

WORLD TRADE ORGANIZATION

G/VAL/N/1/NIC/1
15 October 2012

(12-5601)

Committee on Customs Valuation

Original: Spanish

NOTIFICATION UNDER ARTICLE 22.2 OF THE AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

NICARAGUA

The following communication, dated 11 October 2012, is being circulated at the request of the delegation of Nicaragua.

Pursuant to the Decision adopted by the Committee on Customs Valuation on 12 May 1995 and Article 22.1 of the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement), I have the honour of notifying to the Committee on Customs Valuation the customs valuation legislation in force in Nicaragua, as established in the Central American Uniform Customs Code (CAUCA), Resolution No. 223-2008, approved on 25 April 2008 and published in Official Journal *La Gaceta* No. 135 of 16 July 2008, and the Implementing Regulations for the Central American Uniform Customs Code (RECAUCA), Resolution No. 224-2008 (COMIECO-XLIX), approved on 25 April 2008 and published in Official Journal Nos. 136, 137, 138, 139, 140, 141 and 142 of 17, 18, 21, 22, 23, 24 and 25 July 2008 respectively.

Annex to Resolution No. 223-2008 (COMIECO-XLIX)

**CENTRAL AMERICAN UNIFORM CUSTOMS CODE
(CAUCA)**

**TITLE I
GENERAL PROVISIONS**

**SOLE CHAPTER
SCOPE OF APPLICATION, AIMS AND DEFINITIONS**

Article 1. Purpose

The purpose of this Central American Uniform Customs Code is to establish the basic customs legislation of States Parties in keeping with the requirements of the Central American Common Market and regional integration instruments, in particular the Convention on the Central American Tariff and Customs Regime.

Article 2. Scope of application

The scope of application of this Code and its Regulations shall be the customs territory; its rules shall apply to all persons, merchandise and means of transport crossing the customs borders of States Parties.

Article 3. Calculation of time-frames

The time-frames established in this Code and its Regulations are understood to refer to working days, unless expressly provided otherwise. When a time-frame expires on a non-working day, it shall be extended until the first following working day.

The time-limits in months and years shall be calculated in accordance with the Regulations.

Article 4. Definitions

For the purposes of this Code and its Regulations, the following definitions and abbreviations shall be used:

ACCEPTANCE OF THE DECLARATION: The act of registering the goods declaration for processing.

CUSTOMS: The administrative departments responsible for enforcing customs legislation and collecting import and export taxes and also responsible for enforcing other laws and regulations concerning, *inter alia*, the importation, transit and exportation of goods.

SELF-ASSESSMENT: The assessment of customs obligations done by the declarant whereby he sets, accepts and pays the taxes due and other obligations necessary for the authorization of a customs regime are complied with.

CUSTOMS AUTHORITY: The Customs Service officer who by virtue of his position and remit, verifies the proper application of customs regulations, complies with them and enforces compliance of them.

AUXILIARY AGENTS: Auxiliary customs agents.

CONSIGNER: The person sending goods abroad.

CONSIGNEE: The person designated in the contract of carriage as the consignee of the goods or who acquires that status by endorsement or some other form of transfer.

GOODS DECLARATION: The act done as stipulated by the Customs Service through which the interested parties freely and voluntarily state the regime to which the goods are subject and accept the obligations thereunder.

DECLARANT: The person who makes a goods declaration or on whose behalf it is made pursuant to this Code and its Regulations.

BONDED WAREHOUSING: Temporary storage of goods under the control of the Customs Service on premises or at other locations, enclosed or not, authorized for that purpose, pending the submission of the relevant goods declaration.

STATE PARTY: A State for which this Code is in force.

DOMESTIC LEGISLATION: Legal system of each State Party.

MEANS OF TRANSPORT: Vessel, aircraft, railroad car, motor vehicle, or any other means used to transport persons or goods.

CENTRAL AMERICAN PESO: Regional unit of account the value of which is set by the Central American Monetary Council.

REGULATIONS: The Regulations implementing this Code.

LEGAL ROUTES: Routes authorized for the transport of goods subject to customs control.

CUSTOMS TERRITORY: The land, waters and airspace of States Parties, with the exceptions established by law.

TAXES: Customs duties, taxes, contributions, rates and other tax obligations under the law.

TITLE II CUSTOMS SYSTEM

CHAPTER I CUSTOMS SERVICE, ITS POWERS AND RESPONSIBILITIES

Article 5. Customs System

The Customs System comprises the Customs Service and the auxiliary customs agents.

Article 6. Customs Service

The Customs Service comprises the public administration entities of States Parties empowered to apply the relevant regulations, verify their proper application, as well as facilitate and monitor foreign trade in keeping with their remit and to collect the taxes applicable upon the entry and exit of goods under the various regimes that may be established.

The Customs Service is responsible for generating timely information, verifying the correct assessment of taxes, preventing and repressing customs infringements where appropriate, without prejudice to other provisions of this Code and its Regulations.

The territorial organization of customs is such that the customs territory is subdivided into zones that shall be established by regulations.

Article 7. Specialized Customs

Each State Party may establish Customs Services specializing in particular operations, types of goods or customs regimes, with operational jurisdiction throughout their national customs territory.

Article 8. Legal authority of customs

The legal authority of customs is the totality of rights, powers and competencies vested by this Code and its Regulations exclusively in the Customs Service and exercised through its authorities.

Article 9. Customs Control

Customs control is the exercise of the powers of the Customs Service for the analysis, monitoring, inspection, verification, investigation and evaluation of compliance with and application of the provisions of this Code, its Regulations and other rules governing the entry into or exit from the customs territory of goods and means of transport, as well as the activities of natural or legal persons involved in foreign trade operations.

The Customs Services may use non-invasive or non-intrusive inspection equipment to carry out inspections as necessary and in accordance with the results of risk assessment in order to facilitate the inspection of high-risk cargo or containers without interrupting the flow of legitimate trade and without prejudice to other control measures that may be applied by the Customs Service.

The Customs Service may exercise its powers of control on a permanent basis, whether before, immediately upon or subsequent to the release of goods and shall do so in accordance with this Code and its Regulations.

Article 10. Coordination to implement controls

The functions to be discharged by other institutions in relation to goods subject to customs control shall be coordinated with the competent Customs Authority.

Officers of institutions other than the Customs Service who arrogate to themselves and perform functions which by law correspond to this Service shall incur the corresponding administrative, civil and criminal consequences.

Article 11. Risk Management

For customs control purposes, risk analysis techniques shall be applied by means of electronic data management tools and based on nationally, regionally and, where appropriate, internationally established criteria that make it possible to identify and assess risks and develop the necessary countermeasures.

For the purposes of this article, risk analysis shall mean the systematic application of management procedures and policies that provide the Customs Service with the requisite information for dealing with movements or shipments of goods and means of transport that entail risk.

The Customs Services shall take the relevant measures in order to:

- (a) Create a common risk management framework;
- (b) establish common criteria and priority spheres of control;
- (c) regulate information sharing and risk analysis among the customs administrations.

The criteria, procedures, methodology and other techniques applicable to risk management in external trade operations shall be implemented pursuant to the Regulations.

Article 12. The powers of customs

To monitor and verify proper compliance with customs obligations, the Customs Authority is authorized to visit enterprises, industrial, commercial or service establishments, perform audits as well as request and examine the information regarding taxable persons, auxiliaries and third parties necessary to verify the accuracy of customs declarations, in accordance with the established legal procedures.

Article 13. Liability of officers and employees

Customs Service officers and employees shall be liable for their actions, whether negligent or fraudulent, in the performance of their duties and functions.

Article 14. Administrative careers in customs

States Parties shall draw up and apply their own staff regulations governing administrative careers in customs, such that the service is able to retain qualified personnel who demonstrate honesty and suitability in the performance of their duties and functions.

Article 15. Training

The Customs services shall develop harmonized training programmes designed to ensure the training of its technical personnel through support and active participation in the formal training programmes being run at the Central American Customs and Tax School, as well as in national training programmes.

The Regulations shall establish the bases of such programmes as well as the modalities for their execution and the logistical and technical support to be provided by the countries to ensure their efficiency.

Article 16. Information sharing

The Customs Services shall provide mutual assistance to facilitate the exchange of information in all its forms, including general information concerning the entry, transit or exit of goods; branches of economic activity; simultaneous inspections, and the conduct of inspections abroad. The foregoing is meant to ensure the monitoring of freight, the precise determination, payment and collection of taxes, the prevention and combating of fraud, customs and tax evasion and to establish better sources of information in both spheres whilst respecting the corresponding principles of confidentiality.

Article 17. Mutual recognition

Mutual recognition denotes the acceptance of the actions of the Customs Authority of one State Party by the Customs Authority of another State Party in the exercise of the legal authority of Customs, without requiring the repetition of similar actions, unless there are specific reasons.

The Customs Services may develop a system of mutual recognition of controls and procedures to facilitate the entry, exit and transit of goods on the customs territories of respective States Parties.

The requirements and formalities for the mutual recognition of controls through information sharing amongst the Customs Services shall be those laid down in the Regulations and the agreements signed by the States Parties on the matter.

CHAPTER II AUXILIARY CUSTOMS AGENTS

Article 18. The concept of auxiliary agents

Auxiliary customs agents shall be deemed to be public or private natural or legal persons who engage in customs procedures with the Customs Service, either on their own behalf or on behalf of third parties.

Article 19. Customs auxiliaries envisaged

Customs auxiliaries shall be:

- (a) Customs agents;
- (b) bonded warehouse operators;
- (c) customs transporters or carriers; and
- (d) any others envisaged in the Regulations.

Article 20. Joint and several liability of customs auxiliaries

The auxiliaries shall be jointly and severally liable to the tax authority for the tax consequences arising from their own acts, omissions, infringements and offences or those of their employees accredited to the Customs Service, without prejudice to the civil, administrative and criminal liabilities to which those employees remain legally subject.

Article 21. General obligations

The obligations of customs auxiliaries shall be, *inter alia*, the following:

- (a) Keeping records of all acts, operations and customs regimes in which they take part, in the form and using the media stipulated by the Customs Service;
- (b) preserving and keeping available to the Customs Service documents and information concerning their activities, for a period of five years;
- (c) at the request of the Customs Service, producing the books of account, their annexes, files, accounting records and any other important tax or customs-related information and the electronic files, magnetic or similar media serving to back up or store that information;
- (d) electronically transmitting customs declarations and supplementary information regarding the acts, operations or customs regimes in which they participate;
- (e) respecting the electronic data transmission formats and procedures, in keeping with the requirements for integration with the computerized systems being used by the Customs Service;
- (f) checking the condition and state of packaging, seals, stamps and other security measures in place for goods and means of transport and immediately informing the Customs Service of any irregularity when they are responsible for receiving, storing or transporting goods;
- (g) depositing and maintaining current the security or guarantee to cover their operations, as required;
- (h) each year, submitting certification issued by the competent authorities that they are up to date with their tax obligations;
- (i) complying with the legal and administrative requirements applicable to the customs procedures, operations and regimes in which they participate;
- (j) accrediting to the Customs Service the employees who will represent them in their customs formalities;
- (k) safeguarding fiscal interests;
- (l) maintaining offices in the State Party and informing the Customs Service of any changes to their tax domicile, their legal representatives, and updating any other information supplied, as necessary; and
- (m) in the case of legal persons, accrediting to the Customs Service and maintaining a legal representative or proxy with sufficient powers of representation.

The security or guarantee referred to in subparagraph (g) of this article shall be determined, set and adjusted in accordance with the parameters established in the Regulations.

Article 22. Customs Agent

The customs agent is the auxiliary authorized, as a natural person, to act habitually on behalf of third parties in customs formalities, regimes and operations and in conformity with the conditions and requirements stipulated in this Code and its Regulations.

The authorization to act as customs agent is personal and non-transferable. He may be represented only by his assistants authorized by the Customs Service.

The role of the customs agent or his assistants in customs procedures, regimes and operations shall be regulated by the Regulations.

Article 23. Joint and several liability of the customs agent

The customs agent shall, together with the declarant, be jointly and severally liable to the Tax Authorities for the payment of the customs taxes arising from the formalities, regimes or operations in which he may participate and for the payment of the corresponding differences, interest, fines, surcharges and adjustments.

Article 24. Customs carrier or transporter

The carrier or transporter is the auxiliary responsible for the customs operations and formalities relating to the presentation of the means of transport and the cargo to the Customs Service for the purposes of the entry, transit and exit of goods.

The carrier shall be directly responsible to the Customs Service for the transfer or transportation of goods subject to customs control.

Article 25. International transport agent

The international transport agent that has subcontracted the internal transport of goods under customs control shall be jointly and severally liable together with the person undertaking the said internal transport for taxes payable should the full consignment of goods not arrive at their destination, without prejudice to any liabilities they may incur for the possible commission of customs infringements.

