provisions for products from certain countries.

Subsection III - Proof of origin**Article 29: Proof of origin**

1. The origin of the goods may be proven by a simple declaration made by the producer, supplier, exporter or by any competent person, on the commercial invoice or any other document or through a declaration of the same merchants, certified or completed through a certification made by a competent authority for this purpose and independent of either the exporter or the importer.

2. The law may, however, require, in certain cases, special forms where the origin of the goods shall be certified, which are called certificates of origin.

Article 30: Certificate of origin

1. The certificate of origin is the document that identifies the goods and in which the competent authority or empowered body when issuing it certifies that the goods covered by it are originated in a particular country.

2. The certificate of origin is intended to facilitate the control of origin, to speed up the customs clearance and ensure that trade measures are applied without problems.
3. The certificates of origin shall be issued by an authority or body with the required security and is duly authorized for this purpose by the country of issuance.

Article 31: Posteriori control of certificates of origin

The Directorate-General of Customs may request the foreign authorities for posteriori control of proof of origin, as well as respond to identical requests made by those entities, heard, if necessary, the respective issuer.

Section III - Preferential rules of origin**Article 32: Definition**

Preferential rules of origin are those whose application results in the granting of a benefit that is assigned only to the goods regarded as originating in accordance with the criteria laid down for this purpose in the agreements and international conventions concerning them.

Article 33: Concept of preference

1. The preference, the granting of which is determined according to the origin of goods, consists of a reduction or exemption of customs duties applicable on import, with reference to the level of rights resulting from the application of most-favored-nation clause in the context of World Trade Organization (WTO).
2. The preferential treatment is granted to certain countries provided they comply with the criteria and conditions laid down in the international conventions and agreements entered into.

CHAPTER IV - Customs value
Section I - General provisions**Article 34: Legislation**

1. The determination of the customs value of the goods shall comply with the provisions of the Agreement on implementation of Article VII of GATT, of the Customs Code, the present law and other applicable legislation.
2. The provisions of the Agreement on implementation of Article VII of GATT are applied in accordance with the general and specific interpretative notes in its Annex I.

Article 35: Recourse to other methods

1. When the customs value cannot be determined by transactional value method, the following methods must be used successively until the first for determining such value is reached.
2. Excepted as provided in Article 4 of the Agreement on implementation of Article VII of GATT, only when the customs value cannot be determined in accordance with the provisions of a given method is that recourse to the subsequent method can be used.
3. The importer may, pursuant to Article 267 of the Customs Code, request the reversal of the order laid down in Articles 5 and 6 of the Agreement on implementation of Article VII of GATT, as well as Articles 275 and 277 of the Customs Code.
4. If the importer opts for the reversal, but then be proven the impossibility of determining the customs value in accordance with the provisions of article 6 of the Agreement on implementation of Article VII of GATT or in Article 275 of the Customs Code, the customs value shall be determined in accordance with the provisions laid down in Article 5 of the agreement or in Article 275 of the Code, if it can be determined that way.

5. When the customs value cannot be determined in accordance with the provisions of Articles 1 and 6 of the GATT agreement on Customs Value or of Articles 260, 264, 267, 268, 269, 270, 273, 275, 277 of the Customs Code, shall be determined in accordance with the provisions of Article 7, last recourse method, from that agreement or Article 278 of the code.

Article 36: Components of substitution methods

The substitution methods or of last recourse should be based also on objective elements, either from amounts already accepted by the Customs Administration for identical or similar goods from the same export country, either from data relating to the goods itself for in relation to goods of the same kind or the same nature.

Article 37: Account principles generally accepted

In determining the customs value of the goods, the Customs authorities use financial information prepared in a manner consistent with generally accepted accounting principles in the country of export or import or production, depending on the element to ascertain and the method adopted for this clearance.

Section II - Transactional value

Article 38: Transactional value method

1. The transactional value is the first and the main applicable method for customs value calculation.
2. The imported goods are valued according with the transaction value provided that legal requirement for the application of this method are fulfilled.
3. The transactional value may be subject to adjustments, under the GATT Agreement on implementation of Article VII of the Customs Code.

Article 39: Deductions

The customs value does not include any charges or costs listed in Article 263 of the Customs Code, provided that they are separated or may be separated from the price actually paid or payable for the imported goods

Article 40: Components of the transactional value

The transactional value is composed of 3 elements:

- a) The sale;
- b) The actual price paid or to be paid; and
- c) The elements to be added or deducted from the price.

Article 41: Operations not considered sale

1. For the purpose of determining the transactional value, the following operations are not considered sale:
 - a) Free remittances, that is, the free transfer of goods, namely, the offers, sample, prototypes and advertising items in respect of which there is no transactional value at the time of importation;
 - b) The sale of goods made under a consignment agreement in which those are sent to the country of importation, not under a purchase and sale contract, but with the purpose to be sold in that country at the best price and on the supplier's cost, where ownership remains with the foreigner supplier.

- c) The import of goods through the intermediaries, for the purpose of storage and subsequent sale, after importation, at supplier's cost and risk, except in the case of import of goods acquired by distribution agencies or other agencies;
- d) The import of goods by a chain without separate legal personality of the entity and the provider and which assumes, during the transaction, the function of client search and sale of the goods after importation. The import of goods under a rental agreement or leasing, even in cases where the importer lessee is given the option to purchase the leased goods;
- e) The supply of goods, as a loan, whose property remains at the possession of a consignor;
- f) The import of goods, in particular scrap and waste, with the purpose of its destruction in the country of importation; and
- g) The exchange or compensation of goods by an equivalent that does not involve financial settlement.

2. If, on the contrary, the role played by the chain is only logistical support including the receipt of goods or storage and purchase and sale between the parent company located in the third country and the end customer has occurred prior to the release for free circulation of goods, this sales qualifies as a sale for export, existing a transactional value that serves as a basis for the determinations of the customs value in normal conditions.

Article 42: Customs value acceptance conditions in case of sale

1. In the case of purchase and sale, the transactional value is, subject to possible adjustments, the customs value, provided that there none of the rejection situations referred to in the following article.

2. If the Customs Administration has reasonable doubts about the declared value, it may reject it, using, in this case, the substitution methods.

Article 43: Situations of rejection of the transactional value

The Customs Administration may reject the transactional value under the following situations:

- a) In the case of purchase and sale or payment of the price being subject to some condition or consideration, whose value relative to the value of the goods subject to evaluation cannot be determined, when:
 - i. The seller sets the price of the imported goods under the condition that the buyer will also purchase other goods in specific quantities;
 - ii. The price of the imported goods depend on the selling price or prices, by the purchaser thereof, of other goods to the seller of these imported goods; and
 - iii. The price is established on the basis of a method of payment unrelated to the imported goods;
- b) In cases where transfer or use of imported goods by the buyer is subject to restrictions, including a ban on their sale and their use for demonstrations only; and
- c) If agreed the direct or indirect reversal of part of the proceeds of any retail product, transfer or use of the goods by the buyer, to the seller, in particular the distribution of profits.

Article 44: Situation of non-acceptance of restrictions imposed on the buyer

The restrictions imposed on the buyer are not considered relevant when:

- a) They are imposed by law or by authorities of the import country;
- b) They limit the geographic area in which the goods may be sold;
- c) They don't substantially affect the value of the goods;

Article 45: Restrictions that affect the pricing substantially

To determine whether a restriction substantially affect the value of the good, the customs authority take into consideration, in particular, the nature of the restriction and the imported

goods, the field of activity concerned, the usual commercial practices in the sector and find out if the impact on the value is significant, from a commercial standpoint.

Article 46: Contributions and conditions that do not imply rejection of the transactional value

1. The conditions and contributions concerning the production or commercialization of the imported goods do not imply rejection of the transactional value if:

- a) The buyer provides the seller with engineering works or plans executed in the country of importation; and
- b) The buyer self-initiates, even if within an agreement with the buyer, activities related with the commercialization of the imported goods.

2. If it is possible to calculate the value of the condition or contribution in relation to the goods in which the customs value are to be determined, this must be considered as an indirect payment, made by the buyer to the seller, of part of the price paid or to be paid.

3. For the purpose of the preceding paragraph, it is necessary that the concerned condition or contribution is not an activity undertaken by the buyer on their own, nor is any of the elements to be added, under the Customs Code.

Article 47: Coalition that influences pricing

1. In case of coalition between the buyer and the seller, pursuant to Article 265 of the Customs Code, having doubts about whether it influenced or not the selling price, the customs authority shall examine the circumstances involving the sale to determine if the declared price should be accepted as the customs value.

2. If there aren't any doubts about the acceptability of the price, in particular, because the coalition has already been subject to a previous examination or because the Customs Administration already have knowledge of all the relevant information about the buyer and the seller, there is no need to proceed to the examination referred to in paragraph 1, in which case, be accepted the declared price, without the request of additional information from the importer.

3. If the Customs Administration has reasons to consider that the coalition relationship between the buyer and seller influenced the invoiced price, opportunity should be given to the importer to demonstrate that the transactional value is very close to one of the following criterion values.

4. The criterion values referred to in paragraph 3 may assume the following ways:

- a) Transactional value in sales, between the sellers who are not related, of identical or similar goods for export to the Cape Verdean customs territory;
- b) Customs value of identical goods, determined in accordance with provisions of Articles 270 and 273 of the Customs Code; and
- c) Customs value of similar goods, determined in accordance with provisions of Articles 270 and 273 of the Customs Code.

5. The criterion value shall only be used at the initiative of the importer, and only for comparison purposes, and for that reason, it cannot be used as a basis of calculation to determine the customs value.

6. In order to be accepted, the criterion value must satisfy the following conditions:

- a) Correspond to a transaction made at the same time or very close of transaction relating to goods whose customs value is to be determined; and
- b) Be previously accepted by the customs services.

Article 48: Proof that the coalition did not influence the price

1. If it is proven that the buyer and the seller, though, buy and sell from each other as if they were not related, it is considered not verified the influence of the coalition on the price.
2. If the importer is able to demonstrate that the transactional value is very close to one of the "criteria values" previously accepted by the Customs Administration, the declared price is considered acceptable for the purpose of determining the customs value of the goods.
3. The Customs authority may not require the buyer to prove that the coalition did not influence the price when have available sufficient information to convince thereof.
4. To determine if a value is approximate of another, many factors are taken into consideration, variable case by case, namely, the quantities imported, the supported costs by the seller when not related to the buyer, the nature of the imported goods, the nature of the production field, the time of the year in which the goods are imported and if the difference in values is significant from a commercial standpoint.

Article 49: Survey or additional information

1. The Customs Authority may not determine the customs value based on the transactional value method if they have reasonable doubts that the declared value is in fact the price paid or to be paid.
2. In order to clarify the doubts, the customs services may request additional information from the buyer about:
 - a) The accuracy and the completeness of the information contained in the declaration the authenticity of documents submitted in support of those elements;
 - b) Making available, if possible, the export dispatch ticket from the country of origin; and provide any other information or additional documents necessary to determine the customs value of the goods.
3. Should the doubts persist, the customs authority, before making a final decision, in case they are requested, they shall inform the interested party of the reasons for the doubts, giving him the opportunity to respond within a reasonable time frame.
4. The final decision and respective reasons are communicated to the interested party in writing.

Section III - Special situations for calculating the customs value**Article 50: Price payment method**

The payment for the price of the goods may be done direct or indirectly.