Article 26. Bonded warehouse operator

The bonded warehouse operator is the auxiliary responsible to the Customs Service for the temporary custody and preservation of goods under the control and supervision of the Customs Authority.

Article 27. Liability for damage, loss or theft of goods

Natural or legal persons who in any capacity, receive, handle, process, transport or store goods subject to customs control shall be liable for the tax implications arising from damage, loss or theft of the goods, except when this is due to unforeseen circumstances or *force majeure* or where there are other legally established exemptions from liability.

Article 28. Authorized economic operators

Authorized economic operators are persons who may be empowered by the Customs Service to facilitate the clearance of their goods. Their obligations, qualifications and formalities shall be set down in Regulations.

CHAPTER III USE OF CUSTOMS IT SYSTEMS

Article 29. Use of Information and Communication Technologies (ICTs)

The auxiliary customs agents and other authorized users shall transmit electronically to the Customs Service IT System information regarding customs procedures, operations or regimes in which they participate.

Article 30. Compliance with security measures

The customs officers and employees, auxiliaries, declarants and other authorized persons using Information and Communication Technologies (ICTs) to interact with the Customs Service shall observe the security measures established by the said Customs Service, including those governing the use of electronic or digital signatures, codes, and confidential or security passwords, and shall bear civil, administrative and criminal liability for their actions.

Article 31. Equivalents of a hand-written signature

Electronic or digital signatures, codes, and confidential or security passwords shall, for all legal purposes, be equivalent to the handwritten signature of the customs officers and employees, auxiliaries, declarants and other persons authorized by the Customs Service.

Article 32. Certified electronic or digital signature

The Customs Services shall establish the use of electronic or digital signatures to verify the integrity of an electronically transmitted document, and to unequivocally identify and legally link the author to the electronic document.

An electronic or digital signature shall be deemed certified when it is issued in conjunction with a valid digital certificate accorded by a certifier registered with the Customs Service or an entity that administers and supervises the State Party's certification system.

Article 33. Probative value

The documents and other data transmitted electronically or digitally using a digital signature shall have the same probative value as if they had been signed by hand.

Any document, electronic message or digital file associated with a certified digital signature shall, in the absence of proof to the contrary, be presumed to originate from and be under the responsibility of the holder of the corresponding digital certificate valid at the time of sending.

Article 34. Certifiers

A certifier shall be deemed to be the domestic or foreign public or private legal person that issues digital certificates and is duly authorized by the Customs Service or an entity that administers and supervises the State Party's certification system, as the case may be.

The Regulations shall govern the requirements, formalities and functions of the certifying bodies with respect to the service they provide *vis-à-vis* the Customs Service.

Article 35. Proof of actions performed in computer systems

Data received and registered in the Customs Service IT system shall constitute proof that the officer or customs employee, auxiliary customs agent, declarant and any person authorized by the Customs Services did execute the actions corresponding to them and that they supplied the information using their digital or electronic signature and the confidential access code or its equivalent.

Article 36. Admissibility of records as proof

The documents issued by the Customs Service, the auxiliary customs agent, the declarant and any other person authorized by the said Service, irrespective of the medium, whether electronic or computerized, original copies stored on these same media, as well as electronic images of the original documents or copies of them, shall have the same legal and probative validity as the original, in the absence of proof to the contrary.

In keeping with the preceding paragraph, information transmitted electronically via the IT system authorized by the Customs Service shall be admissible as evidence in administrative and legal proceedings.

Article 37. Payment by electronic means

The payment of corresponding taxes shall be done electronically and shall be governed by these Regulations.

Article 38. Use of data transmission standards

Electronic data transmission between the IT systems of Customs Services and between those systems and their authorized users shall be done using international standards in order to guarantee the safety and integrity of the data, as well as their compatibility, irrespective of the technological platform being used.

The Customs Services and authorized users shall also establish mechanisms to ensure that transactions have been executed successfully, or if not, must be able to identify and correct any errors found.

Article 39. Electronic link with State and private entities

State and private entities related to the Customs Service shall transmit electronically to the competent customs authorities, permits, authorizations and other information relating to the trade in goods and proof of payment of customs tax obligations, in accordance with the procedures agreed between these offices or entities and the Customs Authority.

Documents resulting from electronic transmission among official agencies shall, in themselves, constitute authentic documents and for all purposes shall be evidence of the existence of the original transmitted.

The Customs Authority for its part shall make available to these offices or entities information that is within its competence relating to customs operations, according to the jointly agreed procedures.

Article 40. Appeals and notifications via computer systems

Appeals may be filed and formalities undertaken with the Customs Service using the IT systems authorized under the terms of the Regulations.

The Customs Service may serve notices via electronic transmission.

TITLE III

BASES FOR THE APPLICATION OF CUSTOMS TARIFFS AND OTHER MEASURES ENVISAGED FOR THE TRADE IN GOODS

CHAPTER I TARIFF, ORIGIN AND CUSTOMS VALUE OF GOODS

Article 41. Tariff

The Central American Import Tariff which forms Annex A to the Convention on the Central American Tariff and Customs Regime is the instrument that contains the nomenclature for the official classification of goods that may be imported into the territories of the States Parties, as well as the import duty rates and the rules governing the implementation of its provisions.

The Central American Tariff System (SAC) is the official classification of import and export goods in Central America.

Article 42. Integrated Tariff

The Integrated Tariff comprises the Central American Import Tariff and other non-tariff regulations applicable to the trade in goods between States Parties and third countries, including those with which bilateral or multilateral international trade agreements or treaties have been or may be signed.

Article 43. Origin of goods

The Regulations shall govern the determination, scope of application, criteria for determination and other procedures related to the origin of Central American goods.

With respect to the origin of goods from third countries with which the States Parties have concluded or may conclude international trade agreements or treaties whether bilateral or multilateral, the rules contained in such agreements shall apply.

Article 44. Customs value

- (i) The customs value constitutes the tax base for levying import duties on goods being imported or definitively imported into customs territory of State Parties.
- (ii) The customs value shall be determined pursuant to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and the provisions of the corresponding chapter of the Regulations.
- (iii) The customs value shall apply to goods being imported or definitively imported, whether taxable or not.

CHAPTER II CUSTOMS OBLIGATIONS

Article 45. Composition of customs obligations

The customs obligation shall comprise the tax and non-tax obligations that arise between the State and individuals by virtue of goods entering or leaving the customs territory.

The customs tax obligation shall consist of the import or export taxes payable on goods.

Non-tax obligations shall comprise non-tariff restrictions and regulations compliance of which is legally enforceable.

Article 46. Creation of the customs tax obligation

For the purposes of determining the customs tax obligation, it shall be deemed to arise:

1. At the time of acceptance of the goods declaration under definitive import or export regimes and their modalities;
2. when goods are tacitly surrendered;
3. upon the occurrence of any of the following:
 - (a) Commission of a criminal customs offence;
 - (b) preventive confiscation, when the date of commission is unknown; or
 - (c) discovery of the criminal customs offence, if none of the foregoing can be determined; and
4. when goods are destroyed, lost or damaged or on the date when these circumstances are discovered, unless they are the result of unforeseen circumstances or *force majeure*.

Article 47. Taxes applicable for determining the amount of the security or guarantee under temporary or suspended-duty regimes

Under temporary or suspended-duty regimes, the moment of acceptance of the declaration of the regime shall determine the taxes applicable for the purposes of setting the amount of the guarantee or security, where applicable.

When a temporary regime or a regime suspending payment is changed into a definitive regime, the provisions of subparagraph 1 of the preceding article shall apply.

Article 48. Taxing authority and taxable person

The taxing authority shall be the State and the taxable person the declarant and any parties legally liable for the payment of the tax obligation.

Article 49. Assessment of the customs tax obligation

The assessment of a customs tax obligation is the act of setting the amount of the taxes payable.

Article 50. Persons responsible for making the assessment

As a general rule, the declarant or his representative shall be responsible, under the self-assessment system, for determining the customs tax obligation and complying with the other requirements and formalities necessary for applying the relevant regime, before submitting the declaration to the Customs Service.

In exceptional cases, the Customs Authority shall determine the amount of the taxes based on information supplied by the declarant. Such exceptional cases shall be specified in the Regulations.

Article 51. Customs lien

The goods shall be used directly or preferentially to cover liabilities to the Tax Authority by means of a customs lien in favour of that institution, with respect to taxes, fines and other charges to which they give rise and which have not been fully or partially covered by the taxable person as a consequence of his fraudulent or culpable action or bad faith.

The Customs Authority shall retain or seize the goods if such action involves entering and searching premises with a warrant.

The Customs Service authorities shall exercise the rights, powers and competencies referred to in this article manner in the form stipulated in the Regulations.

Article 52. Guaranteeing the customs tax obligation

Compliance with the customs tax obligation may be guaranteed by the party required pay the duty in the cases established in this Code and its Regulations.

The guarantee may take the form of a bond issued by an authorized entity, an insurance policy, a cash deposit in a Customs Service or Government account as appropriate, certified check, bank guarantee, securities or a combination of the foregoing, provided the Customs Service is assured that the guaranteed amount will be paid immediately upon presentation of the guarantee.

Article 53. Amount of the guarantee

The amount of the guarantee must cover the total customs duty payable, including interest accrued and any other charge that may apply. The said guarantee shall be updated in the time-frame stipulated in the Regulation.

Article 54. Release of the guarantee

The guarantee shall not be released while the customs tax for which it was established has not been paid. The guarantee shall be released immediately upon payment of the customs tax.

Article 55. Enforcement of the guarantee

When the guaranteed customs tax obligation is not fulfilled in accordance with the prescribed form, time-frame and conditions, the Customs Service shall enforce the guarantee as foreseen in the Regulations.

Article 56. Form and time-frames of the guarantee

The guarantees shall be provided in the form and within the time-frames established in the Regulations.

Article 57. Enforceable instrument

The certification of the amount owed and any other amount payable issued by the higher authority of the Customs Service shall constitute an enforceable instrument for executing any of the appropriate actions and procedures.

Article 58. Means of extinguishing customs tax obligations

The customs tax obligation shall be extinguished by the following means:

- (a) Payment, without prejudice to any adjustments that may be made in the course of verifying tax obligations;
- (b) set-off;
- (c) prescription;
- (d) acceptance of voluntary surrender of the goods;
- (e) sale by public auction or by other forms of legally authorized disposal of surrendered goods;
- (f) loss or total destruction of the goods as a result of unforeseeable circumstances, *force majeure*, or destruction of the goods under customs supervision; and
- (g) other lawfully established means.

The power of the Customs Service to demand payment of taxes that may not have been received, the interest thereon and surcharges of any kind shall become time-barred after four years. The taxpayer shall have the same time-period in which to claim the refund of unduly paid taxes, interest and surcharges of any kind. Amounts paid to discharge a time-barred customs tax obligation may not be reclaimed, irrespective of whether payment was made with or without knowledge of the time bar.

Article 59. Taxable persons liable for non-tax obligations

The person required to discharge non-tax customs obligations shall be the declarant or his representative.

TITLE IV
ENTRY OR EXIT OF PERSONS, GOODS AND
MEANS OF TRANSPORT

CHAPTER I
ENTRY OR EXIT OF PERSONS, GOODS AND
MEANS OF TRANSPORT

Article 60. Entry or exit of persons, goods and means of transport

Persons, goods and means of transport may enter or exit the customs territory only at the authorized points and times and must be controlled by the competent Customs Authority and comply with the applicable measures.

Article 61. Receiving the means of transport

All cross-border means of transport shall be received by the competent Customs Authority pursuant to the established legal procedures.

Article 62. Forced arrival

When owing to unforeseen circumstances or *force majeure* a means of transport arrives at a place, whether authorized or not, the person responsible shall immediately inform the competent Customs Authority nearest to the place of arrival.

Article 63. Prohibited goods

The prohibited import or export goods shall be retained by the Customs Authority and, when appropriate, delivered to the competent authority.

Article 64. Hazardous goods

Explosive, flammable, corrosive, polluting, radioactive and other hazardous goods shall not be allowed entry into the country without prior permission from the competent authority. If their admission is authorized, they shall be stored in the places legally established for that purpose.

CHAPTER II
LOADING, UNLOADING, TRANSHIPMENT,
RESHIPMENT AND TEMPORARY STORAGE OF GOODS

Article 65. Loading and unloading of goods

Goods shall be loaded and unloaded at the places and under the conditions stipulated by law.

Article 66. Transshipment

Transshipment is the transfer of goods under customs supervision from the means of transport on which they arrived to another on which they will continue to their destination.

The Regulations shall lay down the procedure and requirements for the approval of transshipment.

Article 67. Reshipment

Reshipment is the resending abroad of foreign goods unloaded by mistake.

Reshipment shall be authorized only when the goods have not been assigned to a customs regime, have not been surrendered, or if no well-founded presumption of criminal infringement has been established with respect to them.

Article 68. Missing or excess goods

If it is discovered during unloading that there are missing or excess goods in relation to what has been declared, the transporter must explain the situation within the time-frame set in the Regulations.

Article 69. Missing goods

If no proper and timely explanation is given for missing goods, responsibilities shall be established and the corresponding penalties applied.

Article 70. Surplus goods

The clearance of surplus goods shall be allowed provided that their existence is explained and the difference as compared to the declared goods does not exceed the percentage established in the Regulations.

When the excess goods surpass the percentage allowed, they shall be subject to administrative seizure and auctioned by the Customs Service.

Article 71. Temporary custody of goods

The Customs Authority may authorize that the means of transport or its cargo remain temporarily in custody at authorized places, in accordance with the conditions and time-frames foreseen in the Regulations.

TITLE V
CUSTOMS CLEARANCE AND PRELIMINARY PROCEDURES

CHAPTER I
PRELIMINARY PROCEDURES

Article 72. Advance rulings

Advance rulings are preliminary procedures of binding nature through which the Customs Services or, where applicable, the competent authority of States Parties rule on requests concerning:

- (a) Tariff classification;
- (b) the application of customs valuation criteria for a particular case, pursuant to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 and the provisions of the corresponding chapter in the Regulations;
- (c) refunds, suspension or some other form of deferral of customs duties;
- (d) preferential origin of a good under the agreement invoked;
- (e) eligibility for duty-free treatment of a good re-imported into a State Party's territory after being exported for transformation, processing or repair;
- (f) country of origin marking; and
- (g) the application of quotas.

Also included are advance rulings by the Customs Services or competent authority under international bilateral or multilateral trade agreements or treaties concluded with third countries, which shall be governed by the provisions of those instruments.

Article 73. Formalities of advance rulings

The requirements, procedures, time-frames, appeals, publication, validity and other aspects and formalities of advance rulings shall be stipulated in the Regulations.

Article 74. Preliminary examination

The declarant or his representative may conduct a preliminary examination of the goods to be cleared in order to ascertain and declare them correctly, self-assess tax obligations and fulfil the non-tax obligations. The requirements and procedures for the conduct of a preliminary examination shall be laid down in the Regulation.

Article 75. Intellectual property

The customs procedures pertaining to intellectual property shall be stipulated in the Regulations in accordance with the international agreements in force.

CHAPTER II CUSTOMS CLEARANCE

Article 76. The concept of clearance

The customs clearance of goods is the set of steps necessary to submit them to a customs regime, which concludes with their release.

Article 77. Goods declaration

The goods declaration is a free and voluntary statement of the regime to which the goods shall be subject and an acceptance of the obligations flowing therefrom.

The goods declaration shall be deemed to have been made under oath.

Article 78. Declaration procedure

The declaration to assign goods to a regime shall be made by electronic transmission in accordance with established procedures. In exceptional cases it may be done by other legally authorized means.

The preceding paragraph shall be applicable to the declaration of customs value, when this is required.

Article 79. Information and documents pertaining to the goods declaration

The Regulations shall stipulate the information to be contained in the goods declaration and the documents necessary for applying the requested regime, as well as the cases in which the documents supporting the declaration must be attached to it, and those in which they must remain available to the Customs Authority, in the custody of customs agent or declarant, as applicable.

No document required for legally receiving the means of transport or for the application of any customs regime or operation shall be subject to the requirement of a consular visa.

Article 80. Advance declaration

Under the system of self-assessment, the customs declaration may be submitted prior to the arrival of the goods in the country, in the cases prescribed in the Regulations.

Article 81. Provisional declaration

The goods declaration may be submitted provisionally, in the time-frames and in the cases laid down in the Regulations.

Article 82. Final nature of the declaration and its rectification

As a general rule, the goods declaration is final for the declarant. The Regulations shall indicate the cases in which the declarant may rectify it.

Article 83. Acceptance of the declaration

The goods declaration shall be deemed to be accepted when it is recorded in the computer system of the Customs Service or another authorized system.

This act shall neither imply that the content of the declaration has been approved nor restrict the Customs Authority's powers of verification.

Article 84. Selectiveness and random checks

Any customs declaration in which the value has been assessed by the importer shall be made subject to a selective and random process involving the use of risk assessment methods to determine whether an immediate verification of the declared goods is necessary. This immediate verification does not limit the Customs Authority's powers of subsequent inspection.

Article 85. Maximum time-frame and immediate verification

The maximum time-frame for an immediate verification shall be prescribed in the Regulations. Non-compliance with the said time-frame shall incur the corresponding administrative liabilities and penalties.

Article 86. Post-clearance verification

The Customs Authority is empowered to conduct post-clearance verification of the truthfulness of the declaration and compliance with customs and foreign trade legislation, as appropriate.

Article 87. Time-frame for subsequent verification

The time-frame for conducting the subsequent verification shall be four years as of the date of acceptance of the goods declaration.

Article 88. Replacement of goods

The Customs Service may authorize the replacement of goods rejected by the importer, where:

- (a) They have hidden defects not detected at the time of customs clearance;
- (b) in such a case, if the goods substituted for the rejected goods are identical or similar and of equal value to the latter, their entry shall not be subject to the payment of duties. If this is not the case, the declarant shall pay the resulting difference in taxes or, where applicable, may request the refund of amounts paid in excess;
- (c) they do not fulfil the terms of the relevant contract.

In this case, substitution shall give rise to the payment of the difference in value, or to the refund of the corresponding duties.

In both cases, the rejected goods must have been returned abroad, with the prior authorization of the competent Customs Authority.

Replacement shall be authorized in keeping with the time-frame, conditions and requirements laid down in the Regulations.

TITLE VI CUSTOMS REGIMES

CHAPTER I COMMON PROVISIONS

Article 89. Concept of customs regimes

Customs Regimes shall denote the different classifications to which goods under customs supervision may be subject, according to the terms of the declaration submitted to the Customs Authority.

Article 90 Fulfilment of requirements and formalities for customs regimes

Assignment to the customs regimes and the modalities for definitive import and export shall be conditional on fulfilment of the requirements and customs formalities and any others that are stipulated in each case.

CHAPTER II CUSTOMS REGIMES

Article 91. Classification of customs regimes

Goods may be made subject to the following customs regimes:

- (a) Definitive: definitive export and import and its modalities;
- (b) temporary or suspended-duty: customs transit; temporary importation and re-exportation in the same state; temporary admission for inward processing; bonded warehousing; temporary export for re-importation in the same state; temporary export for outward processing; and
- (c) exemption: free zones; re-import and re-export.

Notwithstanding the above-mentioned regimes, other customs regimes may be established that each country may deem appropriate for its economic development.

Article 92. Definitive importation

Definitive importation is the entry of goods from abroad for final use or consumption in the customs territory.

Article 93. Definitive exportation

Definitive exportation is the exit from the customs territory of domestic or imported goods for final use or consumption abroad.

Article 94. Customs transit

Customs transit is the regime under which the goods under customs supervision are transported from one customs post to another by any means, with total suspension of the respective taxes.

Goods in customs transit shall be in the custody and under the liability of the transporter, without prejudice to the liabilities of third parties.

Customs transit may be international or domestic and shall be governed by the provisions of this Code and its Regulations.

Article 95. Regional database of customs carriers or transporters

The Customs Services shall create and maintain a current database of registered customs carriers or transporters who are usually engaged in the international transport of goods.

A regional database shall be created and shall incorporate the databases of customs transporters registered with the Customs Services and shall be administered by the Secretariat for Central American Economic Integration. The Customs Services shall keep the online regional database current.

An essential prerequisite for the Customs Services to authorize the start of international goods transit through the corresponding territories shall be that the data pertaining to the customs transporters must be registered in the regional database. The Regulations shall lay out the requirements and formalities for the inscription and registration of customs transporters.

Article 96. Security devices

Safety devices may take the form of stamps, mechanical or electronic seals, or customs seals placed on the transport units in accordance with predetermined manufacturing standards, such that goods cannot be removed or introduced without leaving evidence that the devices have been forced, fractured or broken.

The Customs Service may use electronic seals in a harmonized manner.

The regulations as to type and technical characteristics as well as other aspects of the use of these mechanisms will be governed by the Regulations.

Article 97. Temporary importation and re-exportation in the same state

Temporary importation and re-exportation in the same state is the regime under which goods may be introduced into a customs territory for a set period, with the suspension of import duties, for a specific purpose, and which will be re-exported within the set period, without having undergone any modification other than normal depreciation caused by use.

Article 98. Temporary admission for the inward processing

Temporary admission for inward processing is the introduction into the customs territory, with the suspension of import duties, of goods from abroad, intended for re-export after undergoing transformation, manufacturing or repair or some other legally authorized process.

Upon compliance of the requirements, formalities and conditions laid down in the Regulations, a percentage of the goods subject to transformation, processing or repair or any other process authorized under this regime may be imported definitively, in keeping with the stipulations of the competent authority.

Article 99. Bonded warehousing

Bonded warehousing is the regime under which goods are stored for a set period of time at a place authorized for that purpose, under customs authority and with suspension of any applicable taxes.

Goods stored at bonded warehouses shall be under custody and responsibility of the bonded warehouse operator.

Bonded warehouses may be public or private.

Article 100. Activities permitted

During the period of storage at the warehouse, goods may undergo reconditioning, repackaging, analysis, or any other activity necessary to ensure their preservation and identification, provided that their nature is not altered or modified.

The Customs Authority may permit goods subject to this regime to undergo other activities or operations, provided that the nature of the goods is not altered or modified in the process.

Article 101. Free zones

The free zone regime is that which permits the introduction into a delimited part of a State Party's territory of goods which for import duty purposes are generally treated as though they were not present in the customs territory, and which are destined for the operations or processes determined by the competent authority.

Free zones may be, *inter alia*, commercial, industrial or mixed.

Article 102. Temporary export for re-importation in the same state

Temporary export for re-importation in the same state is the customs regime under which, with suspension of payment of export duties if any, domestic or imported goods are permitted to exit the customs territory temporarily for a specific purpose and a set period, provided that they are re-imported without having undergone any transformation, processing or repair abroad, in which case they will be admitted with full exemption from import taxes upon their return.

The time-frame for re-importation shall be established in the Regulations.

Article 103. Temporary export for the outward processing

Temporary export for the outward processing is the regime that allows domestic or imported goods to leave the customs territory for a set period in order to undergo transformation, manufacturing and repair or other permitted operations abroad, with exemption from any export duties, and to be re-imported with the tax treatment and in the time-frame stipulated in the Regulations.

Article 104. Repair of goods abroad with performance warranty

Goods that have been repaired abroad within the period of the performance warranty and at no cost shall re-enter exempt from all taxes.

In other cases in which processing has taken place, the applicable import taxes shall be determined based on the value added in that process, in accordance with the relevant provisions of regional legislation.

Should the goods received be not identical to those imported initially, the resulting tax difference must be paid, or if applicable, a request may be made for the refund of any taxes paid.

Article 105. Re-import

The re-import regime is that which allows the tax-free re-entry into the customs territory of domestic or previously imported goods that were exported definitively and which return in the same state.

Article 106. Requirements for entitlement to exemption

To enjoy the benefits of the re-import regime, the declarant shall fulfil the following requirements:

- (a) That the re-import declaration be duly submitted and accepted within a period of three years, counted as from the date of acceptance of the definitive export declaration;
- (b) the goods have not been transformed in any way;
- (c) that the identity of the goods is fully established;
- (d) prior refund of any amounts received as tax benefits or incentives or other export incentives, if applicable; and
- (e) any others envisaged in the Regulations.

Article 107. Re-export

Re-export is the regime under which foreign goods that have entered the country without being definitively imported are allowed to leave the customs territory.

Goods that have been surrendered or goods concerning which there is a well-founded presumption of a fault or criminal customs offence may not be re-exported.

CHAPTER III SPECIAL DEFINITIVE IMPORT AND EXPORT MODALITIES

Article 108. Special definitive import and export modalities

The following are considered special definitive import and export modalities:

- (a) Postal consignments;
- (b) urgent consignments;
- (c) border traffic;
- (d) travellers' luggage;
- (e) household effects;
- (f) small non-commercial consignments; and
- (g) others contemplated in the Regulations.

Article 109. Postal consignments

The term postal consignments shall mean correspondence and postal parcels designated as such in the Universal Postal Union Convention and its Acts.

Article 110. Urgent consignments

The term urgent consignments shall denote goods, which by reason of their nature or in response to a duly substantiated need, must be cleared expeditiously and preferentially.