Article 51: Application of the transactional value method to instalment shipment

1. The transactional value method shall be applied to instalment shipment provided that the conditions foreseen in the law for the application of this method are in compliance.
2. Shall be considered instalments, the shipment of goods, that although correspond to a single transaction between the buyer and the seller, are not presented to the customs clearance at the same time, being for reasons related to the delivery transport, payment or for any other reasons in which, as a result of these reasons, are imported several partial or successive consignments through the same entry point or different customs offices.

Article 52: Customs value calculation for the goods subject to global billing

1. The term goods subject to global billing means those that are part of a single consignment and include several goods of the same type, or various types, or various qualities of the same good and for which the seller bills the buyer a global amount covering all of the imported goods.
2. In case of identical goods subject to global billing, where only a portion is for consumption, the custom value to be declared is calculated in proportion of the global amount billed.
3. When the imported goods are of different types and there is custom clearance in the same proportion of each of the type in question, the custom value is also calculated in proportion of the global amount billed.
4. When the imported goods are of different types and the customs clearance is not in the same proportion, the custom value of these goods is determined using the substitution methods.

Article 53: Evaluation of the goods abandoned for sale

For the purpose of Article 655 of the Customs Code, the calculation of the customs value is done as follows:

- a) The value of the abandoned goods, listed for sale and which have no documentary support that allows the utilization of the successive first five methods for determining the customs value, is calculated based on the market value or using the value determined by the technical services of the public administration or specialized technical services; and
- b) For the calculation of the customs value of the goods referred to in subparagraph a) shall be used method 6, foreseen in Article 278 of the Customs Code, as a last recourse method.

Article 54: Activities not included in the price paid or to be paid

The activities undertaken by the buyer himself, after the purchase of the good, but before its importation, in particular, those related with commercialization, with advertising and with promoting the sale of goods, other than those that are considered for price adjustment, do not constitute indirect payment to the seller, even if the seller benefit indirectly or results from a previous commitment by the seller from the buyer, not including therefore the price actually paid or payable.

Article 55: Activities costs in the country of import

1. The costs of the activities supported by the buyer, after importation, not included in the price actually paid or to be paid, is not, in general, included in the customs value, except in cases of price adjustments previewed in the Customs Code.
2. On the other hand, when the costs of these activities are included in the price actually paid or to be paid for the imported goods, should not be deducted from this price, unless there are concerned expenses subject to deduction under Article 263 of the Customs Code.

Article 56: Storage costs and related costs

The costs of transportation, insurance, cargo and maintenance related with the transportation until the entry point of the goods in the custom national territory, shall be added to the declared price, provided that they have not been included in the practice already paid.

Article 57: Warranty costs

1. If the costs and risks related to the warranty are, directly or indirectly, borne by the seller, its costs is included in the price of the goods and, consequently, in calculating the customs value.
2. In case is the buyer bearing, director indirectly, the costs and risks related to the warranty, the payments made for these costs are not part of the price actually paid or payable.

Article 58: Costs related to quality control

The control costs that are not part of the price actually paid or payable for the good, are not considered in the calculation of the customs value of the good.

Article 59: Price reductions

1. The term price reduction means a reduction in the price compared to a current market price, a price request to another buyer or any other higher price.

2. The reductions in the price agreed between the seller and the buyer are accepted as elements to be deducted in the price to be considered in the determination of the customs value, provided that:

- a) They respect the imported good; and
- b) Its amount is known at customs clearance.

3. The Customs Authority may request the importer or the declarant to provide all the information or supplementary documentation related to the price reduction.

Article 60: Free consignments

The customs value of the free consignments is determined through the substitution methods when there is not an invoice or other element allowing the direct determination of its value.

Article 61: Computer support

The customs value of the computer support for use as equipment for imported data processing is determined from its total value, under the rules of common law, without distinction between the value of the computer support and the value of the data or instructions.

Article 62: Defective goods

1. The defective nature of the goods is considered in calculating the customs value, accepting an adjustment of the price actually paid or payable for the goods, and should the adjustment be made entirely in accordance with the purchase and sales contract and with the objective to satisfy this defective nature of the goods.

2. The price adjustment must lead to a normal financial settlement between the buyer and the seller, in order to verify if the initial price of the goods was adjusted in accordance with the contract.

Article 63: Determination of the defect of the goods

1. The defective nature of the good is determined by standards or criteria defined by reference to the purchase and sale contract or to the warranty clauses.

2. The importer must demonstrate to the customs authorities that the concerned goods were defective at the time of customs clearance.

3. The goods must be covered by a warranty that offers protection against the nature of the imported goods.

Article 64: Partially defective goods

In case of partial loss of the goods being evaluated, that occurred during transport and that is established prior to their release for free circulation, whatever the nature of the sale contract, the customs value shall be determined by a proportional distribution of the price actually paid or payable.

Article 65: Missing goods

The value of the missing goods is deducted, by a proportional distribution, the customs value of the consignment, provided that the loss in question is established before customs clearance.

Article 66: Non-conforming goods

1. In case of non-compliance of imported goods, if the price paid is not changed, it can be used in determining the customs value.
2. If the seller indemnify the buyer, must take into account the indemnity granted in the price actually paid or payable.
3. If non-compliance with the clauses of the contract is established before customs clearance, and if the amount of indemnity is not known, must use the procedure of provisional values.
4. If non-compliance with the clauses of the contract is established after customs clearance and if an indemnity is granted, an amendment to the customs value may be accepted, if is configured a situation that allows it.
5. The procedure for any reimbursements derived from the return of goods or from the finding of non-compliance referred to in the preceding paragraph, follow the normal procedure for reimbursement.

Article 67: Review of the customs value of defective goods

1. Whenever it is established the existence of imported defective goods after its release for free circulation,

There is a specific contractual clause between the seller and the buyer that foresees the possibility of a price revision in these circumstances and the price change occurs within twelve months the release for free circulation of goods, the new payable price for the goods set by the seller may be accepted for determining a new customs value, and in substitution of the originally agreed amount.

2. To that end, provision should be made to prove that the following conditions are fulfilled:
 - a) The goods were already defective at the time of acceptance of the import declaration;
 - b) There was, prior to import a written contract between the seller and the buyer, expressly previewing the possibility of posterior price change, in the case emergence of any deficiency; and
 - c) The price change occurred within twelve months from the date of release for free circulation.

Section IV - Adjustments to customs value
Subsection I - Elements supported by the buyer not included

Article 68: Commissions and brokerage fees

The sales commissions and brokerage shall be included in the customs value, must be added to the price paid, when the remuneration of the sales commission or broker is supported by the buyer but is not included in this price.

Article 69: Recipients and packaging

1. The cost of recipients and packaging is part of the customs value of the imported goods to the extent that it is supported by the buyer.
2. Packaging other than the usual type for the packaged good or long-term nature regardless of its packaging function are not covered by the provisions of paragraph 1 and must not be included in its customs value.

3. The packages referred to in the previous paragraph are evaluated separately and taxed autonomously.

4. When these packages are provided by the seller and are invoiced with the good, it is necessary to deduct its value from the value of the goods.

Subsection II - Products and services provided directly or indirectly by the buyer free of charge or at reduced costs

Article 70: Inclusion in the price paid or payable of products and services provided direct or indirectly by the buyer

1. To the price paid or payable is added the value of certain products and services, provided direct or indirectly by the buyer, free of charge or at reduced costs, for use in the production and sale for export of the imported goods, given that the same value was not included in the price.

2. The value of products and services referred to in the previous paragraph is only added to the price actually paid or payable, if the following conditions are fulfilled:

- a) Were not included in the price actually paid or payable;
- b) Were provided direct or indirectly by the buyer;
- c) Were provided by the buyer free of charge or at reduced cost;
- d) Were used in the production and sale for export of imported goods; and
- e) If based on objective and quantitative data.

Subsection III - Determination of the customs value of products and services provided direct or indirectly by the buyer

Article 71: Evaluation of the elements to be added to the price

Any element to be added to the price paid or payable, according to the preceding subsection, must be previously evaluated according to:

- a) If the element was acquired by the importer from a seller which is not related to, the acquisition cost must be considered;
- b) If the element was produced by the importer or by someone he is related to, or if he acquired it from someone related to him, the cost of production or manufacture must be considered; and
- c) If the element had been previously used by the buyer, regardless if it was acquired or produced by him or not, the initial acquisition or production cost must suffer a reduction which takes into account this utilization.

Article 72: Software and related technologies

In case of software and related technologies, the value of intangible elements included in the goods to be imported must be added to the price paid or payable.

Article 73: Royalties and licenses

1. The term royalties and licenses designate the payment for the use of rights relating to:

- a) Patents, drawings, models and expertise in manufacturing;
- b) Trade and industrial marks of registered models on the export of goods; and
- c) Copyrights, rights related to manufacturing processes inseparably incorporated in the imported goods, in terms of utilization or resale of imported goods.

2. The payment of the rights referred to in paragraph 1, is part of the invoiced price for the imported goods and are usually paid based on a contract, to the seller or a third party at the time of use of these goods for specific reasons or at the time of resale under an industrial or trade mark that is owned by the seller.

3. Royalties and license fees related to the goods to be evaluated, that the buyer must pay, either direct or indirectly, as a condition of sale of these goods, must be added to the price actually paid or payable, to the extent that such royalties and license fees were not included in this price.

4. In order for an amount related to a royalty fee to be added to the price actually paid or payable the following conditions must be fulfilled:

- a) The payment of the royalty or license fee must be related to the good being evaluated, and
- b) The royalty or license fee must be a condition of sale of the good.

Article 74: Ways to include royalty fee in the customs value

1. The portion of the royalty fee to be included in the customs value of the imported goods must be determined based on objective and quantifiable data, in close collaboration with the importer, analysing the conditions of the contract and the facts.

2. The evaluation formula of the total amount of the royalty or license fee on the elements to be or not be included in the value comes from the actual license agreement.

3. If the imported goods consist of the essential of the patented finished products resold in the import country, the portion of the royalty fees paid for the brand are not to be taken into consideration, when there is a change in the importing country.

Article 75: Resale product that reverts to the seller

To the price actually paid or payable for the imported goods must be added the value of the total or part of the resale product, transfer or use of the imported goods that reverts direct or indirectly to the seller.

Section V - Elements to deduct

Article 76: Deductions

1. The following expenses are part of the list of expenses or costs that can be deducted from the price actually paid or payable, pursuant to Article 263 of the Customs Code:

- a) Goods transportation expenses after arrival to the entry point in the Cape Verdean customs territory;
- b) The expenses with construction works, installation, assembly, maintenance or technical assistance carried out after the importation;
- c) The amounts of interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, pursuant to subparagraph c) of the referred Article 263 of the Customs Code;
- d) The expenses related to the reproduction of the imported goods in Cabo Verde;
- e) The purchase commissions;
- f) The import duties and other payable charges in Cabo Verde due to import or sale of the goods.

2. In order for the expenses referred to in paragraph 1 to be deducted from the price, must fulfil the following requirements:

- a) Be included in the price;
- b) Be quantifiable, i.e., be expressed in monetary values; and
- c) Appear distinctly on the bill.

3. In order for an element to be considered distinct, for the purposes of subparagraph c) of paragraph 2, it is necessary not only to subscribe the request in the appropriate offices of customs declarations, but also, where appropriate, establish the nature of the element and its quantification in monetary terms.

Article 77: Documents used as the basis for calculating the deductions

The amount for which the deduction is being requested shall, in principle, be calculated based on the commercial documents presented by the importer.

Article 78: Supporting documents for expenditures subject to deduction

1. The expenses subject to deduction may be supported by any commercial document, including documents with long-terms efficacy related to more than one import.
2. In the absence of commercial document, can also be used in the case of transportation costs, a statement of the declarant indicating the rates normally applied for the type of transport concerned and how the amount was determined.
3. The customs authority may provide the confirmation of the indicated expense using the available resources.
4. The customs authority may verify the accuracy of the nature of the declared amount.

Article 79: Cooperation of declarants

1. In order to facilitate the determination of the customs value, the declarants must previously adopt all the important measures to have the documentary evidence at the time of filling out the customs declaration.
2. If the required documents are not available at the moment of examination, the customs authority may give the declarant a reasonably timeframe to obtain and lodge those documents.
3. To benefit from the facility provided in paragraph 2, the customs authority shall require the declarant to commit in writing to meet the deadline which was granted for the lodgement of the documents referred to therein.
4. The benefit of exclusion in determining the customs value is only given should the conditions referred to in paragraphs 2, 3 and 4 of the preceding article be satisfied.

Article 80: Work performed after the import

1. Expenses in the customs territory after import of the goods are deductible if they are distinct from the price actually paid or payable for the goods.
2. Is to be considered work performed in the customs territory after import, construction Works, installation, assembly, maintenance or technical assistance related to the imported goods.

Article 81: Interest resulting from deferred payments

1. The interest paid or payable, resulting from a financing agreement entered into by the buyer related to the purchase of imported goods are not part f the customs value.
2. The deferred interest referred to in previous paragraph can only be deducted when is verified, cumulatively, the following conditions:
 - a) Be distinct of the price actually paid or payable for the goods, stating the value on the invoice or other supporting document;
 - b) Stating in the financing agreement, related to interest for deferred payment, celebrated before the time of evaluation of the imported goods
3. The Customs Administration may at any moment, even after customs clearance, require proof in which:

- a) The value of goods, not including the amount of interest for deferred payments, corresponds to the price actually paid or payable for such goods;
- b) The applicable interest rate does not exceed the one applied on transactions carried at the moment and in the country in which the financing was given.

Article 82: Rights to reproduce imported goods

The rights of reproduction of the imported goods may be deducted if they are included in the price paid or payable, show distinctively and the operation of reproduction is carried out before the importation of goods.

Article 83: Purchasing commissions

1. The purchasing commissions may be deducted if included in the price actually paid or payable.
2. It is incumbent upon the Customs Administration to determine the nature of the services provided by the commission agent.
3. Purchasing commission agents are the people acting on buyer's account, who provide services such as identification of suppliers, completions of sales and other related services.
4. For confirmation of the existence and the nature of provided services, may the Customs Administration request the declarant the presentation of the commission contract entered into between the commission agent and the buyer, which stipulates the formalities and the activities that the commission agent may carry out in the exercise of his attributions until the moment the goods are made available to the buyer, as well as other documentary support such as order forms, faxes, correspondence, accounting records, the invoice which support the declared value, as well as other documents that may be used as evidence.

Article 84: Duties and other charges due on importation

The duties and other charges due on the import of goods, included in the price of the goods, regardless if the respective amounts are invoiced or not, may be deducted in determining the customs value of the concerned goods.

Section VI - Other methods to calculate the customs value**Article 85: Recourse to other methods**

1. When the customs value cannot be determined by the transactional value method, other methods foreseen in the Customs Code, can be used successively for determining the customs value.
2. The non-utilization of the transactional method by the Customs Administration can only occur in the following cases:
 - a) When the possibilities of justification by the importer are completely exhausted;
 - b) When the importer denies presenting the justifications considered necessary;
 - c) When the seller and the buyer are related.
3. The last recourse method can only be used when none of the other methods can be applied.

Article 86: Order to use the methods

The substitution and the last recourse methods shall be, mandatorily, applied by the order in which they are laid out in the Customs Code and may, however, upon importer's request, the order be reversed in relation to deductive and calculated methods.

Article 87: Cooperation between the declarant and the Customs Administration in the utilization of the substitution methods

In case of utilization of substitution methods there must exist a collaboration between the customs services and the declarant, in order to attain a fast and satisfactory determination of the customs value to be declared.

Article 88: Calculation of the customs value based on goods of same nature or same type

1. For the purposes of this article, it is considered goods of same nature or same type, the goods that fall within a group or range of goods produced by a specific area of production or by a specific sector of production field, imported from the same country of production, from other countries, including the identical or similar goods.

2. When the customs value cannot be calculated based on transactional value of the imported goods, the Customs Administration must, whenever possible, take into consideration the sale of identical goods held at the same commercial level and at approximately the same quantity as the goods to be evaluated.

3. In case of absence of sale held according to paragraph 1, should be resorted to a sale of identical goods made in any of the following situations:

- a) Sale at the same commercial level, but relative to a different quantity;
- b) Sale at a different commercial level, but relative to approximately the same quantity;
- c) Sale at a different commercial level, but relative to a different quantity.

4. In cases of subparagraph of paragraph 3, there must be adjustments to correct the various situations.

5. If the only identical imported goods, for which there is a transactional value, were sold in a quantity greater than the quantity of the goods whose the value is to be determined, an adjustment can be made, taking into account the current price of the seller in a sale correspondent to a comparable quantity as the goods whose customs value are to be determined.

6. In case there are many transaction values of identical goods, the lowest amount must be taken into consideration.

7. The transactional value of identical imported goods must be calculated according to the Customs Code, and there may be a need for eventual adjustments, due to the differences that may exist between the compared goods in respect to expenses, particularly related to transportation, insurance, cargo and maintenance.

Article 89: Documents to be presented

1. The declared valued based on the identical goods method must be proven through the lodgement of a copy of the import declaration of the identical good, which the customs value was determined based on the transactional value method, as well as the respective supporting documents.

2. When the referred import declaration is not available or the importer does not have access to it, because it was made by another importer, it may be accepted, as proving elements, a copy of the sales invoice related to the import of the identical good and relevant information about it.

Article 90: Price calculation basis

1. The basis of unit price calculation must be used according to the order indicated in article 85.

2. One may only resort to the price following type, when a base price is not available or is not applicable.

3. The unit price to be considered to determine the amount of sale of the imported goods or identical or similar goods, totalling the higher quantity.

4. Should there be successive Sales, it should be considered the sale that took place on the closest date of importation of the goods to be evaluated.

Article 91: Deductions

1. The deductions to be made, taking into account the added value by the further working manufacturing or further processing, are based on objective and quantifiable data about the cost of this work.

2. Such elements must be provided by the importer and taken into consideration if they correspond to the generally admitted in the concerned production sector.

3. The use of the method of determining the customs value can only be requested by the importer, not being applicable in situations in which the good have lost its identity, due to further manufacturing process or transformation and the value added cannot be accurately determined.

Article 92: Elements to be deducted

The elements to be deducted from the sales price, to determine the customs value by the deducting method, are the commissions paid or agreed and the margins usually practiced for profits and overheads related to the sale of imported goods of the same nature or kind.

Article 93: Amounts of deductions

1. The amounts to be deducted such as commission, profits or overheads are the one that correspond to the sale of the imported goods of the same nature or kind.

2. The determination of the value of the commissions, profits and overheads is done from the information and effective amounts provided by the importer or by his representative.

3. The profits and overheads must be considered as a whole.

4. The deductions made as commissions or profits and overheads must be compatible with those normally practiced in the sale of imported goods, in case of sales of goods of the same nature or kind.

5. In case the amounts of deductions are not compatible with those usually practiced, prevails the amounts normally practiced.

Article 94: Margin calculation of commission, profits and expenses

1. The usual amount of commissions, profits and overheads may be represented by a margin that generally varies according to the nature of the goods to be evaluated.

2. It is considered acceptable margin, one that is evident and easily adjustable, and corresponds to the amount usually recognized.

Article 95: Common and related expenses of transportation, insurance

The common and related expenses of transportation, and insurance occurred in the country of import are only deductible if they have not been included in the overheads.

CHAPTER V - Anti-dumping and compensation measures
Section I - Anti-dumping measures

Article 96: Good subject to Dumping

It is considered subject to dumping the goods for which the export price to Cabo Verde is less than the price compared to a similar product, during normal sales operations, in the country of exportation.

Article 97: Anti-dumping duties

1. Anti-dumping duties are trade policy measures imposed by its own regulation in order to safeguard the country and its economic agents of unfair trade practices, in accordance with the agreement about Article VI of the GATT Agreement of 1994 (GATT Uruguay Round).

2. The anti-dumping duties are used to neutralize the effect of the injury or threat of injury caused by dumping, in order to even the price of such product in accordance with what is considered normal.

Article 98: Accumulation of measures

1. A good may be subject to, in simultaneous, to anti-dumping and compensation measures.
2. These measures are identified after investigation raised by complaint from national industry and conducted by the Directorate General of Customs.

Article 99: Content of the complaint

The complaint must contain the following elements:

- a) Identification of the complaint author, description of the item and the value of the produced goods;
- b) Detailed description of the product allegedly object of dumping and the names of the concerned countries/companies;
- c) Information about exportation prices of domestic market of the exporting countries;
- d) Information about changes of the volume of importations allegedly object of dumping.

Article 100: Intervention in the investigation

The interested producers, importers, exporters, users and consumers may be part of the investigation, accompanying the process, giving and receiving information.

Article 101: Purpose of the investigation

The purpose of the investigation is to verify the existence of three necessary conditions for the application of an anti-dumping measure, such as

- a) The existence of dumping practices;
- b) If the dumping practice causes injury for the national industry;
- c) If the practice of dumping is harmful to the national interest.

Article 102: Verification of dumping

1. The verification of existence of dumping consists in the comparison between the normal value and the exportation price.

2. The normal value is the practiced price by the exporter in his country of origin or, when this is not acceptable, a value calculated or build based on the cost of production, and adding other charges and costs, as well as the amount of the profits.

3. The exportation price is the price actually paid or payable by the product sold to Cabo Verde by a company of the export country.

Article 103: Dumping margin

The dumping margin corresponds to the amount in which the normal value exceeds the exportation price, and an weighted average dumping margin may be established when the dumping margins vary.

Article 104: Significant loss to the national industry

Significant loss to the national industry, means a major injury caused to the national industry

A significant threat of loss to the national industry or an important delay in the creation of that industry, evaluated based on the positive supporting elements as referred to in Article 337 of the Customs Code.

Article 105: Determining the loss to the national industry

The determination of the existence of the loss to the national industry must be based on positive supporting elements, an objective examination of the volume of dumped imports, in its effect on the prices of similar products in the domestic market and the impact of the imports on the national industry.

Article 106: National interest

The concept of national interest results, generally, of the weighted positive and negative effects of dumping, taking into account, in one end, the injury that affects the national producers of the concerned product, and the other end, the benefit of the consumers through the obtaining the product at lower prices.

Article 107: Provisional anti-dumping measures

Provisional anti-dumping measures may be applied, during the investigation process, provided that its proven, even briefly, the conditions required for its definite application.

Article 108: Commitments made by the exporters during the investigation

During the investigation process, the exporters may commit to revise their prices or cease their exports at dumped prices, in which the acceptance of the commitment may lead to closure of the case.

Article 109: Conclusion of the investigation

As a result of the investigation, the competent authority, subject to findings, may propose:

- a) The closure of the case without the application of any penalty;
- b) The imposition of anti-dumping duties.