This modality also includes goods imported under the express delivery or courier system, brought in by companies registered with the Customs Service.

Article 111. Border traffic

Border traffic is deemed to be non-commercial imports and exports by the inhabitants of bordering areas of States Parties.

The goods subject to the said traffic may be fully or partially exempted from the payment of any assessed taxes, pursuant to the provisions of bilateral or multilateral agreements.

Article 112. Travellers' luggage

Luggage shall consist of new or used personal effects that travellers may reasonably need for their personal use or the exercise of their profession or occupation in the course of their journey, as foreseen in the Regulations.

Household effects shall not be considered as part of travellers' luggage

Article 113. Tax exemption for luggage

Anyone arriving at authorized ports, airports or border posts may bring their luggage into the country exempt from taxes.

Article 114. Tax exemption for goods other than luggage

Travellers are allowed to introduce, free of duty, goods accompanying them other than luggage, the total customs value of which does not exceed the equivalent of five hundred Central American pesos.

Article 115. Household effects

Household effects shall be understood as new or used household equipment and items the quantities and features of which make it possible to determine that they will be destined for household use.

The household effects imported by temporary residents shall be governed by the Regulations and the provisions of international agreements.

Article 116. Small family consignments of a non-commercial nature

Small non-commercial consignments shall be deemed to be goods sent by family members from abroad to be used and consumed by the relatives to whom they are addressed, and which shall be imported free of duties and other charges, provided that their total customs value does not exceed five hundred Central American pesos.

Article 117. Samples of no commercial value

Samples of no commercial value are goods the use or display of which are intended for demonstration or some other similar purpose and which lack any commercial value, whether owing to their quantity, weight, volume or other aspects of their presentation, or because that value has been physically removed from them making them unusable so as to rule out any possibility of marketing them.

Article 118. Conditions of eligibility for exemptions

The conditions of eligibility for exemptions referred to in the preceding articles shall be stipulated in the Regulations.

**TITLE VII
SURRENDER AND WAYS OF
DISPOSING OF GOODS**

**SOLE CHAPTER
SURRENDER, AUCTION AND OTHER FORMS
OF DISPOSAL OF GOODS**

Article 119. Surrender of goods

The surrender of goods may be voluntary or tacit.

Voluntary surrender occurs when the consignee or whoever has the right to dispose of the goods expressly states their willingness to transfer them to the tax authority.

Goods shall be deemed to be tacitly abandoned in favour of the tax authority when:

- (a) They have not been made subject to a regime or customs operation within the time-frames established in the Regulations; and
- (b) they match any other scenario envisaged in the Regulations.

In no case shall goods involved in smuggling or customs fraud be deemed surrendered.

Article 120. Auction and sale of surrendered and confiscated goods

Surrendered and seized goods may be sold at public auction by the Customs Service or disposed of in other ways in accordance with the Regulations.

The Customs Service may auction surrendered or seized goods, as applicable, using electronic systems or means.

Goods put up for auction once and not sold shall be destined by the Customs Authority for the purpose stipulated in the applicable regulations.

The procedures for auctions and other forms of disposal of goods shall be prescribed in the Regulations.

Following the appropriate deductions, the proceeds of auctions shall go to the Customs Service and used to set up a special fund for the administrative improvement that Service.

Article 121. Retrieval of tacitly surrendered goods

The consignee or whoever proves entitlement to the tacitly surrendered goods may retrieve them by first paying the amounts due in keeping with Article 46.2 of this Code, except in those cases where a definitive import declaration has already been made, in which case subparagraph 1 of that Article shall apply.

The retrieval must take place no later than one working day before the date set for the auction.

TITLE VIII CUSTOMS OFFENCES AND APPEALS

CHAPTER I CUSTOMS OFFENCES AND CORRESPONDING SANCTIONS

Article 122. Customs offence

A customs offence is any violation or attempted violation of customs legislation. Customs offences may be administrative, tax-related or criminal.

Article 123. Administrative offence

An administrative offence is any action or omission that entails infringing customs legislation and does not cause fiscal prejudice or constitute a crime.

Article 124. Tax-related offence

A tax-related offence is any action or omission that entails infringing customs legislation, and which causes or could cause fiscal prejudice, but which does not constitute a crime.

Article 125. Criminal customs offence

A criminal customs offence shall be any action or omission that entails infringing or attempting to infringe customs legislation, and which constitutes a crime.

Article 126. Penalties

Administrative and tax infringements of Central American customs regulations and the corresponding penalties shall be governed by the Regulations and domestic legislation.

CHAPTER II CUSTOMS CLAIMS AND APPEALS

Article 127. Appeals against decisions and actions

Persons who consider themselves prejudiced by final rulings and decisions of the Customs Service authorities may appeal against them in the form and time-frame stipulated in the Regulations.

CHAPTER III CUSTOMS COURT

Article 128. Creation of the Customs Court

The Customs Court shall be created in States Parties as a decision-making body independent of the Customs Services, and shall hear appeals in customs matters as the administrative body of last instance, in accordance with the Regulations.

Article 129. Membership and membership requirements

The members of the Customs Court must hold a Bachelor's degree at a minimum, and must possess the relevant knowledge and at least five years' experience in customs matters.

The functions, organization, membership, powers and other competencies shall be stipulated in the Regulations.

**TITLE IX
FINAL AND TRANSITIONAL PROVISIONS,
DEROGATIONS AND VALIDITY**

Article 130. New procedures

States Parties may develop procedures that offer greater degrees of facilitation in the framework of the principles of this Code and its Regulations.

Article 131. Principle of legality of actions

No Customs Service officer or employee may demand, for the application or authorization of any act, formality, regime or operation, fulfilment of requirements, conditions, formalities or procedures that are not foreseen in customs or foreign trade regulations.

Article 132. Nature of the headings of the articles

The headings of the articles in this Code are merely illustrative in nature.

Article 133. Supplementary rules

Any matter not foreseen in this Code and its Regulations shall be governed by the provisions of national laws.

Article 134. Validity

This Code shall enter into force simultaneously with its corresponding Regulations.

Transitional Article I: Completion of formalities

Clearances, procedures, appeals, time-frames and other customs formalities initiated before the entry into force of this Code shall be completed pursuant to the provisions in force at the time of their initiation.

Transitional Article II: Competence and time-frame for setting up the Customs Court

In States Parties where there may be a court competent in customs matters, regardless of its designation, the said court shall be deemed to be the Customs Court referred to in Article 128 of this Code.

The customs courts must be set up within a period of six months counted from the effective date of this Code and its Regulations. Until this is done, the Tariffs and Customs Valuation Committee or where applicable, the body supervising the Customs Service shall continue to exercise its functions.

Transitional Article III: Regional database

Within 30 days of the entry into force of this Code, States Parties shall be required to update the regional database of authorized transporters online.

Transitional Article IV: Administrative careers

States Parties shall be required, within a period of six months following the effective date of this Code and its Regulations, to approve and implement the statutes governing administrative careers in customs.

Annex to Resolution No. 224-2008 (COMIECO-XLIX)

REGULATIONS OF THE CENTRAL AMERICAN UNIFORM CUSTOMS CODE

TITLE I

GENERAL PROVISIONS

SOLE CHAPTER

PURPOSE, SCOPE OF APPLICATION AND DEFINITIONS

Article 1. Purpose. The purpose of these Regulations is to implement the provisions of the Central American Uniform Customs Code.

Article 2. Scope of application. In the absence of provisions to the contrary arising from international treaties, conventions or agreements, the customs rules and regulations constituted by the Central American Uniform Customs Code and these Regulations shall apply uniformly throughout the customs territory of States Parties.

Article 3. Definitions. The following definitions and acronyms shall be adopted for the purposes of implementing the Code and these Regulations, in addition to those indicated in the Code:

AGREEMENT: Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade of 1994.

DEBT: The amount of the customs tax obligation.

ARRIVAL: Arrival of vehicles or transport units at a customs port. They must be presented for the purposes of the incoming customs control.

FORCED ARRIVAL: The arrival of a means of transport at a place other than that of destination as a result of unforeseen circumstances or *force majeure* duly substantiated by the Customs Authority.

AUXILIARY AGENTS: Auxiliary customs agents as defined in the Code.

PACKAGE: Unit used to contain goods. It may consist of boxes, bales, cylinders and other forms of presenting goods, depending on their nature.

WAYBILL: The document that contains the land transport contract describing the goods being transported, the terms and conditions of transport and naming their consignee.

DIGITAL CERTIFICATE: A data structure created and digitally signed by a certifier for the primary purpose of enabling its subscribers to create digital signatures and to identify themselves personally in electronic transactions.

CERTIFIER: The public or private, domestic or foreign legal person that provides the service of creating, issuing and operating digital certificates.

CODE: The Central American Uniform Customs Code (CAUCA).

CUSTOMS COMMITTEE: The Committee established pursuant to Article 10 of the Convention on the Central American Customs and Tariff Regime.

CONSOLIDATION OF GOODS: Activity by which different shipments (cargoes) intended for one or several consignees are grouped together to be transported under a single master transport document.

BILL OF LADING: The document representing the goods and containing the contract concluded between the consignor and the transporter for transporting them to the national territory and identifying the consignee.

DECONSOLIDATION OF GOODS: Separation of shipments consolidated under a single transport document or an equivalent document and which are intended for different consignees and presenting each shipment separately with its respective transport document.

UNLOADING: The process by which goods are unloaded from the means of transport.

ELECTRONIC DOCUMENT: Any information stated or transmitted by an electronic or computerized medium.

TRANSPORT DOCUMENT: The document that contains the contract concluded between the consignor and the carrier for the transport of goods by sea, land or air or a combination of these modes (multimodal).

REASONABLE DOUBT: The right of the Customs Authority to question the truthfulness or accuracy of the data or documents submitted as proof of declared value, as a result of a comparative analysis of the declared value versus available information on transaction values for goods identical or similar to those being valued, and in the absence of such data, based on reference prices contained in specialized sources of consultation such as price lists, books, journals, catalogues, newspapers and other documents.

LOADING: The process by which goods are loaded on to the means of transport.

PRELIMINARY INSPECTION: The physical pre-clearance inspection of goods to ascertain their general characteristics, the determinants of customs tax obligations and compliance with other prerequisites for the authorization of the regime or customs operation to which they will be assigned.

EXEMPTION: The temporary or definitive waiver of the payment of import or export duties on goods.

COMMERCIAL INVOICE: A document issued by the seller listing the goods to be exported or imported along with the unit and total prices and other information required for foreign trade.

MISSING GOODS: Goods declared in the manifest that have not been unloaded by the means of transport.

EXONERATION: The full or partial exoneration from taxes legally accorded to goods imported for a specific purpose or by particular persons.

ELECTRONIC OR DIGITAL SIGNATURE: A set of data attached to or logically associated with an electronic document making it possible to verify its integrity as well as to unambiguously identify and legally link the author with the document.

SECURITY: Security or guarantee deposited in accordance with these Regulations in order to cover any customs tax obligations payable and financial penalties for failing to comply with the obligations laid out in these Regulations.

AIRWAY BILL: The document equivalent to the bill of lading used in the air transport of goods in which the airline recognizes the loading of goods and sets out the agreed terms and conditions of transportation.

INTEGRITY: The property of an electronic document denoting that its content and identifying features have remained unchanged since the time of its issue.

RELEASE: The act by which the Customs Authority permits the declarants to take possession of the goods that have been cleared through customs.

CARGO MANIFEST: A document presented by the party responsible for transporting the goods prior to or upon arrival or departure of the means of transport and which contains the information stipulated in these Regulations.

GOODS: Material or immaterial goods that can be traded.

FOREIGN GOODS: Goods coming from abroad, the importation of which has not been legally completed.

NON-REPUDIATION: A technical and legal mechanism guaranteeing that the parties to a communication or transaction may not subsequently deny that such communication took place or claim that no obligation has arisen from the transaction.

CUSTOMS OPERATION: A physical activity authorized under the Code, these Regulations or other related rules, to which goods are subject and which is done under customs supervision.

NON-TARIFF RESTRICTIONS AND REGULATIONS: These are all non-tax licences, permits, certificates or authorizations, stipulated and required under national law or international agreements for the entry or exit of goods.

SURPLUS GOODS: Goods unloaded from the means of transport by which they entered the customs territory and which are in excess of those shown on the cargo manifest.

SUBSCRIBERS: The persons in whose favour a digital certificate is issued and who use it for the purposes indicated in these Regulations.

CUSTOMS FORMALITY: Any procedure related to customs operations or regimes carried out with the Customs Service.

UNITS OF TRANSPORT: Any means of transport that is used for the introduction, transit, transfer, transshipment or exit of goods with respect to a customs territory, such as containers, trucks, trailer trucks, vans, flatbed trucks, aircraft or ships, railroad cars and other similar means of transport.