Article 110: The closure of an investigation

The closure of a process without any penalty may occur because of the following reasons:

- a) The complaint is withdrawn and its closure is the country's interest;
- b) It proves unnecessary, after consultation, the adoption of protective measures; and
- c) The dumping margin is less than 2%.

Article 111: Proof of dumping

When the facts prove the existence of dumping, the injury caused and the interest of the country justifies an intervention, a definite anti-dumping duty is created, expiring provisional anti-dumping duties that had been fixed.

Article 112: Limit of anti-dumping duty

The amount the anti-dumping duty cannot exceed the dumping margin established.

Section II - Compensation measures**Article 113: Subvention**

Subvention is a subsidy or aid granted by the State or other public entity to certain companies without necessarily implying a compensation.

Article 114: Compensation duties

The compensation duties are intended to neutralize any subsidy granted, direct or indirectly, to the manufacture, production, export or transport of products, whose release for free circulation in the customs territory of Cabo Verde cause major injury.

Article 115: Investigation to the subventions

The investigation to the subventions is initiated by a written complaint by any natural or single person, as well as by any legal association acting on behalf of the national industry.

Article 116: Content of the complaint

The complaint must include sufficient evidence about the existence of a subvention, the injury caused and the causal link between the subvention and the injury, as well as the following information:

- a) The identification of the author of the complaint and description of the volume and the value of its production;
- b) A detailed description of the allegedly granted product and the country of origin;
- c) The evidence about the existence, the amount and the nature of the subvention; and
- d) The information about changes, impact and repercussion of the imports, allegedly granted, in the national industry.

Article 117: Failure to initiate an investigation

The investigation process is not initiated, in case the country that allegedly grants the subvention represents a national market share less than 1%.

Article 118: Opening notification

The exporters, the importers and the representative associations of the importers and exporters, as well as the country of origin and the authors of the complaints are notified of the opening of the investigation.

Article 119: Investigation period

The investigation period coincides with the most recent accounting year of the alleged beneficiary of the subventions.

Article 120: Scope of the investigation

The subventions investigations focuses on the existence of the subvention and the inherent injury, being investigates simultaneously.

Article 121: Compensation measures

1. The imposition of measures depends on the confirmation of the following facts:

- a) The existence of the subvention;
- b) The injury caused by the subvention; and
- c) The national interest.

2. The determination of the existence of the injury must be based on positive evidence, including an objective exam of the volume of imports subject to subvention and its effect on the prices of the similar products in the domestic market and the repercussion of these imports on the national industry.

Article 122: Consideration of the national interest

In determining the national interest, must take into account an assessment of the various interest taken as a whole, including the interest of the national industry, the upstream and downstream, the users and consumers.

Article 123: Provisional compensation measures

If, from the information gathered initially, there is evidence that confirm the facts referred to in paragraph 1 Article 121, the provisional compensation duties are applied.

Article 124: Conclusion of the investigation

The conclusion of the investigation may lead to the application of the following measures:

- a) Closing of the process without application of compensation measures; and
- b) The imposition of compensating duties.

Article 125: Closing an investigation

1. The closing of the investigation without the imposition of compensating measures, may verify when:

- a) There is a withdrawal of the complaint and provided that the filling is not against the country's interest;
- b) The adoption of compensation measures seems unnecessary; and
- c) The subvention margin is less than 2%.

2. The investigation may also be filed when the country of origin compromises to eliminate the subvention or the exporters compromise to change the prices.

Article 126: Limit to the compensation duty

The amount of the compensation duty, applied following an investigation process, cannot be greater than the benefit given to the beneficiary and is calculated based on each unit of the subsidized product exported to Cabo Verde.

Article 127: Jurisdiction for enforcement

It is the responsibility of the Customs Service the decision to apply the compensation measures.

Section III - Common provisions to anti-dumping and compensation measures

Article 128: Review of the measures

1. The applied anti-dumping and compensation measures may be subject to a review at the end of the term.
2. The review can both lead to the extension of the measures, as it lifting.

Article 129: Anti-dumping duties refund

An importer may request a refund of the anti-dumping duties in case he proves that the prices are not result of dumping.

Article 130: Composition and responsibilities of the Special Committee

1. The Special Committee to Determine the Anti-dumping Duties and the Compensation Duties, referred to in Article 345 of the Customs Code, is chaired by the General Director of Customs and composed of two elements designated by him.
2. The Special Committee meetings shall be convened, whenever necessary, by the General Director of Customs. The Special Committee is responsible to identify and propose the tariff codes subject to the application of anti-dumping and compensation duties.

CHAPTER VI - Customs Information System

Section I - General provisions

Article 131: Use of computerized processes

Regardless of its nature, customs formalities are fulfilled, by rule, through computer systems, in compliance with provisions set forth in this diploma as well as principles and standards under the applicable legislation.

Article 132: Customs information system

The customs information system is defined as a number of organized procedures, which, when executed, provides supporting information to the customs management to perform their duties, upon computerized processing of relevant data, while at the same time making information available to users, for the purpose of management and decision-making or transaction support.

Article 133: Integration into the Government's Private Technological Network

The customs information system is part of the Government's Private Technological Network (GPTN) and is subject to the rules related to management, access and usage of the mentioned network, as well as to safety and security rules of the data that flows in it.

Article 134: SYDONIA Information System

SYDONIA is an inter-operational, multifunctional, and evolutionary computer software, which allows the digitalization of customs processes and procedures, the electronic transmission of data and the network linkage among services and national operators and between the national customs administration and the international partner customs institutions, with which it cooperates for the electronic exchange of data, relevant for the performance of their duties.

The customs formalities are fulfilled through the SYDONIA computer system, of which is also part the additional computer applications of customs nature that operate to complement the mentioned system.

Article 135: Objectives of SYDONIA

The SYDONIA System should allow the following operations, among others:

- a) The digitalized procedural steps to put goods in free circulation;
- b) The Exchange of information with national and international customs authorities electronically;
- c) The electronic transmission of data structured in compliance with messaging standards approved between a computer system and the other;
- d) The integration of information elements required to fulfil relevant formalities in the customs information systems;
- e) The implementation of online communications and notifications and availability of information to the declarant, their representatives or agents on the progress of files, in which they are involved;
- f) The notification to stakeholders for duty and associated payment and the availability of information related to their payment.
- g) The automatic selection of verifiers or re-verifiers responsible for the detailed document control of the declaration or by physical control of goods, which are subject to it.
- h) The management and counting of deadlines expected under the temporary storage of goods' regime, in special customs regimes and free zones and warehouses;
- i) The submission of alerts on approaching deadlines to internal users;
- j) The entry, management and availability of statistic information on the procedures mentioned in this law;
- k) The development of databases and backup copies of all elements entered into the system and establishment of user profiles, access controls and permissions; and
- l) The development of document and file flow logs, according to the established deadlines.

Article 136: Specific functionalities of Sydonia

The SYDONIA includes specific computer applications, required for:

- a) The lodgement of summary declaration of goods and respective supporting documents through electronic data processing resources, in compliance with the provisions under Article 105 of the Customs Code;
- b) Putting imported goods in a free circulation status;
- c) The control of goods at temporary storage warehouse, in view of seizing those that have exceeded the legal storage time period and compliance control of pending customs duties and additional taxation;
- d) The control of putting goods under customs procedures with economic impact or in free zone or warehouse, the evolution of the compliance status by the managers of these facilities and holders of such procedures, the obligations they are subject to, notably the lodgement of stock accounts;
- e) Prevention to fraud and tax evasion;
- f) The control of customs administrative processes, in particular of sales of goods delayed, seized, lost in favour of the State, including the whole process of sale and availability, on the internet, of advertisements of sale of such goods; and
- g) The control of customs tax benefits.

Article 137: Managing Entity

The management of SYDONIA computerized information system and the respective applications and functionalities is under the responsibility of the Customs Central Services with mandate in this relevant domain.

The managing office of the system may insert other functionalities or make changes to the existing ones, in order to assure and optimize its operation.

Article 138: Managing office's mandate

1. In relation to security, the managing office, in close consultation with the department responsible for GPTN management, is responsible for the following:

- a) Define the level of classification and confidentiality of information flowing in it;
- b) Assess the impact on the office in situations of unavailability of the information systems;
- c) Define the level system operating continuity, by assessing the solutions for situations of disaster and contingency;
- d) Define the need of backup copies, as well as their storage time and assess the solutions implemented;
- e) Mobilize resources allowing the implementation and maintenance of desired level of safety and availability for the system under its responsibility;
- f) Grant the authorized user the right to operative the relevant functionality in the information system;
- g) Remove the user's access to the system when he/she loses the right to use it, notably, when the position that determined this access is terminated.

2. The managing office of the system should monitor the operation of this system and the accesses made in order to check whether the users have access only to the functionalities they have been authorized due to their assignments and responsibilities.

Article 139: Population covered by the Sydonia information system

The population of Sydonia information system's external users covers the professional declarants, which include the customs clearing agents, their assistants and customs in-house clearing agents, and all brokers and carriers agents.

Article 140: Access to the information systems

1. The access to the customs information system is governed by the legal provisions on security policies and standards for the management of the Government's Private Technological Network (GPTN)

2. The access to the stored and processed information in the customs information systems is individual and non-transferrable.

3. In order to access to any information, the user should be duly authorized and previously validated.

4. The user should have access only to the required information for his/her professional performance, within the scope of its duties and responsibilities assigned by the relevant institution.

5. The type of access should be compatible with the need of the ordinary or professional user and with the confidentiality of information.

Article 141: Duties of declarants

The people who submit the customs declarations mentioned in this law, through electronic data transfer, should:

- a) Register themselves, after the automatic compliance control of relevant declarations with those available in the system's database;
- b) Conduct regular consultations of procedural steps status of the declarations, aiming at getting acquainted with possible requirements by the customs services and for subsequent purposes;
- c) Collaborate with customs services in order to speed up the flow of the declarations and allow the relevant control by these services;
- d) Fully meet the established deadlines for each stage of procedural steps, notably, the payment of customs duties and additional taxes and the fulfilment of actions included in the notifications; and

- e) Meet the additional requirements Meet further computerized requirements instructed by higher bodies of customs services.

Article 142: Protection of personal data

1. The managing offices of the customs information systems are obliged to meet the requirements and procedures to safeguard the rights to privacy of users and of individual identifiable information stored processed and transferred through the mentioned systems.

2. The services mentioned in the above number assure the individual privacy of GPTN users and have the responsibility to protect personal data under their custody, of which they are faithful trustees, under the law.

3. In observing the principle of personal data privacy, the managing services of the customs information system are prohibited to:

- a) Intentionally accumulate or keep users' personal data or others, which are not relevant for the delivery of their services, therefore they should adopt the required measures to assure the integrity of personal data under their custody;
- b) Make available to third parties, except the cases provided under law, the personal data, under their custody; and
- c) Conduct the improper and unauthorized dissemination of such data, being subject to measures under the law to prevent the breaching of confidentiality.

Article 143: Security measures

1. The managing offices define and maintain security devices, which are appropriate to the efficient and reliable operation of the system, by adopting measures and procedures aiming at:

- a) Preventing the unauthorized access and use of the information systems;
- b) Maintain the integrity, availability and privacy of confidential information; and
- c) Prevent the loss or destruction of such information.

2. In order to assure the system's security level expected in paragraph 1, all data entries, changes and deletions made in the system are recorded with indication of their purpose, date and time they were made as well as their author.

3. The customs officials control the compliance of these security standards periodically.

4. The managing services of the information systems should inform their users whenever there is any suspicion of security breach.