VEHICLE: Any automotive means used to transport persons, freight or units of transport. For the purposes of these Regulations, a vehicle with a cargo compartment shall be deemed to be a unit of transport.

TITLE II
CUSTOMS SYSTEM
CHAPTER I
CUSTOMS SERVICE

Article 4. Organization. To discharge its functions, the Customs Service shall be organized in accordance with the Code, these Regulations, and the organizational structure adopted by each State Party.

The Customs Service of each State Party shall determine the functions to be discharged by the administrative units, in the accordance with its organizational structure.

Article 5. General functions and powers. The functions and powers of the Customs Service shall be, *inter alia*, to:

- (a) Stipulate and verify compliance with the various determinants of customs tax obligations, such as the nature, characteristics, tariff classification, origin and customs value of goods as well as any other duties, requirements and obligations deriving from the entry, stay and exit of goods and means of transport with respect to the customs territory;
- (b) require and confirm the payment of taxes;
- (c) draw up and apply customs procedures as well as propose amendments to the rules in order to adapt them to technical and technological changes in keeping with the requirements of international trade and the criteria of simplicity, specificity, uniformity, effectiveness and efficiency;
- (d) to require the electronic transmission of information for the implementation of the various Customs regimes and operations;
- (e) undertake the exchange of customs information in the framework of the Code, these Regulations and the regional and international agreements in force for each of the States Parties;
- (f) comply with and enforce the rules set out in the Code, these Regulations and other customs provisions;
- (g) investigate any customs infringements and impose appropriate penalties where necessary;
- (h) sell surrendered or, if applicable, seized goods by public auction in accordance with procedures laid down in these Regulations or by the Customs Service through special agreements, or dispose of them by some other means pursuant to the Code and these Regulations;
- (i) verify, when this falls within its remit, the proper use and destination of goods entering the customs territory benefiting from any fiscal incentive, exoneration, exemption or tax reduction, as well as the fulfilment of the conditions established in the law granting the benefit;

- (j) apply the relevant control measures to protect intellectual property rights in keeping with international agreements on the matter;
- (k) request auxiliary agents, importers, exporters, producers, declarants and related third parties to submit books of account, their annexes, files, accounting records, inventory control and management, other information with tax or customs implications and electronic files, magnetic or similar media backing up or containing that information, on the terms prescribed in customs legislation;
- (l) in the exercise of the legal authority of customs, enter establishments or sites that are the venues of activities or commercial operations related to the customs obligations, as well as ports, docks, airports, storage yards, warehouses and other sites where goods subject to customs control are kept;
- (m) apply the provisions issued by the competent authorities regarding levies against unfair international trade practices, safeguard measures and other tariff and non-tariff foreign trade regulations;
- (n) verify that auxiliary agents are fulfilling the requirements, duties and obligations laid out in the Code and these Regulations;
- (o) retain or if appropriate seize goods subject to import or export prohibitions and take the appropriate action;
- (p) establish registers and databases containing information on regular importers, auxiliary agents and exporters, possibly requesting them to enrol in such registers;
- (q) apply all the international conventions, agreements and treaties duly ratified by the States Parties and in force internationally in the realm of customs and foreign trade;
- (r) supervise the customs territory and apply the foreign trade policies in force, in keeping with the Code, these Regulations and other applicable laws;
- (s) generate international trade statistics;
- (t) where appropriate, process, deal with and resolve enquiries, claims, appeals and objections;
- (u) grant, suspend or cancel, as appropriate, the authorizations of auxiliary agents;
- (v) if deemed appropriate, sign agreements with auxiliary agents or public or private institutions for the execution of projects to improve the Customs Service as well as the use of infrastructure and training, amongst other things; and
- (w) exercise the other powers indicated in the Code and these Regulations.

CHAPTER II

CUSTOMS ZONES AND AUTHORIZED SITES

Article 6. Customs zones. For the purposes of Article 6 of the Code, the customs territory is divided into:

- (a) A primary or customs operations zone;
- (b) a secondary or free circulation zone; and
- (c) a special surveillance zone.

Article 7. Designations. The primary or customs operations zone is any area where customs services are provided and controls or operations carried out, whether on a temporary or permanent basis, and which includes those sections of the territorial sea where those services are provided as well as related dependencies and installations in the immediate proximity of its offices, warehouses and premises, such as docks, roads, and airfields legally authorized for that purpose.

The remainder of the customs territory is designated the secondary or free circulation zone.

The special surveillance zone covers places or sites within the secondary zone where the customs authorities may set up operations to check, inspect or examine persons, means of transport or goods circulating in it so as to guarantee compliance with customs provisions.

CHAPTER III

CUSTOMS CONTROL AND RISK MANAGEMENT

SECTION I

CUSTOMS CONTROL

Article 8. Types of control. For the purposes of Articles 8, 9 and 12 of the Code, customs control may be ongoing, preliminary, immediate or subsequent to the release of goods.

Ongoing control shall apply at any time to auxiliary customs agents in relation to compliance with the operational requirements, duties and obligations applicable to them. It shall also apply to goods which subsequent to release or withdrawal, remain under any of the non-definitive customs regimes while they are present in the customs territory and subject to the legal authority of customs to inspect them and verify compliance with the conditions relating to their presence, use and purpose.

Preliminary control applies to goods before they are assigned to a customs regime.

Immediate control is applied to goods upon their entry into the customs territory or when they are presented prior to shipment and remains in effect until the release of the goods is authorized.

Subsequent control takes place after the release of the goods and in relation to customs operations and ancillary acts, customs declarations, assessments of customs tax obligations, payment of taxes and the actions of auxiliary customs agents, officers and other natural or legal persons engaged in foreign trade transactions.

Article 9. Use of non-intrusive or non-invasive controls. Control applied by the Customs Services using non-intrusive or non-invasive equipment pursuant to the second paragraph of Article 9 of the Code must take account not only of the results of risk analysis but also other mechanisms that enable users of the Customs Service to clear their goods rapidly, with operational time-frames and costs that do not constitute a barrier to trade.

The operation of non-intrusive or non-invasive inspection equipment may be put out on concession by the Customs Service or the competent State authority subject to technical approval by the Customs Authority.

Article 10. Execution of controls. Controls and customs monitoring shall be done with respect to:

- (a) The discharge of the duties and obligations of auxiliary agents as well as compliance with the rules and procedures laid down in the Code, these Regulations and by the Customs Service; and
- (b) customs operations, acts arising from them, declarations, assessments of customs tax obligations, payments of taxes and charges and the activities of exporters and importers, producers and other parties subject to customs taxes.

Article 11. Those subject to monitoring. The powers of control and customs monitoring envisaged in the Code and in these Regulations shall be exercised by the competent bodies with respect to the acts or omissions of:

- (a) Auxiliary agents;
- (b) declarants;
- (c) employees and officers of the Customs Service; and
- (d) other participants in the process of arrival and clearance of goods.

Article 12. Exercise of the legal authority of customs. In the exercise of its legal authority, the Customs Services may retain or seize goods and means of transport when there is a well-founded presumption of a customs crime or offence, for the purpose of launching the relevant proceedings and where applicable, handing them over to the competent authority.

Article 13. Coordination of functions. The immigration, health and police authorities as well as all public entities that exercise control over the movement of persons, goods and means of transport into or out of the customs territory must discharge their functions in coordination with the Customs Authority, cooperating amongst themselves to ensure the proper application of the various legal and administrative provisions.

To that end, the Customs Service shall promote the creation of inter-agency coordination bodies.

Article 14. Assistance by others authorities. Within the scope of their remit, officers of other government departments shall assist the Customs Authority in the performance of its duties; they shall immediately inform the Authority of the facts and actions relating to the presumed customs infringements and, if the goods concerned are in their possession, place them at the Authority's disposal.

Article 15. Liability. Pursuant to Article 13 of the Code, in addition to the liabilities envisaged therein, administrative, civil and criminal proceedings shall be filed against the customs officer or employee and adjustments will be made and charged to the persons who have benefited from any non-compliance, in the manner prescribed by the Code, these Regulations and other legal provisions.

SECTION II

RISK MANAGEMENT CRITERIA, PROCEDURES, METHODOLOGY AND TECHNIQUES

Article 16. Risk and risk management. For the purposes of this Section, risk is the possible occurrence of an event that may adversely affect compliance with customs and foreign trade laws. Risk is measured in terms of probability, scale and significance of loss or prejudice.

Risk management is therefore the systematic application of procedures and administrative practices that provide the Customs Service with the information needed to deal with movements or goods that pose a risk.

Article 17. Risk database. In application of Article 11 of the Code, the Customs Services shall set up the regional database and update it with data from existing national databases and those that may be developed in the future, regarding:

- (a) Data on foreign trade operations;
- (b) the register of importers;
- (c) the register of exporters;
- (d) users of definitive, temporary or suspended duty and exemption regimes;
- (e) auxiliary customs agents;
- (f) data on perpetrators of administrative, tax and criminal offences; and
- (g) other data deemed necessary by the Customs Services.

Article 18. Methodology. Risk management shall be based on harmonized methodology, involving, *inter alia*, the following actions:

- (a) Establishing the context;
- (b) identifying and describing the risks;
- (c) analysing the risk factors or indicators to be used;
- (d) assessing the risks and the type of customs controls to be undertaken by the Customs Services; and
- (e) dealing with the risks, including the application time-frames for customs controls prescribed in subparagraph (d).

The information resulting from the application of the methodology envisaged in this article shall be used by the Customs Services of States Parties to implement the electronic risk management system.

Article 19. Regional risk criteria. For the purposes of Article 11(b) of the Code, the Customs Services shall, by means of their risk management units, establish risk criteria to be applied regionally, *inter alia*, concerning the following persons or elements:

- (a) In relation to persons: such as importers, exporters, auxiliary agents, consignees, public bodies, suppliers or sectors related to specific areas that could entail higher risks or a greater impact;
- (b) in relation to goods: by chapter, tariff item, tariff subheading, origin, provenance, country of purchase, non-tariff requirements, weight, number of packages, amongst others; and
- (c) in relation to operations: by regime, modality and those related to compliance with specific regulations.

In setting customs control priorities and identifying risk management criteria, Customs Services shall take into account the proportionality of the risk, the urgency of effecting controls and the potential impact on trade flows and revenue collection.

Article 20. Registers. For the purposes of the preceding article, the Customs Services of each State Party shall establish and regularly update the register or databases with the information referred to in that article, using the forms or electronic formats established for the purpose. The following information must be included at a minimum:

- (a) Name and tax identification number of the natural or legal person;
- (b) exact service address in each State Party where the person will operate;
- (c) details of the commercial activity engaged in;
- (d) name of the legal representative; and
- (e) any other information required by the Customs Service.

The persons to be registered must update their registration information every year. In any case, they must immediately notify the competent administrative body of the Customs Service of any change. No customs operations shall be authorized for those persons until the registration information is updated.

Article 21. Identification. The Customs Service may assign a unique registration number, which shall serve as identification for the customs operations carried out by the registered persons.

Article 22. Exchange of information. To regulate the exchange of information referred to in Article 16 of the Code, the Customs Services shall be governed by the provisions of the Mutual Assistance and Technical Cooperation Agreements signed between the tax and customs administrations of States Parties and of other bilateral or multilateral conventions binding on those States.

CHAPTER IV AUDITS

Article 23. Remit of auditing bodies. The Customs Service's own auditing bodies shall be competent to oversee, control, verify and evaluate compliance with customs and foreign trade regulations as appropriate, before, during and after the customs clearance of the goods in accordance with the control mechanisms established for the purpose.

Article 24. Powers of auditing bodies. Notwithstanding the provisions of Article 5 of these Regulations, in executing customs control in accordance with their powers and functions, auditing bodies shall be empowered, *inter alia*, to:

- (a) Verify compliance with customs obligations;
- (b) verify compliance with the obligations and duties of auxiliary agents;
- (c) check the accuracy of the goods declaration submitted to the customs authorities;
- (d) request those subject to monitoring and related third parties to submit books of account, their annexes, files, accounting records, inventory control and management data, other information with tax or customs implications and electronic files, magnetic or similar media backing up or containing that information;
- (e) visit enterprises, industrial, commercial or service establishments, conduct audits, request and examine the necessary information from those being audited and from third parties in order to check the content of goods declarations and customs operations, in accordance with the procedures established by law;
- (f) investigate the presumed commission of customs infringements and take legal action to prosecute them where appropriate;
- (g) verify the correct use of the computer systems authorized by the Customs Service;
- (h) verify, if appropriate, the proper use and destination of goods entering the customs territory and benefiting from any fiscal incentive, exoneration, tax exemption or reduction, and the fulfilment of the conditions established in the law granting the benefit;
- (i) require and confirm the payment of the relevant taxes;
- (j) using risk analysis techniques, verify the documentation pertaining to the goods subject to customs control, according to the nature of the goods and the type of trade involved; and
- (k) when this is within the remit of the Customs Service, request the necessary proof and verify compliance with the rules governing the origin of the goods for the purposes of applying tariff preferences, in accordance with the international treaties in force for the States Parties and the rules deriving from them.

Article 25. Privileges and rights of officers of auditing bodies. The tasks of the auditing bodies shall be carried out by the officers designated for that purpose. Those tasks include preparation, verification, and the checking of facts or circumstances with tax or customs implications.

Officers in positions that entail the discharge of auditing functions shall be vested with the corresponding rights, privileges and considerations, and shall be subject to the rights associated with the exercise and dignity of public office.

Public authorities, auxiliary customs agents and other parties subject to auditing shall be required to support the officers of auditing bodies when they so request. Otherwise, and in the case of auxiliary customs agents and auditees, the relevant punitive procedures shall be initiated.

Article 26. Duties of officers responsible for audits. Officers of auditing bodies shall perform the following duties:

- (a) Carry out customs audits for the furtherance of public interests in accordance with the principles of effectiveness, efficiency, hierarchy, decentralization, deconcentration and coordination, in full compliance with the law;
- (b) discharge their functions with authority and in line with their duties, respecting the rules of courtesy and integrity, displaying the utmost consideration for the parties concerned and the public in general and, at their discretion, shall inform them of their tax and customs rights and obligations and the proper conduct in their dealings with the Customs Service, so as to facilitate them in the fulfilment of their obligations;
- (c) observe confidentiality with respect to matters coming to their knowledge by virtue of their office. Failure to do so shall incur the corresponding legal sanctions. This duty of confidentiality covers the entire personnel of the inspection units;
- (d) inform the competent administrative authority of any facts coming to their knowledge in the course of their duties which may constitute crimes or administrative and customs tax infringements, so that the respective criminal complaint may be filed or the corresponding administrative procedure initiated. Likewise, furnish such data as may be requested from them by the competent authority for the purposes of prosecuting the aforementioned crimes and infringements; and
- (e) wearing in a visible place the badge or other identification accrediting them for the performance of their duties.

The facts and reports of the proceedings must be known only to the officer dealing with the case and his superiors. The exchange or supply of information with tax implications between divisions of auditing bodies in specific cases shall be done through the proper hierarchical channels.

Dereliction of duty on the part of auditing officers shall be sanctioned in accordance with the disciplinary system established in each State Party, without precluding the possibility that such conduct may constitute a crime.

Article 27. Auditing. Auditing may entail:

- (a) Verification and investigation; and
- (b) the obtaining of data with tax or customs implications.

Article 28. Verification and investigation. The activities of verification and investigation shall be aimed at ascertaining proper compliance by taxable persons and auxiliary customs agents with their duties and obligations under customs legislation. They shall also be aimed at determining the possible existence of facts or other information with customs tax implications that are entirely or partially unknown to the Customs Authority.

Verification and investigation shall also serve to review and make adjustments to customs tax obligations.

Article 29. Scope of verification and investigation. The activities of verification and investigation shall be general or partial, depending on the purpose of the audit set by the auditing body.

These activities shall be general when their purpose is the full verification of the customs tax situation of the taxable person, auxiliary agents or other taxpayers.

Verification and investigation shall be partial when they concern one or several taxes or duties affecting the taxable person, auxiliary customs agents or other taxpayers, or taxable events specified in line with the purpose of the audit.

General or partial verification and investigation may be restricted or expanded by the auditing body during execution, when this is warranted by duly justified reasons.

Auditing for verification and investigation purposes is meant to obtain data or background information in the possession of the taxable person, auxiliary customs agents or other taxpayers and which, for customs tax purposes, are germane to the case in hand.

Article 30. Activities designed to obtain information. Activities designed to obtain information are those aimed at bringing to the knowledge of the auditing bodies any data or background information that may be in the possession of a natural or legal person and which have customs tax implications.

Article 31. Form of audits. Audits shall be carried out by the auditor appointed for the purpose. The head of the auditing body shall determine other forms of appointment and execution of audits in accordance with applicable regulations and international best practices.

Article 32. Annual audit programme. The competent unit of each State Party shall prepare the draft annual audit programme in coordination with the other units of the Customs Service and shall submit it for consideration to the body supervising the Customs Service within the time-limit set by the said Service.

The programme must be approved by the first business day of the year for which it takes effect, and its execution shall be monitored by the competent unit of the Customs Service.

Article 33. Basis and initiation of audits. The auditing bodies shall act in accordance with the annual audit programme, or upon a report or information file submitted by the staff of the Customs Services or members of the audit bodies, or upon an express and reasoned written order from the higher authority of the Customs Service. All other proceedings shall be exceptional and undertaken for reasons of urgency, efficacy or expediency and shall be accounted for in writing and in a timely manner.

Cases where reports are baseless or which concern facts already reported may be closed without further action.

Article 34. Sources of information. Sources of information for the preparation of the annual audit programme shall be, *inter alia*, the following:

- (a) Information generated by the computer systems in use by the Customs Service;
- (b) reports by customs personnel or members of the auditing bodies in the form of information files;
- (c) reports by natural or legal persons;
- (d) periodic reports prepared by those implementing the annual audit programme; and
- (e) other information provided by auxiliary agents, foreign trade enterprises, offices of the tax administration or other ministries or international agencies, specialized publications, the press and any other information with customs tax implications.

Article 35. Information files. For the purposes of subparagraph (b) of the preceding article, information files shall be the reports produced by the staff of custom services and auditing bodies based on doubts arising in the process of customs clearance regarding customs declarations or information or facts with customs tax implications, including doubts regarding the existence of possible customs infringements.

The procedure for the issue of the information files, their format and the information they must contain, the time-limits for submission and other formalities shall be established in the relevant operating manual.

Article 36. Initiation of audit proceedings. Audit proceedings shall be initiated:

- (a) By serving notice to the person to be audited, indicating the place and the time of the audit, the scope of the exercise and any other information deemed necessary; or
- (b) by visiting the offices, facilities or warehouses of the person to be audited or where there may be at least partial evidence of the taxable event. In this case, the notice shall be served to the person to be audited, his representative or to the manager or head of the office, unit, enterprise, centre or place of work at the time of the visit.

In both cases, the auditee shall comply with the requests of the auditors. In his absence, the person representing him as manager or head of the office, unit, enterprise, centre or place of work shall be required to cooperate in the proceedings.

At the start of the proceedings, the officer in charge shall inform the notified person of the procedure to be followed and of his rights, duties and obligations.

Article 37. Venue of the proceedings. The proceedings shall be conducted at:

- (a) The location of the taxable person or his representative's tax domicile or office where the accounting records and their supporting vouchers or other documentation pertaining to the auditee's business are kept;
- (b) the places where all or part of the activities being examined take place;

- (c) the sites or places where there may be any proof, even partial, of the taxable event; or
- (d) the facilities of producers, importers, exporters and other persons as well as in public or private offices located on foreign territory, in order to hear testimony and gather information and documentation.

With the consent of the auditee or his representative, the documents obtained may be examined at the offices of the auditing bodies.

Article 38. Schedule of proceedings. The proceedings shall take place during normal working days and hours in the place concerned. When circumstances so justify and with the agreement of the parties, the audit may take place outside of normal working days and hours.

Article 39. Conduct of the audit. Once started, the audit must be continued until completion.

Audits may be suspended by decision of the acting body, for justified reasons or by written order from a higher authority stating the reasons therefor. The interruption of the proceedings shall be included in the administrative record drawn up for that purpose.

The audits shall take place with the least possible disruption of the auditee's normal activities.

The auditee shall provide the auditors with a suitable working area as well as the necessary means when the proceedings take place at their offices or facilities.

Article 40. Duty to appear. The officials in charge of the audit may summon taxable persons and third parties to appear at the offices of the auditing body in order to respond orally or in writing to questions or requests for information needed to verify and audit the customs tax obligations.

The summons to appear and the record drawn up for that purpose shall comply with the terms and conditions laid down by each Customs Service.

Article 41. Inspection of premises. Auditors may inspect the premises occupied by the taxable person when this is necessary to determine or audit the customs tax situation. In the event of refusal or resistance, the auditing body shall seek permission from the competent authority to enter and search the offices or facilities.

A record shall be drawn up of the taxable person's refusal to grant access, stating the place, date, name and any other identifying information pertaining to the person, and any other circumstances that it may be appropriate to mention. The record must be signed by the official(s) involved in the proceedings and by the taxable person. If the latter does not know how to, or is unwilling or incapable of signing, this should be placed on record. The record shall serve as the basis for requesting permission to enter and search.

Neither prior authorization nor the precautionary measure of entry and search shall be required in order to enter, for auditing purposes, those establishments that by their nature are open to the public, provided that the relevant information can be obtained in the publicly accessible areas.

Article 42. Inspection of documents. In the course of verification and investigation, auditees shall grant the auditors access to their accounting department, accounting records, invoices, correspondence, documentation and other vouchers related to their activity, including electronic files or magnetic or similar media serving to back up or contain that information, if the person uses electronic data processing equipment. They shall further be required to furnish any information of tax-related significance required by the administration in order to verify their customs tax situation.

The auditee shall be obliged to provide the auditing bodies with any kind of information, reports or background material with customs tax implications inferred as relevant based on their economic, professional or financial relations with other persons.

Notes may be taken from and copies made of the documents and information furnished.

Article 43. Precautionary measures. Under the provisions in force in States Parties, the officers in charge of the audit may at any time during the proceedings adopt duly justified precautionary measures to ensure the final outcome of the ongoing audit. Such measures would prevent the disappearance, destruction or alteration of decisive evidence of the existence or fulfilment of customs tax obligations or prevent subsequent denial of their existence or refusal to produce them. As appropriate, the measures may consist of the sealing, deposit or seizure of the taxable goods or products, as well as the seizure of books, registers, documents, electronic files or data processing equipment that may contain the relevant information.

For the above purposes, precautionary measures shall be proportionate and limited in time, and no measures may be taken that could cause damage that is difficult or impossible to repair, and they shall be discontinued if the circumstances that warranted them cease to exist.

Article 44. Other powers of the auditing bodies. For the purposes of Article 42 of these Regulations and without prejudice to the other powers provided for, the auditing bodies shall be empowered to:

- (a) Take measurements or samples and obtain photographs or make sketches or drawings. These operations may be carried out by the officers of the auditing bodies themselves or by persons appointed in keeping with tax laws;
- (b) request the opinion of experts;
- (c) demand that goods subject to customs operations and formalities be presented;
- (d) verify the enterprise's internal control systems if this may facilitate verification of the customs tax situation of auditee; and
- (e) request the translation into Spanish of any document of probative value for tax customs purposes, at the auditee's expense.

Article 45. Report on irregularities. Should irregularities be found in tax declarations administered by a tax authority different from the Customs Service, the relevant information shall be communicated to that authority for the appropriate legal action within its sphere of competence.

Article 46. Documentation of proceedings. The activities of notification, processing, performance or execution of an act, the taking of evidence and the facts or circumstances relevant to the audit process shall be recorded in the respective file.

Article 47. Documentation formalities. The steps taken by the auditing bodies in the course of their activities shall be documented. The auditing bodies shall determine the formalities applicable to the documents in which their activities are recorded.

Article 48. Conclusion of audits. The audits shall be concluded when, in the opinion of the auditing bodies, they have obtained the data and evidence necessary to justify the measures that need to be taken, either by finding the tax situation of the auditee to be in order in terms of compliance with its customs tax obligations, requirements and commitments, or by proceeding to take the appropriate action if non-compliance is determined.

When the audit process is deemed concluded, the outcome shall be documented by incorporating the final report in the corresponding administrative file.

Article 49. Regularization. If the auditing authority determines that the taxes due have not been paid, the taxpayer shall be invited to regularize the situation by following the procedure stipulated in the corresponding legislation or by the Customs Service. Should the taxpayer fail to regularize the situation, the administrative procedure as prescribed by each State Party shall be initiated or continued, as the case may be.

CHAPTER V

TRAINING

Article 50. Training. For the purposes of Article 15 of the Code, the basis of customs training is to guarantee the technical training of the customs personnel of States Parties in law, customs procedures, customs valuation, origin, tariff classification, customs audits, trade treaties and agreements and in other foreign trade-related subjects. The training shall be guided by the principles of efficiency, timeliness, continuity and permanence, using modern teaching methodologies, media and techniques that enable those trained to apply the knowledge gained in a correct, continuous, timely and harmonized manner.

Furthermore, where suitable candidates are available to the Customs Services, they may provide training related to production processes.