Article 144: Special security measures

When, by the law, the treated data are considered sensitive, the managing offices of the customs information systems should take appropriate and increased information security measures, notably, in order to:

- a) Prevent the access of unauthorized personnel to the facilities used for processing these data, through the control of entrance in the facilities;
- b) Prevent that data media are read, copied, changed or deleted by unauthorized personnel, upon the control of data media;
- c) Prevent the unauthorized entry of personal data, their change or deletion, and their knowledge, by unauthorized third parties, through entry control;
- d) Prevent that automated data treatment systems be used by unauthorized personnel in data transfer facilities, through usage control;
- e) Assure that only authorized personnel may have access to data subject to authorization, through access control;
- f) Assure the verification of the entities to whom the personal data may be transferred via data transfer facilities, through transfer control;

- g) Assure the *posteriori* verification, within deadline appropriate to the nature of treatment, to be established by regulation applicable to each sector, of all personal data entered, the date of the entry into the system and the respective author, through entry control; and
- h) Prevent that, in the personal data transfer, and in the transportation of its media, the data may be read, copied, changed or deleted in unauthorized way, through transport control.

Article 145: Confidentiality of data treatment

The personnel, who acting under the authority of the customs information system managing office, have access to personal data, are prevented from treating such data without instructions from the official responsible for treatment, except by virtue of legal obligations.

Article 146: Professional secrecy

The personnel in charge of personal data treatment, as well as the personnel who, in performing their duties, have knowledge of treated personal data, become obliged to professional secrecy, even after the termination of their duties.

Article 147: Connection with external settings

1. The communication of customs information systems with other external networks or settings should be conducted in a way that is safe, controlled and to minimize the risks of invasion and undue access.
2. Any user's attitudes and behaviours that target the damaging invasion of computational settings by third parties are prohibited, under penalty of disciplinary procedures under the law.
3. Only do the software endorsed and authorized by the institution responsible for the GPTN should be used for communication of external settings.
4. It is also prohibited to the user to make *download* and/or run codes, applications or other executable software available on the internet into the customs information systems.

Article 148: Data exchange

The exchange of data with foreign institutions shall respect the provisions under applicable international agreement or convention, as well as the provisions under the national legislation on data transfer to foreign destination.

Article 149: Digital signatures

1. If the customs formalities are met through computerized processes, the handwritten signatures must be replaced by digital signatures or other means foreseen in the law.
2. In relation to the documents from foreign entities delivered to customs administration through electronic data transfer, the access certification may have the value as signature.
3. The use of qualified digital signature must be made in compliance with the requirements demanded by law.

Article 150: Responsibilities of the documents' author

Without prejudice of potential application of enforcement measures, the delivery in a customs office of a declaration signed by the declarant or its representative using computerized media, the declarant or its representative shall be responsible, under the effective legal provisions, concerning:

- a) The accuracy of statements included in the declaration;
- b) The authenticity of the documents submitted;

- c) The observance of all inherent obligations that the concerning goods are subject under the considered customs procedure.

Section II - Characterization of SYDONIA's computer applications
Subsection I - Managing the process customs clearance of goods

Article 151: Putting in free circulation

1. The process of customs clearance is conducted through the computer module on putting imported goods in free circulation.
2. The process is managed from the detailed declaration submitted by the owner, consignee of goods or their representatives, up to the delivery of the goods to whom it concerns or its referral for sale, if deemed necessary, including the availability of functionalities for payments and interactions for attachments, sales and administrative complaints.

Article 152: Special custom systems

1. The control of goods under customs procedures with economic impact in free zones or warehouse is executed and managed by the appropriate SYDONIA's computer module.
2. The management of goods mentioned in the previous paragraph includes the follow-up of the whole procedure of putting the goods in these customs procedures, the management of respective process based on the detailed declaration, the monitoring of the whole subsequent procedure, the compliance monitoring by the managers of these facilities and holders of these obligations schemes to which they subject, notably the submission of the stock accounts, up to the final definition of customs procedure.

Article 153: Tax benefits

1. The control of customs tax benefits and its management is automated through dedicated computer application, which includes the SYDONIA system.
2. The management of customs tax benefits is based on applications of such benefits.
3. The mentioned computer application allows following all the procedural steps up to the termination or cancelation of such benefits, including compliance control by the beneficiaries of the obligations to which the benefit granting is subject to.

**Subsection II - Computer application in managing
customs administrative processes**

Article 154: Objectives

The computer application for managing the customs administrative processes has as its main purpose the inclusion and control of all procedures inherent to the conduction of sales of delayed and seized goods, as well as those reported lost in favour of the State and the subsequent referral of the procedure to the relevant entity when the goods sold were insufficient to the full coverage of customs debt, for compliance of the provisions under Article 607 and following of the Customs Code.

Article 155: Data

1. The computer application for managing customs administrative processes is fed from the data entered by the customs office where the procedures are initiated, under the Customs Code.
2. The mentioned data should be permanently updated, assuring the monitoring of the whole process until its extinction, in accordance with the deadlines related to the various steps of the process, resulting the payment of the customs debt and associated procedural costs, in the delivery of the goods to whom it may concern or the payment of the outstanding amount and

associated procedural cost, including late payment interest as well as other charges and legal costs.

3. The information system database should include information related to all relevant steps and deeds of the procedures, notably:

- a) The establishment of customs administrative processes;
- b) The elimination of abandonment presumption and surcharge exemption in favour of the entities mentioned in the Customs Code;
- c) The list of retained goods and the place where it is stored, in case of delayed goods;
- d) The counting of duties and other taxes whose management are under the responsibility of customs officials;
- e) The assessment of goods;
- f) The publication of sale through notifications;
- g) The mobilization of security of tax payment provided within the scope of customs procedures;
- h) The outcomes of goods sale, its payment in full or in instalments;
- i) The destination of the procedure or its continuity through finance's relevant department.

Article 156: Due date control

1. The computer application for managing customs administrative processes has functionalities allowing the control of procedural steps deadlines and the submission of alerts related to deadline approaching for internal users, through a proactive system of warning, notifications, management and timing of expected deadline within the temporary goods storage system.

2. The computer application for managing customs administrative processes has also functionalities allowing the distribution of the goods sale outcome, in compliance with the criteria established in the Customs Code.

Article 157: New situations

The structure of the procedures is adaptable to new situations and legislative changes, notably, the sales of goods made exclusively through the electronic way.

Article 158: Customs administrative processes

1. The computer application for managing customs administrative processes includes those customs administrative processes under Article 642 of the Customs Code.

2. It also includes the database of goods under Article 645 of the Customs code, not subject to sale or subject to a special sale procedure.

Article 159: Establishment

1. The establishment of customs administrative processes is conducted based on the report submitted by the relevant customs staff, from the following documents:

- a) Should it be an expressed abandonment under Article 648 of the Customs Code, in favour of the State or third parties;
- b) Written statement from the goods' owner, consignee or their representatives, upon a signature authenticated by a notary or made before a relevant customs authority; or
- c) Oral statement, of those above-mentioned, formalized in written.

2. Should it be a tacit abandonment, the acknowledging notice of the fact or situation that it can certainly be deducted.

3. Should it be delayed goods, provided under Article 649 of the Customs Code, the reporting of none promotion of goods customs clearance for the above-mentioned reasons.

Subsection III - Anti-fraud Customs Information System

Article 160: Objective

The Anti-Fraud Customs Information System (SIAAF) aims at assisting to prevent, investigate and enforce offenses to customs legislation related to the taxation of international trade of goods, especially related to estimate of customs value, the origin, tariff classification of goods, making the availability of data faster and, therefore, strengthening the efficiency of customs administrative control procedures.

Article 161: Collected information

Through SIAAF, the information are collected and treated that allows to explain the overall trends of offenses to customs legislation upon an assessment of the threat, dimension and the impact of some types of operations contrary to the customs legislation and identification of people and companies involved in these operations aiming at establishing priorities, learning better the phenomenon or threat, redirect the fraud prevention and detention interventions and review the organization of services.

Article 162: Composition

The SIAAF included a central database, with functionalities related to:

- a) Reports/Suspicion of Frauds;
- b) Irregularities noted;
- c) Fraud trends;
- d) Risk profile covering the most sensitive risk areas; and
- g) Detention, seizures or confiscation of goods.

Article 163: System security

The SIAAF is hosted in Anti-Fraud Office in General Directorate of Customs, which is responsible for taking all required security measures to maintain the integrity, confidentiality and authenticity of data therein stored.

Article 164: Access

The direct access to the data entered into SIAAF is reserved to accredited professional users by the system's managing office that, under the legal provisions, have mandate to intervene in the prevention, combat and enforcement of frauds related to the application of customs legislation.

Article 165: Data retention

The data entered into the Customs Information System are retained only during the time period required to reach the purpose of which they were entered.

Article 166: Additional data

The SIAAF further includes information retained in the database named "File for the Identification of Customs Investigation Processes".

Article 167: Data exchange

The information obtained from SIAAF can be subject to interchange with foreign customs administration and international institutions devoted to counter fraud associated with international trade in goods, based on international cooperation conventions and mutual assistance in customs matters.

Title II - Procedure in customs clearance
Chapter I - Electronic Customs Declaration

Article 168: Electronic Customs Declaration

1. The customs declaration is conducted through computerized procedures.
2. The elements of the electronic customs declaration are transferred to the customs office for their computerized treatment.
3. The electronic customs declaration is considered delivered at the moment of its registry in the database of the customs information system.

Article 169: Customs declaration's supporting documents

1. The customs declaration for putting goods in free circulation should be supported by the following documents:
 - a) Invoice including all items needed for estimating the customs value of goods;
 - b) Declaration of items for determining the customs value of declared goods, made under the Customs Code's provisions;
 - c) Documents required for the application of a preferential tariff arrangements or any other derogatory measure of the common duty procedure applicable to declared goods;
 - d) Copy of Exportation Clearance Voucher from the country of origin;
 - e) Additional documents required for the application of provisions ruling the placement of declared goods in free circulation.
2. The customs officials may demand, during the moment of declaration delivery, the submission of transportation documents or, as the case may be, the documents related to the applicable customs procedure.
3. In case goods come in several packages, the customs authorities may demand the submission of a list of packages, or similar document, which indicates the content in each of them.

Chapter II - Normal procedure in customs clearance

Article 170: Commencement

The process of customs clearance commences by the submission of the detailed declaration through the Sydonia computer system.

Article 171: Specifications of goods

1. The detailed declaration should include, in writing and in figures, the customs value of goods, in line with the provisions established under the preliminary tariff instructions and further applicable law, indicating the quantity and nature of goods included in each package, and the corresponding value of each one of these goods.
2. In case the customs clearance is made before certain customs headquarters or offices, duly indicated by high management, the customs declaration should further include the total amount to be paid, inscribed by voucher perforating, duplicate and receipt, using appropriate machine to that end.
3. In case of goods intended for trade, the declaration should include the commercial or more usual designation of goods, their qualities and respective quantity, brands, numbers, colours or other signs that may be useful for its identification.
4. The declaration mentioned in the previous paragraph is conducted in duplicate, in appropriate form, adding the original of the corresponding clearance voucher. The duplicate should be

returned to the importer, once the goods is cleared and after the examiner has affixed the numbers of order and voucher receipt, the date, his/her signature and the customs office stamp.