Depending on the nature of the training courses and the Customs Service's own interests, its superior authority may decide which ones are compulsory.

Article 51. Requirements. To be admitted to training, the officer or employee must:

- (a) Be designated by the Customs Service;
- (b) have the academic background required for the training programme concerned;
- (c) submit an updated curriculum vitae if appropriate, along with certificates that must also be present in the personal file kept in the Customs Service concerned;
- (d) sign a bond with the Customs Service to stay with the institution for at least twice the period of time spent in training. If either party terminates the employment relationship it must be done for good cause; and
- (e) meet any other requirements that may be specified in addition to those mentioned above, in accordance with the profile determined for each training programme.

Article 52. Basis of the regional training programmes. The regional training programmes shall be based on the Operating Statutes of the Central American Customs and Tax School and agreements concluded between this body and the entities responsible for running the programmes.

The training programmes shall take place at the Central American Customs and Tax School, or in other States Parties with adequate facilities for offering them, upon application to the governing body of the above-mentioned School.

Article 53. Technical support. As beneficiaries of the training programmes, States Parties shall lend their technical and logistical support so as to enhance their effectiveness, for example by providing facilities for the holding of courses or seminars, as well as equipment and other teaching materials that may be required. The foregoing includes the possibility to assign trainers to assist with the academic work depending on the subject area being covered by the training programmes.

Officers and employees trained in programmes for trainers and those with proven skills and expertise in specific subject areas shall be enrolled in a register created by the Customs Service for that purpose; those included in it must be willing and available to provide training services within the institution, related to the training they have received.

CHAPTER VI

MUTUAL RECOGNITION

Article 54. Requirements and formalities. The requirements and formalities for efficient mutual recognition amongst States Parties shall include, *inter alia*, the following:

- (a) They must be customs controls carried out pursuant to customs laws and other provisions governing foreign trade;
- (b) the control mechanisms that are applied must have been agreed beforehand between the Customs Services of the States Parties and may in no case become an obstacle to free trade;
- (c) to avoid the duplication of the controls, the State Party effecting them must communicate the results to the Customs Services of the other States Parties that have agreed to mutual recognition and which may be involved in the regime or customs operation concerned;
- (d) the controls being conducted by a particular State Party should be done preferably by automated means or using non-intrusive or non-invasive inspection equipment;
- (e) in the case of physical controls that require the presence of different institutions depending on the nature of the goods, the customs officials responsible for the carrying out the controls should coordinate in good time with the officers of the other institutions, to avoid the repetition of controls;
- (f) when the verification calls for a laboratory analysis, it should be done by the laboratory that forms part of the Customs Service or by a laboratory recognized by the States Parties;
- (g) the user of the Customs Service should present the means of transport and the goods at the place designated for physical inspections and within the established time-limit and should assign the personnel and equipment needed for the conduct of the verification; and

- (h) any others that may be established by the Customs Services of States Parties.

Article 55. Exceptions to mutual recognition. Exceptionally and where justified, the customs authorities may make their own checks or request verifications additional to those already done by the competent authority of another State Party, provided that this is communicated in a timely manner and all the necessary information is given to the authority that will undertake those verifications. In any case the latter authority shall report the outcomes to the State Party that originally performed the verification.

CHAPTER VII

AUXILIARY CUSTOMS AGENTS

SECTION I

AUTHORIZATION PROCEDURE

Article 56. Authorization. Auxiliary agents shall be authorized by the senior Customs Service authority, subject to fulfilment of the following general requirements:

- (a) Have legal capacity to act;
- (b) be up-to-date with the payment of their tax obligations;
- (c) in the case of legal entities, be incorporated and inscribed in the relevant registers;
- (d) in the case of the natural persons, be registered as individual traders, where appropriate;
- (e) be enrolled in the register of taxpayers;
- (f) be domiciled in the State Party where the authorization is requested; and
- (g) in the case of natural persons, have no employment relationship with the State or its institutions.

Before granting the authorization, Customs Services may require the applicant to have the authorized equipment and software needed to effect electronic transmission processes.

Any auxiliary customs agent who after being authorized fails to meet any general or specific requirement may no longer continue to act as a customs agent until he has complied with the regulations.

Article 57. Impediments. The following may not become agents:

- (a) Officials and employees of the Government or any of its autonomous or semi-autonomous institutions or of State-owned enterprises; or
- (b) persons who are prevented from holding public office as a result of an enforceable sentence.

Article 58. Application. Natural or legal persons applying for authorization as auxiliary customs agents must submit an application to the Customs Service, containing at least the following information:

- (a) Name, company name and other general particulars of the applicant and of his legal representative, if any;
- (b) a precise indication of the activities in which he will engage;
- (c) address or channels for receiving notifications concerning the application; and
- (d) tax domicile and if applicable, address of his main offices or facilities.

Article 59. Attachments. Depending on the type of auxiliary agent for whom the authorization is required, the application must include, *inter alia*, the following attachments:

- (a) In the case of legal persons, notarized or registered articles of association;
- (b) in the case of natural persons, a certified or authenticated copy of the respective identity document and if registered as sole traders, a certified or authenticated copy of the document accrediting them as such;
- (c) the original or a certified or authenticated copy of the document providing proof of representation, if applicable;
- (d) in the case of natural persons, a sworn statement made before a notary that no employment relationship exists with the State or its institutions. The above statement shall not be required in the case of public employees and officers authorized to handle the customs clearance of goods consigned to the institutions to which they belong;
- (e) a certified or authenticated copy of the identity document of the legal representatives and of junior staff who will be dealing with the Customs Service; and
- (f) certification issued by the competent authorities that they are up to date with their tax obligations.

Article 60. Inspection of premises. In the case of auxiliary agents whose functions entail responsibility for the custody of goods subject to customs control, before issuing the respective authorization, the Customs Service assisted if necessary by another competent authority shall inspect the premises in order to verify compliance with security and other requirements specified in these Regulations.

Article 61. Coverage of the security. The security provided by the auxiliary agent shall cover any act giving rise to administrative and fiscal liability performed by the agent or his staff accredited to the Customs Service, where they exist.

The security instrument shall expressly include a clause in the terms indicated in the preceding paragraph and any other related elements specified by the Customs Service.

Article 62. Updating and renewal of the security. The security must be renewed annually and submitted 15 days before expiry. The amounts prescribed in these Regulations for each auxiliary agent are minimum amounts, and may be increased by the Customs Service in accordance with the

volume of operations, taxes paid or declared and any other parameters set by the said Service, as recorded during the previous tax period.

To facilitate control mechanisms, Customs Services may set periods for the deposit of the security according to the type of auxiliary agent.

Article 63. Distraint of security. Once the auxiliary agent's liability *vis-à-vis* the tax authorities has been determined, the security shall become subject to distraint in accordance with Article 232 of these Regulations.

Article 64. Non-reimbursement of the security. In no case shall the security be reimbursed if there is a process pending to determine the tax liability of the auxiliary agent or his staff.

If a process is under way and the security is about to expire, the Customs Service may, as a precautionary measure, request that it be renewed or enforce distraint.

Article 65. Other security instruments. The auxiliary agents may secure their operations to the satisfaction of the Customs Service by providing bank guarantees, surety bonds or insurance issued by authorized institutions in each State Party, which must be immediately convertible.

Deposited securities shall be kept in the custody of the competent office of the Customs Service, in a banking or other institution that provides custodial services, the terms and conditions of which satisfy the Customs Service.

Article 66. Authorization procedure. Upon receipt of the application, the Customs Service shall verify compliance with the requirements prescribed in the Code and in these Regulations, and shall issue its decision to authorize or reject the application, as the case may be, within one month as from the time that a ruling can be made on the dossier.

If the application as submitted does not meet all the requirements, a period of ten days shall be granted for the defects to be remedied. Should the applicant fail to meet the requirements within the given time-limit, the case shall be closed without further action.

If in the view of the Customs Service the application contains errors and omissions that cannot be remedied, the higher Customs Service authority shall accordingly issue a decision denying authorization and the applicant notified.

Should the application be denied, the applicant may file the administrative appeals foreseen the Code and these Regulations.

Once authorization has been granted and, if requested by the Customs Service, the security to cover operations is deposited, the applicant shall be enrolled as an auxiliary customs agent in the appropriate register and assigned an identification code that will serve him in performing any action involved in the exercise of his functions.

Article 67. Disqualification. The grounds for disqualification shall include:

- (a) The auxiliary agent becoming a public officer or employee;
- (b) the expiry of the security to cover operations;
- (c) failure to comply with duly notified tax obligations within the given time-limit; or

- (d) failure to make the annual submission of the tax solvency certificate issued by the competent authorities.

The disqualification shall remain in effect for as long as the original cause continues to exist.

Article 68. Notification of voluntary permanent or temporary cessation of operations. Should the auxiliary agent voluntarily decide to cease operations temporarily or permanently, he shall accordingly notify the Customs Service in advance and comply with the obligations and procedures established for each auxiliary agent.

In no case shall the temporary or permanent cessation of operations be authorized if the auxiliary agent has customs tax obligations, fines, interest and other charges outstanding with the tax authority.

Article 69. Resumption of operations. Auxiliary agents who have voluntarily ceased operations may obtain authorization to resume them by meeting the requirements and obligations stipulated for each auxiliary agent.

Article 70. General obligation. Auxiliary agents shall be required to conserve the documents referred to in Article 21(b) of the Code in an appropriate manner and using modern filing techniques and shall inform the Customs Service of the place where they are kept and of any relevant changes. They must also comply with the procedures and control regulations prescribed by the Customs Service.

SECTION II

REGISTER OF AUXILIARY CUSTOMS AGENTS

Article 71. Register. Persons authorized to act as auxiliary customs agents shall be enrolled in the Register of auxiliary customs agents maintained by the Customs Service for that purpose. The enrolment shall not be done until the auxiliary agent has posted a security covering his liability *vis-à-vis* the tax authority.

The Customs Service shall communicate the auxiliary agent's registration details to the customs departments at which he will provide his services.

Registered auxiliary agents who need to access the Customs Service's IT systems shall comply with the requirements laid down in Article 171 of these Regulations.

Article 72. Registration information. The register of auxiliary customs agents shall contain the following information:

- (a) For natural persons, name, nationality, tax domicile and other particulars of the authorized person; for legal persons and their legal representatives, name, company or business name and tax domicile;
- (b) number and date of the decision granting authorization;
- (c) sequential registration number;
- (d) tax identification number;
- (e) identification particulars of accredited staff;

- (f) type and amount of the security posted, including the number, place and date of the relevant security instrument, and the period of validity and, as appropriate, the name of the guarantor institution; and
- (g) prosecutions completed or pending with respect to administrative or judicial sanctions and penalties imposed on the authorized person and their accredited staff, arising from their activities.

Article 73. Obligation to report changes. The auxiliary agent is required to notify the Customs Service of any change affecting the accuracy of his particulars or those of his accredited staff contained in the Register of auxiliary customs agents. The Customs Service must be notified of any change of tax domicile, principal offices or facilities and of legal representative. In both cases the notification shall be made within three days counted as from the date on which the change occurred.

Article 74. Records. The auxiliary agents shall keep the records mentioned in Article 21(a) of the Code in the form and using the media stipulated by the Customs Service.

Article 75. Identity badge. The auxiliary agents and accredited staff dealing directly with the Customs Service must wear a badge accrediting them as such. The badge shall be made by the auxiliary agents in accordance with the information, parameters and standard format stipulated by the Customs Service in each case.

SECTION III

CUSTOMS AGENT

Article 76. Specific requirements. In addition to the general requirements laid out in these Regulations, any natural person applying for authorization to act as a customs agent must provide proof, *inter alia*, of the following:

- (a) Being a national of any of the States Parties; and
- (b) holding a university degree in the field of customs; or
- (c) holding a university degree in other fields of study, in which case the applicant must supply proof of at least two years' experience in customs matters.

In the cases of the subparagraphs (b) and (c) of this Article, States Parties may require the interested party to undergo a psychometric test.

Article 77. Examinations. If the application meets the set requirements or if all errors and omissions have been corrected, the applicant may be required to take a psychometric test if this is requested by the Customs Service and a test of their competence if appropriate.

The Customs Services may reach agreement with public or private national institutions of higher learning for them to conduct the psychometric and competence tests dealt with in this Article. In these cases, the Customs Service will provide the public or private national institution of higher learning with the material to be addressed by the questions, which will form the basis for preparing the documents containing the tests to be conducted. They shall constitute a test bench that will remain in the custody of the national institution of higher learning.

Article 78. Psychometric test. The applicant shall be notified of the place, time and date of the psychometric test.

If the result of the psychometric test taken by the applicant is unsatisfactory, the Customs Service shall issue a reasoned decision, turning down his application for authorization as a customs agent.