Article 172: Examination of goods

1. The examination is the operation through which it is conducted the control of declared items, as well as the physical control of goods subject to detailed declaration, in order to allow a fair charge of duties and other taxes.
2. After all operations are made, within the scope of detailed declaration and goods control, the intervening customs staff state in the declaration itself, as the case may be, the "service acknowledgement", the "visit certificate" and other relevant information.
3. The visit certificate should include the description of operations carried out at the time of examination of goods.
4. If the examiner considers the declaration compliant, he/she provides the compliance statement, providing the date and signing it.
5. When the nature, origin and value checked during the examination of goods are not in compliance with the declaration, the intervening staff writes the relevant report, indicating the potential discrepancies found, by under or over estimates.
6. Upon agreement from the declarant, the declaration is corrected and payment and charge made based on the amount resulting from the correction made.
7. In case the declarant does not agree with the report, a complaint is filed, under the provisions set forth in Title VII of the Customs Code.

Article 173: Right to visit

1. The customs officials have the right to visit on all declared goods.
2. The visits should be paid in presence of the owners, consignees or their legal representatives.
3. If there are no foodstuff or medicines in the packages examined with visible signs of deterioration or violation, the intervening staff shall report such a fact to the relevant supervisor for due purposes.

Article 174: Clearance issues

The changes in the declarations imposed by issues raised during the examination, that is, after its registry, should only be made in the computer system upon authorization of the Director or Head of the respective customs office.

Article 175: Assessment and charge

If there are no issues, or have they been solved, the declarations are assessed and charged.

Article 176: Release of goods

After the amounts assessed have been paid, the release of goods is authorized by the Head of Customs Visiting Services and the Head of the Customs Office.

Article 177: Posteriori Revision and Control

1. The customs officials may officiously review the detailed declaration after clearance.

2. The differences noticed in favour of the State are subject to additional charge, within a 2 day deadline counting from the invoicing date, except in cases of fraud, in which the due time is established by law for such type of situation, notably, under Title VI of the Customs Code.
3. The declarants may be refunded for the overcharged amounts paid, noticed during the revision, within the deadline mentioned in paragraph 2.
4. During the revision process, customs officials may either demand additional documentation or determine the physical examination of goods, in the event it has not been released from the customs office.

Chapter III - Simplified and facilitating procedures

Section I - Simplified Procedure

Article 178: Simplified declarations

In simplified customs procedures, the detailed declaration is replaced by a simplified declaration, under the form of an administrative or commercial document, under the provisions set forth in Article 172 of the Customs Code.

Article 179: Oral statements

The oral statements are accepted under the terms provided under Article 173 of the Customs Code.

Article 180: Situations in which the simplified procedure is not allowed

1. It is not permitted the use of simplified procedure for the clearance of goods appearing on bills of lading or waybills deployed on several belongings.
2. The prohibition referred to in paragraph 1 is extended to separate luggage or small packages declared in parts.
3. From the provision of the preceding paragraph exceptions shall be made to the import of goods consigned to groupage freight forwarders, providing that on the bills of lading and/or manifests it shows that the volume of goods have multiple recipients.

Article 181: Local clearance procedure

1. Exporting companies and empresas francas benefit from a simplified procedure of customs clearance at home called "local clearance procedure" or simply "local clearance".
2. Local clearance procedure consists in the faculty granted to the interested parties of, upon presentation of a simplified declaration, forward, at the time of unload or after that, for provisional deposits on its premises of the goods to which they are consigned, being after this object of the detailed declaration.
3. The provisional deposits referred to in the previous paragraphs are authorized by the Directorate-General of Customs, in which can only be stored goods subject to the local clearance procedure.
4. Granting the local clearance procedure depends on the conclusion of an agreement, of approved template, signed between the directorate-General of customs, represented by the head of the customs office of local clearance, and the interested party, valid for a period of one year, renewable, as well as the provision of a guarantee which can be through a term of responsibility.

Article 182: Goods subject to local clearance procedure

1. Only construction materials, machinery, equipment, tools, utensils, their respective accessories and spare parts, cargo and transportation materials, raw materials and subsidiaries and finished and semi-finished products can be subject to local clearance procedure.
2. The simplified declaration, of approved template, is processed in four-way, in which the original and the duplicate are to be sent to the local clearance customs office, the triplicate to the port/airport and the quadrupled to the interest party.
3. The simplified declaration is recorded in consecutive annual series, exclusive to each economic operator, with the commercial invoice and the copy of the respective title deeds, attaching, whenever required, the following documents:
 - a) The health, veterinary, phytopathological and other; and
 - b) Any other documents that when added prove necessary to pick up the good.
4. The diligence relative to the local clearance simplified declaration has priority over the normal procedure declarations.
5. Packages unloaded with evidence of violation are sealed, in accordance with the applicable legislation and its opening in the beneficiary's premises is done in the presence of customs authority, otherwise will not be considered eventual faults or content faults.

Article 183: Authorization

1. The simplified declarations are authorized by the head of the customs office or his legal substitute, within one hour after its presentation to customs, provided that the conditions foreseen in this law are fulfilled.
2. The declaration shall always have the date and time of acceptance and the signature of the employee responsible for the monitoring of acceptance.

Article 184: Verification of goods

1. After the good being picked up in accordance with the simplified declaration, the beneficiary communicates to the local clearance customs office, by the swiftest mean, the day and time in which it intends to proceed with the opening of the packages, if that information is not on the simplified declaration.
2. After receiving the communication referred to in the previews paragraph, the local clearance customs office has a period of one (1) business day, if necessary, to send a customs officer to attend the opening and proceed to the verification of the good.
3. After the period established in the previews paragraph 2, the beneficiary is free to proceed to the opening of the packages and use the good.
4. The result of the verification of the containers or any other packages cleared under this procedure is communicated within the maximum period of 24 hours, after they have been opened.
5. Within the maximum period of 10 business days after the good being picked up, the beneficiary shall present the detailed declaration, which put an end to the simplified procedure, placing the good under concerned custom procedure.
6. Monitoring the application of local clearance procedure is done at the office of local clearance through appropriate records, for each beneficiary, that includes:
 - a) The number and date of acceptance of simplified declarations;
 - b) The name and identification code of the authorized clearance entity;
 - c) The number and date of registration of the detailed declaration.

7. The head of the local clearance customs office may, by reasoned order, suspend or terminates the local clearance agreement, when the beneficiary fails to fulfil the obligations or ceases to meet the requirements, and such fact may not constitute valid grounds for the requirement of any compensation.

8. The verification of goods and the verification of detailed declarations are deemed to be effected on the premises of the beneficiary, giving way to charges fees for services rendered.

Article 185: Offenses against the local clearance procedure

Offenses against the provisions of this decree-law and the local clearance agreement is applicable the legal regime of customs tax offenses.

Article 186: Competence to grant the regime

Granting the regimes established on this decree-law is the competence of the Director-General of Customs.

Article 187: Clearance of postal parcels

1. The clearance of postal parcels may be done under the normal or simplified procedure.
2. The appropriate procedures to each of the regimes are defined by service instructions issued by the Directorate-General of Customs.
3. Benefit from the duty free regime only small consignments of value not exceeding 15,000 ECV, showing an occasional character and which, by their nature or quantity, do not reflect any commercial intent.

Article 188: Prior examination of postal parcels

1. Whenever the consignor, owner or consignee of the goods does not have elements that allow him to fill in the declaration regarding the description of the goods, he may request the prior examination of the package, which is done under the following conditions:
 - a) The prior examination is requested verbally to the customs officer in charge of postal parcels;
 - b) The prior examination may only be held with the simultaneous assistance of customs officers and postal services designated for this purpose, taking the necessary fiscal and postal precautions.
2. The prior examination of opened packages or with evidence of violation will only be carried out by means of attesting the existence of competent verification bulletin CP13 issued by the post office.
3. Should it be noticed faults due to subtraction of content after reception of the package by the national post office, it must be registered on the official record for the purposes of the clearance of any fiscal responsibilities.
4. After prior examination, the packages that had been opened shall be immediately closed and sealed with the customs seal.

Article 189: Review and clearance of small packages

1. The review and clearance of small packages are carried out accordingly to the service instructions issued by the Directorate-General of Customs.
2. Should the goods be separated for clearance, it should be enough for the detailed declaration, in the clearance note one-way of the review request of the approved template

Section II - Facilitation procedures

Article 190: Rights of credit

1. Rights of credit consists of the release of goods declared for consumption, before the payment of the customs and correlated debt and the extension of the payment period, for justifiable reasons, upon adequate collateral and subject to payment of interest on the outstanding amounts.
2. The collateral foreseen on the previews paragraph shall cover the duties and other charges and interest laid down in the law.
3. The payment for services rendered and any fines or expenses arising from any excess of period of storage, or any other misdemeanour must be paid in advance, proceeding to the necessary annotation in the processes.
4. The rights of credit is authorized, by request of the interested party, by the head of the customs office where the clearance of the good for consumption is being processed.
5. On the credit request is established a deadline for its regularization, which is always less than the deadline of the security deposit.
6. After the deadline, the head of the customs office shall notify the financial institution issuer of the collateral, in order to make the payment, calculating the interest "*ex-officio*" the amount of which is included in the total payable amount.

Article 191: Pick up credit

1. The pickup credit consists of the authorization to release goods as they are being verified, upon the presentation of adequate collateral, valid during the calendar year in which it was accepted and renewable before January 1st of the following year.
2. The pickup credit is authorized by the Director of Customs, by request of the customs broker or of another authorized entity, and always for reasons duly substantiated.
3. It is the responsibility of the competent Director of customs to establish and communicate to the applicant the amount of the collateral, for the purposes of presentation sufficient guarantee.
4. The deadline for the conclusion of the clearance process is 90 days.

CHAPTER IV - Duty free allowances

Article 192: Definition

For the purposes laid down in this Decree-law the following definitions shall apply:

1. Duty free allowances or simply duty free, free entry rights, consumer taxes, and any other charges for which the collection is the customs responsibility.
2. Exhibition or other similar event:
 - a) Exhibitions, fairs, and similar events of trade, industry, agriculture and crafts;
 - b) Exhibitions and events organized mainly with philanthropic purposes;
 - c) Exhibitions and events organized mainly for scientific, technical, crafts, artistic, educational or cultural, sport, religious or worship, union or touristic purpose or in order to promote a better understanding among peoples;
 - d) Meetings of representatives of international organizations or groups;
 - e) The official or commemorative ceremonies or events, with the exception of private exhibitions organized in warehouses or commercial establishments for the sale of goods.

Article 193: Gifts for the Head of State, the President of National Assembly and members of the Government

Admitted duty free items include the gifts offered to the Head of the State, the President of National Assembly, the Prime Minister and members of the Government, as well as the personalities that officially represents them.

Article 194: Goods to be used by the Heads of foreign States

The goods intended to be used or consumed, during the official stay in the country, by reigning monarchs and Heads of foreign States, as well as the personalities officially representing them, are admitted duty free.

Article 195: Goods intended for exhibition or similar event

The following are also admitted duty free:

- a) Small samples of goods intended for exhibition or similar event;
- b) Goods imported solely for its demonstration or for the demonstration of machinery and equipment presented at an exhibition or similar event.
- c) Various materials, of low value, such as paints, varnishes, wallpapers, etc. used in construction, assembly and decoration of temporary pavilions occupied by representatives of foreign countries at an exhibition or similar event and which shall be destroyed due to their use;
- d) Prints, catalogues, prospects, price lists, advertising flyers, calendars, illustrated or not, non-framed pictures and other items offered free of charge to be used for advertising purposes of goods at an exhibition or similar event.

Article 196: Brands, models, designs, patent processes

Admitted duty free items include, brands, models or designs and processes relative to their deposit, as well as patent processes about copyright protection or protection of industrial or commercial property.

Article 197: Relief consignments intended for disaster victims

1. Admitted duty free items include the relief consignments imported by State organizations or by other charitable or philanthropic organizations approved by the competent authorities, when they are intended:

- a) For free distribution to the disaster victims that affect any part of the national territory; and
- b) To be made available free of charge to the victims of such disasters, while remaining property of concerned organization.

2. Also benefit from the duty free referred to in paragraph 1, the goods imported by disaster relief units and intended to meet their needs during their intervention.

3. The materials intended for reconstruction of the areas affected benefit from the duty free established in this article.

Article 198: Pharmaceutical products intended for international sports events, awards, trophies, medals and similar items

The following are allowed duty free, provided that they are devoid of any commercial operations:

- a) Pharmaceutical products for human or veterinary medicine and intended for use by persons or animals coming from overseas, to participate in international sports events organized in the national territory, within the limits necessary to cover their needs during their stay;
- b) The awards given to people having their usual residence in the national customs territory;
- c) The trophies, medals and similar items with an essentially symbolic nature which, given to persons having their normal place of resident in the customs national territory in honour of

- activity carried out in fields such as arts, science, sports, public service, or in recognition of merit at a particular event, are imported by those same people;
- d) The trophies, medals and similar items with an essentially symbolic nature offered by authorities or persons established abroad in order to be given in the national territory, for the same purposes referred to in subparagraph c); and
 - e) The prizes earned in public challenges, in national or international sports competition.

Article 199: Tourist and commercial documents

They are allowed free duty the tourist documents intended to be distributed free and which have a goal to attract the visit of tourists to the country, as well as prints for advertising such as catalogues, price lists, instructions for use or commercial information.

Article 200: Luggage

1. It is considered luggage, for the purposes of duty-free allowances, the items listed below, for non-commercial purposes and in quantity and quality in proportion to their owner's professional and social status:

- a) Clothing and personal effects belonging to the passengers and crew members of vessels and aircraft, books, tools, instruments and utensils, laptops, according to the owner's profession and necessary for the performance of the respective activity; and
- b) The furniture, clothing and other household objects belonging to individuals who come to live in the national territory, provided they present a proving certificate issued by the consul of Cabo Verde from the country of origin, or by the administrative authority from the same location, should there is not a Cape Verdean consul, that the furniture, clothing and other household objects, properly related, have been used, for more than six months, as household effects of their house in a foreign country.

2. It is not considered luggage for the purposes of the present law, the vehicles of any kind excepted for baby carriage, chairs for disabled passengers and non-motorized bikes.

Article 201: Duty-free allowances deadline for entry

1. The period during which is permitted the entry of duty-free luggage that did not accompany the travellers is 180 days, whether they come before or after the luggage.

2. In exceptional cases, this period may be extended up to one year by the Director-General of customs, in the case of furniture and, in other cases, by the directors of customs or heads of competent customs office that shall immediately communicate to the Directorate-General of Customs the extensions granted.

Article 202: Luggage items

1. It is also considered as luggage and accepted duty free the following items belonging to the traveller, provided that they are compatible, in terms of quantity and quality, with their professional and social status:

- a) Personal jewelleryes;
- b) A camera and five film rolls;
- c) A portable camcorder, and two reels of film;
- d) A pair of binocular;
- e) A portable musical instrument;
- f) A portable sound reproducing equipment and ten sound recording media;
- g) A portable sound recording equipment;
- h) A portable radio receptor equipment;
- i) A portable television;
- j) A portable typewriter;
- k) A laptop and/or an iPad, Tablet or similar equipment;
- l) A baby carriage;
- m) A wheelchair for a disabled passenger;

- n) A non-motorized bicycle;
- o) A tent or other camping equipment;
- p) Sports gear (a fishing set, a canoe or kayak with less than 5.50 meters in length, two tennis rackets and other comparable gear);
- q) 200 cigarettes, or 50 cigars or 250 grams of tobacco, or an assortment of these products, as long as the weight does not exceed 250 grams;
- r) Two litres of wine;
- s) One litre of spirit drinks;
- t) 0.25 litres of eau de toilette and 50 grams of perfume; and
- u) Medicines which amount corresponds to the travellers personal needs.

2. Travelers under the age of 18 do not benefit of any allowances related to tobacco and alcohol.

3. The duty free allowances foreseen in this article does not apply to the people that cross the border frequently, such as the crew members of the means of transport used in the international traffic.

Article 203: State employees

Considering State employees or agents that are not within the conditions defined in the final section of subparagraph b) of paragraph 1 of article 200, in relation to the deadline, shall also be applied the customs duty free for the items designated in subparagraph b) of the same article, when they present to the customs the certificate of the services they belong to proving that the return was determined due to service of the State.

Article 204: Clothing, school supplies and furniture belonging to students

1. It shall be admitted, duty free, the clothing, school supplies and other used furniture, belonging to researchers, students and State employees that return from the countries where they did researches, school education or long term internships.

2. It is considered long term internships, for the purpose of this article, internships with a minimum term of six months.

Article 205: Private low-value consignments

1. It shall be admitted, duty free, the goods that are part of a small consignment of value not exceeding 15,000 CVE, on an occasional basis and which by their nature or quantity does not reflect any commercial interest concern, when expedited by an individual to another individual resident in the country.

2. The amount specified in the previous paragraph may be updated by ordinance of a government member responsible for Finance.

Article 206: Items intended for disabled persons

Duty free shall be granted to items specially designed to facilitate education, employment, transportation and promotion of physical or mentally disabled individuals, either imported by the disabled individuals themselves, or for their own use, or by institutions or educational or assistance organizations.

Article 207: Materials and accessories of stowage and protection of goods during their transport

It shall be admitted, duty free, various materials, such as rope, straws, fabric, papers and cardboard, wood, plastic, used for stowage and protection – including thermal protection – of goods during their transport to the national customs territory, and which are not usually susceptible to be reused.

Article 208: Caskets, urns and ornamental funerary items

1. It shall be admitted, duty free, caskets and urns, containing human remains, as well as flowers, wreaths and other ornamental items that usually accompany them.
2. It shall also be admitted, duty free, the flowers, wreaths and other ornamental items brought by persons that came to be in the funeral.

Article 209: Other duty-free allowances

The provisions in this law do not preclude the granting of:

- a) Duty free allowances under the Vienna Convention on Diplomatic Relations, of 18 April 1961, approved by Law No. 83/III/90, of 29 June, of Vienna Convention on Consular Relations, of 24 April 1963, approved by Law No. 84/III/90, of 29 June, as well as the New York Convention, of 16 December 1969, on special missions;
- b) Duty free allowances under the usual privileges granted by virtue of international agreements;
- c) Duty free allowances under the usual privileges and immunities granted in the context of cultural cooperation agreements, scientific or technical, concluded in other countries;
- d) Duty free allowances granted by other national legislation in force.

Article 210: Prohibitions and restrictions

1. The use of goods for purposes other than permitted in duty free allowance without the necessary authorization by the Directorate-General of Customs, shall be considered embezzlement of rights and punished, in accordance with Title VI of the Customs Code.
2. The admission of duty free goods is subject to legal prohibitions and restrictions based on considerations of public morality or public order, of public security, of public hygiene or health, or considerations of veterinary or phytopathological order, or related with patent protection, trademarks and copyrights and reproduction.
3. The duty free referred to in subparagraph a) of Article 195, is limited to sample that:
 - a) Are imported free of charge or obtained at the exhibition from goods imported in bulk;
 - b) Are distributed to the public exclusively free of charge during exhibition to be used or consumed by the persons to whom they were distributed;
 - c) Are identifiable as advertising samples of low unit value;
 - d) Are not susceptible for commercialization and, in this case, shall be presented in packages containing a quantity of goods less than the smallest quantity of the same goods sold effectively in trade;
 - e) In the case of food and beverages products not conditioned in the form indicated in subparagraph d), are to be consumed on site free of charge, during the exhibition;
 - f) Are by their total value and quantity, in correspondence with the nature of the exhibition, the number of visitors and the importance of the exhibitor's participation.
4. The duty free referred to in subparagraph b) of Article 195, is limited to goods that:
 - a) Are consumed or destroyed during the exhibition;
 - b) Are, by their total value and quantity, in correspondence with the nature of the exhibition, the number of visitors and the importance of the exhibitor's participation.
5. The duty free previewed in subparagraphs a) and b) of Article 195 does not include alcohol, tobacco and tobacco products.

Article 211: Competence

1. In cases where the duty free is requested for declared loads, the competence is the head of the customs office of destination.

2. In other cases, the competence is the customs officer on duty at the borders.

Article 212: Identification of diplomatic duty free individuals and respective goods

1. Persons who present to customs to submit or handle diplomatic duty free allowances must be conveniently identified, proving that they are the employees or legal representatives of respective embassies.

2. The goods to be cleared through customs under diplomatic duty free must also be carefully identified, through the respective documentations, in order to certify their destination.

CHAPTER V - National transit

Article 213: Definition

1. The national transit is the procedure to which the transported goods are subject to, under customs control, with suspension of duties and other impositions and the commercial policy measures, between two offices located the national territory.

2. The TN declaration is processed by the declarant, in the appropriate module, in the SYDONIA computer system.

Article 214: Goods in transit

1. The goods that are the subject of transit declarations shall be presented along with the transport document.

2. The customs office of departure may waive the presentation of such document, when completing the customs formalities, provided it is kept at his disposal.

3. The transport document shall, however, be presented whenever the customs authorities or any other competent authority requests so during transport.

4. Without prejudice to any applicable simplification measures, the customs document of export/dispatch or re-exportation of goods from Cabo Verde or any other document having equivalent effect, shall be presented to the customs office of departure along with the transit declaration to which it relates.

5. Where appropriate, the customs authorities may require the submission of the document relating to the previous customs procedure.

Article 215: Sealing of goods

The goods under the TN procedure must be sealed by means of transport or by volume, with customs seal, and the competent authority of the customs office of departure may waive from this operation the heavy or bulky goods, easily identifiable and difficult violation.

Article 216: Carriers

1. May be carriers of these goods, the depositary, the owner or consignee or any other duly authorized entity and that previously has guaranteed duties and other charges of the goods in debt and possible penalties, through one of the forms of collateral provided for in legislation in force, and accepted by the authority of the customs office of departure.

2. The customs office of departure sets the itinerary and the duration of the trip until the customs office of destination.

3. The carrier, by his signature, compromises to follow the established itinerary, without unjustified stops, and to deliver the good at the customs office of destination, in the state in which he received it.

4. In the case of a stopover for reasons unrelated to the will of the carrier, he should guarantee the inviolability of goods under his responsibility, during the interruption period.

5. At the customs office of destination the carrier informs about any delay or occurrence verified during the course, including involuntary stops without any implication in the presentation and conservation of goods in transit, showing for each fact reported circumstantial evidence he may have available.

6. In case of breakdown or accident of the means of transport, and should there is a need of transshipment of goods from the means of transport to another, the carrier notifies, by the fastest channel, the nearest customs office, which shall take the necessary measures.

Article 217: Offenses against the procedure

1. In the case of non-presentation of the goods at the destination, the investigation process is the responsibility of the customs office of departure.

2. In the case of delay in the presentation of goods without justification, of alteration of good, of violation of the seal, of deviation of part of the goods, or other offenses, the investigation process is in the responsibility of the customs office of destination.

3. The unloading faults verified at the customs office of destination shall constitute tax offense punishable under the Customs Code Title VI.

4. The maximum period of storage of goods at the customs office of destination is thirty or forty-five days, as in the case of maritime or air cargo, counted continuously from the date of unloading of the goods at the customs office of departure.

Article 218: Cessation of responsibility of the carrier

Carrier's responsibility before the customs ceases with the good delivery of the goods at the office of destination.

Article 219: Formalities at customs offices

The formalities at customs offices of departure and destination are governed by orders and instructions issued by the Directorate-General of Customs.

Article 220: Miscellaneous controls

In order to ensure the proper monitoring of the transit operations of goods, the tax offices, both at departure and destination, shall always monitor the different stages of the circuit of goods declared under this regime.

Article 221: Settlement of the regime

The final settlement of the transit operation, at the customs office of destination, is done by processing the detailed declaration.

Chapter VI - Customs regime of containers

Article 222: Container

1. The term container means an item of transport equipment that, not showing normal tare characteristics or of vehicles, carries out the following requirements:

- a) Has durability conditions, i.e., resistance allowing repeated usage;
- b) Has been specially built to facilitate the transport of goods by one or more means of transport, without need of intermediate transshipment.

- c) Be in possession of devices that allows easy handling, in particular the transfer from one means of transport to another;
- d) Is likely to be easily filled and emptied; and
- e) Has, at least, 1 m³ of interior volume.

2. The containers shall, in addition to the other conditions laid down in the respective Convention, be labelled clearly and durably marked with the name and address of its owner, as well as an indication of the tare and the marks and identification numbers.

3. Parts and accessories that are known to be part of it, when imported together follow the container procedure.

Article 223: Inclusion in the manifest

The containers, as well as the goods contained therein, should be entered in the respective manifest.

Article 224: Classification

Containers are not considered for tariff purposes such as tares, so that they have the classification determined by its characteristics.

Article 225: Description in the unload sheet

Containers entering by sea will be described in the unload sheets.

Article 226: Opening the containers

In the temporary storage warehouses or any other area directly supervised by customs, can the containers be opened for extraction or packaging of goods to be cleared.

Article 227: Applicable procedure

Containers which are intended to circulate in the country can only leave the temporary storage warehouses or any other facilities directly supervised by customs after being submitted to the temporary importation procedure.

Article 228: Authorization of temporary import

The order of temporary import referred to in the previous article is authorized by the head of the respective customs office, and is processed on an approved model formula where shall be listed the necessary elements required for clearance, in particular the tariff classification and signs for confrontations.

Article 229: Import by airline or maritime companies

1. If the containers are temporarily imported by sea or air shipping companies, or by their agents, the guarantee of the rights required by law may be substituted by a special guarantee of a permanent nature.

2. If the recipients of the containers or the respective carrier companies take responsibility, in writing, to register in the appropriate book the movement of each container imported temporarily and provide to the customs examination all the elements considered necessary for the ascertainment of that movement, it may be waived the guarantee to the rights referred to in previous paragraph, and will be processed, in its place, simple guides.

3. The guides referred to in the previous paragraph may be requested by the employees of the recipients or the shipping companies, however, such employees shall be paid by the respective employer.

Article 230: Re-export of containers

The re-export of containers, empty or packing goods, entered by sea or air that have not gotten out of the temporary storage warehouses and areas directly supervised by customs is done through a form, which template is approved by ordinance of the member of the Government responsible for the area of finance.

Article 231: Maximum period for re-exportation

1. The re-export of containers shall be made within a maximum period of three months, whatever the entry mode, unless this period has been extended by the Directorate-General of Customs, by reason of force majeure, duly evidenced.

2. In the case of a temporarily imported container cannot be re-exported due to apprehension that was not required by a private entity, the obligation to re-export will be suspended for the duration of the apprehension.

Article 232: Restriction of use in internal traffic

Containers submitted under the temporary import procedure cannot be utilized in internal traffic for the transport of goods other than the ones packed, except in the case of goods intended for export.

Article 233: Temporary export of containers

It is allowed the clearance for temporary export of containers, empty or packed with goods, being the authorization the competence of the directors of customs or the heads of customs offices.

Article 234: Guides for clearance

The temporary export and re-export of containers is processed through the guides and approved templates.

Article 235: Damaged containers

It is not required the re-export of severely damaged containers, duly established in the event of an accident, provided that:

- a) They are subject to the payment of duties and other charges; or
- b) Are abandoned, free of charge, in favour of the State; or
- c) Be destroyed, under supervision, at the expense of the parties concerned, and the salvage and used parts subject to payment of duties and other charges.

Article 236: Spare parts and accessories for repair of containers

1. The spare parts and accessories that are intended for repair of temporarily imported containers, under any of the procedures referred to in this decree-law, shall likewise be entitled to temporary importation.

2. The entry of such parts shall be upon simple application and verification, taking note of the customs documents of the respective containers.

3. Replaced parts which are not re-exported or abandoned in favour of the Nacional Tax Authority shall be subject to the payment of import duties.

Article 237: Temporary export of parts, accessories and equipment of containers

1. It is allowed the temporary export of parts and accessories and equipment of containers, even when they are presented separately.

2. The parts, accessories and equipment referred to in the previous paragraph shall be re-imported, either separately, or with another container.

3. The temporary export authorization is the competence of the directors of customs or of the heads of customs offices, as appropriate.

Article 238: Importation of containers

To containers acquired by purchase by a person domiciled or headquartered in the national territory or that, otherwise, they are in their possession or available, it is not applied the temporary importation procedure.

Article 239: International applicable legislation

The procedure of customs containers are also subject to the provisions of international conventions on the subject.

Chapter VII - Transformation under customs control

Article 240: Scope

1. The transformation procedure under customs control shall apply to goods whose transformation lead to products to which is applied an amount of import duties less than the amount applicable to the import goods.

2. The referred procedure is also applied to goods object of operations intended to guarantee their compliance with the technical standards imposed for their release for free circulation.

3. With regard to the types of goods and operations, an examination of their economic conditions is carried out, which must satisfy the requirements laid down in Article 449 of the customs code.

4. For the determination of the customs value of transformed products declared for free circulation, the declarant may choose the customs value of the import goods plus the costs of improvement and costs of transformation.

5. The improvements costs are all the expenses incurred for transformed products, including overheads and the value of use of any national goods.

Article 241: Refunding of customs taxes resulting from the integration of goods acquired in the national market into the industrial goods

1. There is room for refunding of customs taxes paid for goods acquired in the national market when they are integrated into the industrial production.

2. The refunding should be required on case-by-case basis.

TITLE III - Customs Technical Council

Article 242: Customs Technical Council - Definition

The Customs Technical Council is the body responsible for the settlement, under the form of deliberations, of technical complaints raised during the process of examination and re-examination of goods or after its clearance and related to its tariff classification, origin or its value.

Article 243: Composition

1. The Customs Technical Council is composed of the Customs General Director who chairs it, and of the following voting:

a) A representative from the government department responsible for the Trade sector;

- b) A representative from the government department responsible for the Industry sector;
- c) Four representatives from the General Directorate of Customs; and
- d) Three representatives from the economic activities.

2. Taking into account the specificity and complexity of subject matters to be reviewed, experts may be invited to participate in the Customs Technical Council's meetings, without the right to vote.

Article 244: Secretariat

The secretariat of the Customs Technical Council's meetings is conducted by an Examiner designated by the General Director.

Article 245: Designation

The voting members of the Customs Technical Council are designated in the following terms:

1. The representatives from the Directorate of Customs are designated by order of the Government Minister in charge of finance, upon proposal from the General Director of Customs, among the customs staff holding a category not below the examiner.
2. The voting members representing the government services responsible for Trade and Industry sector are designated by order from the Minister responsible for Finance, upon proposal from the Government Ministers and the Government member responsible for the same areas, preferably among the technical staff specialized in domains such as chemistry, metal mechanics, electronics and international trade.
3. The representatives of economic services are designated by the Government member responsible for finance, upon proposal from the associations or chambers of commerce or other bodies of technical and scientific nature.
4. The alternative voting members are designated upon the designation of the effective voting members.
5. The duration of term of the Customs Technical Council's voting members is three years, extendable.

Article 246: Replacements

1. The Chairperson of the Customs Technical Council is replaced, in his/her absences and impediments, by the representative from the General Directorate of Customs, holding the highest category.
2. The voting members are replaced, in their absences and impediments, by the relevant alternative voting members.

The Minister of Finance and Planning
Cristina Isabel Monteiro Duarte

ANNEX 1

**Order No. 51/2011
As of 30 December 2011**

The Article 2 of the Decree-Law No. 4/2010, of 3 June, that approved the Customs Code, under the title Brussels' Customs Value provides that "until the entry into force of the Agreement on the application of Article VII under GATT, the determination of customs value of goods continues to be made based on the Preliminary Guidelines on Customs Tariff and the Brussels Convention on customs value."

The Action Plan after the accession of Cabo Verde to the World Trade Organization (WTO) includes the commitment of the country to adopt the GATT customs value, from January 2011 on.

Due to technical reasons related to other operational ones, the adoption was not possible at the expected date, and therefore a derogation was requested to WTO of the mentioned due date to January 2012, which was granted.

Thus,

In compliance with Article 2 of the above-mentioned Decree-Law and aiming at responding to the commitment made to WTO; and

In using the faculty conferred by line b) under Article 205 and by paragraph No. 3 under Article 264 of the Constitution,

The Government of Cabo Verde, through the Minister of Finance and Planning orders the following:

Article 1: Object

This law determines that the customs value of goods be calculated, from 1 January 2012, under the provisions set forth in the Agreement on the application of GATT's Article VII, attached to the WTO accession Protocol, approved by Resolution No. 73/VII/2008, as of 19 June, amended by Resolution No. 99/VII/2009, as of 11 May.

Article 2: Entry into Force

This law becomes effective on the following of its publication.

Ministry of Finance and Planning, in Praia, in December 2011
The Minister, Cristina Isabel Lopes da Silva Duarte.

ANNEX 2

Ministry of Finance and Planning

**NATIONAL DIRECTORATE OF STATES' INCOME
General Directorate of Customs**

CIRCULAR No. 21/2013/CG/CS

Praia, 1 October 2013

TO:

- TAX HOUSES
- CUSTOMS AGENTS
- CUSTOMS IN-HOUSE AGENTS

SUBJECT: Correction of some provisions of the Customs Code

The Customs Code approved by Decree-Law No. 4/2010, of 3 June, published in National Gazette, No. 21, Series I, on the same date, contains some mistakes, which should subject to a corrective law of equal bidding effect, to be timely approved and published, in the official gazette.

However, as long as the publication does not take place, some corrections should be made to some articles under Chapter III, concerning the "Customs value of goods," as follows:

- Article 260 2) d) – Add "and 4" in the penultimate line;
- Article 264 4) – Replace "270 and 273" by 260;
- Article 264 4) b) – Replace "270 and 273" by 275;
- Article 264 4) c) – Replace "270 and 273" by 277;
- Article 268 c) – Add "at the moment or at a very close moment of import of goods to be valued, under reservation of deductions provided under Article 275";
- Article 270 4) – Add "e)" to paragraph 1.

With best regards,

THE GENERAL DIRECTOR

(signature)
MARINO VIEIRA DE ANDRADE, Jr.