Article 79. Competence test. If the psychometric test is conducted with satisfactory results, the test of competence will then follow.

The Customs Service shall notify the applicant at least 15 days in advance of the place, day, time and form of the test, which will focus on the topics referred to in Article 80 of these Regulations.

To conduct the examination the Customs Service shall set up the Examining Board comprising three Customs Service officers specialized in each of the areas to be evaluated and who from that moment on become the guarantors or supervisors of the process. If the test is being conducted by the national institution of higher learning referred to in Article 77 of these Regulations, the Service shall forward the documents to the said institution and appoint the responsible officer.

The Customs Services may decide that the competence test must be done face-to-face and using electronic media.

The competence test shall in any case be mandatory, except in States Parties where, on the date of entry into force of these Regulations, it is permissible under domestic law for those who at any time provide proof of holding a university degree in the field of customs to practice as customs agents, subject to authorization by the competent body, in which case the Customs Service shall issue the decision authorizing the applicant to act in that capacity.

Article 80. Formalities for the conduct of the test. On the day and at the time and place indicated for the competence test and in the presence of the members of Examining Board or the officer designated by the Customs Service if the test is taking place at the national institution of higher learning, the applicant shall select the sealed envelopes containing the tests and shall sit them as planned.

The examination shall consist of three written tests divided up by areas, with the following content:

- (a) Trade classification, tariff classification and rules of origin;
- (b) customs valuation of goods; and
- (c) customs legislation and procedures.

Article 81. Passing the examination. The applicant will pass the examination if he scores a minimum of 70 per cent of correct answers in each test.

Once the examination has been marked, the corresponding report shall be drawn up showing the results obtained and any other comments deemed pertinent, and shall be signed by the members of the Examining Board or the person appointed by the Customs Service, as the case may be. Within 15 days of the preparation of the report, it shall be sent, together with the case file concerned, to the higher authority of the Customs Service so that the appropriate decision can be made.

Article 82. Notification. The interested parties shall be notified personally of the decision taken by the Customs Service. The notification may also be done by electronic transmission, or by means of lists put up at the offices of the Customs Service when the applicant is successful, in which case the interested parties shall be deemed to have been notified after five days counted as from the time the lists were put up.

Article 83. Review. Should the applicant fail the exam, he may, within a period of three days as from the notification of the decision, apply to the higher authority of the Customs Service for a review of the exam by the Examining Board.

The Examining Board shall be allowed 15 days in which to conduct the review. A report containing the outcome of the review shall be prepared and forwarded to the higher Customs Service authority so that the appropriate decision can be taken.

Article 84. Guarantee. Pursuant to Article 21(g) of the Code, the person authorized to act as a customs agent shall be required to lodge a security, as stipulated by the Customs Service of each State Party, and which may not be less than twenty thousand Central American pesos or the equivalent in national currency.

Article 85. Operating requirements. Once the customs agent obtains authorization, he must meet the following operating requirements:

- (a) Furnish an attestation from the Customs Service that he has the requisite equipment for undertaking clearance by electronic transmission;
- (b) provide the relevant security as stipulated by the Customs Service;
- (c) be in possession of the confidential access code and user code issued by the Customs Service, and the private and public passwords granted by a certifier authorized by the said Service, allowing him to certify the transmission of declarations, electronic documents and electronic or digital signatures when appropriate; and
- (d) if applicable, accredit the staff who will represent him in the different customs departments in which he will provide his services.

Article 86. Specific obligations. In addition to the obligations stipulated in the Code and these Regulations, customs agents shall also be required, *inter alia*, to:

- (a) Comply and ensure compliance with the legal, regulatory and procedural rules governing the customs regimes in which they participate;
- (b) have the requisite equipment for undertaking clearance by electronic transmission;
- (c) engage personally and habitually in the activities corresponding to his role, subject to the exceptions established by law;
- (d) undergo an annual refresher course in customs techniques, legislation and integrity run by the relevant Customs Service or as part of training programmes offered by authorized institutions at the national or regional level;
- (e) diligently represent his principal, acting in strict adherence to customs legislation;
- (f) maintain offices in the customs territory; and
- (g) serve notice and, where appropriate, deliver to the Customs Service original documents or magnetic files as appropriate, as well as the information stipulated in the rules governing the regimes in which they participate, in the event of the cessation of operations.

Article 87. Non-intervention by the customs agent. The customs agent shall not be required to intervene in the following procedures, operations and formalities:

- (a) In customs operations by the Government and its agencies, municipalities and autonomous or semi-autonomous State institutions;
- (b) when the goods involved in the customs operation or formality fall into any of the following categories:
 - (i) Those covered by a customs form under a Central American bilateral or multilateral free trade agreement;
 - (ii) small non-commercial consignments;
 - (iii) non-commercial goods received or dispatched via the international postal system; or
 - (iv) they have been received by express delivery or courier services and comply with the rules of that modality;
- (c) travellers' luggage and goods other than luggage;
- (d) those carried out by legal persons represented by a special customs attorney;
- (e) on-board provisions;
- (f) relief consignments;
- (g) samples of no commercial value;
- (h) non-commercial imports of a value not exceeding one thousand Central American pesos; and
- (i) other modalities, operations and formalities expressly mentioned in these Regulations.

Article 88. Optional intervention by the customs agent. Except as otherwise provided by law, the intervention of the customs agent shall be optional in the following cases:

- (a) Definitive exports;
- (b) temporary export and re-importation in the same state;
- (c) free zones;
- (d) bonded warehouses;
- (e) temporary export for outward processing;
- (f) temporary admission for inward processing; and
- (g) other regimes expressly mentioned in these Regulations.

Article 89. Personal nature of the authorization. The authorization to act as a customs agent is personal and non-transferable and of indefinite duration. The agent may be represented only by his

authorized assistants in accordance with the requirements and for the functions legally determined by the Customs Service.

Article 90. Legal representation. A customs agent is the legal representative of his principal for the purposes of the actions and notifications emanating from customs clearance and related procedures.

The goods declaration submitted or transmitted electronically by a customs agent shall be deemed to have been made with the consent of the owner or of the party with the freedom to dispose of the goods. The same presumption shall be made in the case of the special customs attorney and the customs carrier when applicable.

Article 91. Liability. Together with the person making the declaration, the customs agent shall be jointly and severally liable *vis-à-vis* the tax authority under the terms of Article 23 of Code.

Article 92. Replacement. Once the goods declaration has been accepted, the principal may not replace the mandate given to the customs agent, except for reasons of *force majeure* duly verified and accepted by the higher authority of the Customs Service.

Article 93. Subrogation. A customs agent who pays taxes, interest, fines and other charges on behalf of his principal shall be subrogated to the privileged rights of the tax authority with respect to the sums paid.

To that end, the certification of the debt issued by the higher authority of the Customs Service shall constitute an enforceable instrument for executing any of the appropriate actions.

Article 94. Permanent cessation of operations. When of his own volition a customs agent requests the permanent cessation of his operations, he shall be required to notify the Customs Service one month in advance of cessation so as to obtain its authorization.

Article 95. Temporary cessation of operations. When of his own volition a customs agent requests the temporary cessation of his operations, he shall be required to notify the Customs Service so as to obtain its authorization. If it is for a period of three months or less, he must give at least eight days advance notice. If it is for a period longer than three months, he must give at least 15 days advance notice.

Article 96. Preliminary steps. In the case of Articles 94 and 95 of these Regulations, if there are Customs duties pending payment, before authorizing the cessation, the Customs Service shall initiate the required administrative and judicial procedures for collection.

Article 97. Resumption of operations. In the case of the permanent cessation of operations, the customs agent may request permission to resume operations, to which end he shall be required to comply with the provisions of Article 85 of these Regulations.

Article 98. Assistants to the customs agent. For the purposes of the third paragraph of Article 22 of the Code, the customs agent shall accredit to the Customs Service the persons who will represent him in his customs formalities. To that end he shall be required to produce the existing work contract and meet any other requirements set by the Customs Service of each State Party.

The customs agent shall immediately inform the Customs Service of the termination of the employment or contractual relationship with the accredited persons.

The customs agent's assistants shall be subject to disqualification as established in subparagraphs (a) and (c) of Article 67 of these Regulations.

SECTION IV

CUSTOMS TRANSPORTERS

Article 99. Types of transporters. For the purposes of Article 24 of Code, customs transporters shall be:

- (a) The international maritime, air and land transport companies directly responsible for the arrival of goods in the customs territory, their exit from it, or their transit, transfer or transshipment through it;
- (b) international transport agents acting on behalf of international transport companies;
- (c) domestic land transporters responsible for the transit of goods through the customs territory of a State Party;
- (d) maritime transporters that provide cabotage services within the customs territory of a State Party;
- (e) air transporters responsible for the transit of goods across the customs territory of a State Party; and
- (f) multimodal transport operators.

Article 100. Application for authorization. Customs transporters must apply to the Customs Service for authorization, in accordance with the stipulations of Articles 56 and 58 of these Regulations.

In addition to the documents indicated in Article 59 of these Regulations, depending on the type of transporter concerned, the following shall also be required:

- (a) An authenticated photocopy of the business licence, if applicable;
- (b) an authenticated photocopy of the circulation card or document of each means of transport to be registered;
- (c) proof of registration with the transportation directorate of the State Party or the competent institution, as applicable; and
- (d) any documentation that the Customs Service may deem appropriate.

Article 101. Transporters not owning the means of transport. Should the means of transport not be in the applicant's name, he shall be required to prove his right of possession thereof by means of a certified copy of a registered deed, or if it is leased, he must produce the relevant contract. In both cases, a special clause must be included to enable the Customs Service to apply the provisions regarding the security referred to in this Regulation.

Article 102. Authorization procedure. Once the authorization procedure referred to in Article 66 of these Regulations is complete, the Customs Service shall register the company as a customs carrier, and where appropriate, the means of transport to be used for customs transit; the registration shall contain the following data:

- (a) Name or business name of the auxiliary agent;
- (b) description of the land transport vehicle: type, year, model and make, capacity, cylinder capacity, plates or registration number, engine, chassis and serial number; and
- (c) any other data stipulated by the Customs Service.

Article 103. Specific obligations. In addition to the obligations stipulated in the Code and these Regulations, customs transporters shall be further required, *inter alia*, to:

- (a) Transmit electronically or by another authorized means the cargo manifest, passenger list and any other information that may be legally required, before the arrival of the means of transport;
- (b) deliver the goods at the Customs Office of destination and where appropriate move them to the place authorized or approved by the Customs Service;
- (c) be liable for the fulfilment of all obligations arising under the customs transit regime, where appropriate, including payment of the corresponding taxes if all the goods do not arrive at their destination;
- (d) issue the document of title to the goods;
- (e) communicate via the channels determined by the Customs Service the differences between the amount of packages actually unloaded or transported and the quantities declared, packages damaged or made defective as a result of sea or air transport and any other circumstance affecting the declarations made;
- (f) in the case of land transit, declare the transit, transport the goods by the legal routes and deliver them at the authorized place within the prescribed time-limits;
- (g) transport the goods using means of transportation that fulfil the technical and security requirements of customs, as laid out in these Regulations;
- (h) prior to the arrival of the transport unit, inform the customs of the existence of flammable, corrosive, explosive or perishable goods or goods which by their nature represent a danger for other goods, persons or facilities, so that they can be given special treatment;
- (i) maintain intact the security devices placed on packages and means of transport;
- (j) allow and facilitate customs inspection of goods, vehicles and transport units and their cargoes as well as the verification of the documents or authorizations covering them; and
- (k) assign personnel for the loading, unloading, reshipment or transhipment of goods.

In the event of non-compliance of any of the obligations to which the customs carrier is subject, the Customs Service shall apply the appropriate penalties.

Article 104. Liability. Customs transporters shall be responsible for meeting the obligations emanating from the reception, departure and air, maritime or land transportation of transport units and goods, depending on the means of transport utilized, in order to ensure that they reach or leave their authorized destination intact without any alteration of their nature or their packaging until they are actually handed over and duly received by the authorized agent, in accordance with the provisions of the Customs Service and other authorities in charge of transport and public safety.

Article 105. Security. The Customs Services of the States Parties shall establish the form and rates of the security that must be posted in order to cover domestic customs transit operations.

Article 106. Coverage of the security. The Customs Services may, in a harmonized manner, use a single type of security to cover taxes on goods in transit.

SECTION V

BONDED WAREHOUSE OPERATORS

Article 107. Authorization of warehouses. Bonded warehouses may be authorized by the higher authority of the Customs Service according to the needs of each State party.

Bonded warehouses may be public when they can be used by any person to deposit goods and private when they are intended for the exclusive use of the bonded warehouse operator and persons authorized by the Customs Service at the request of the bonded warehouse operator.

Article 108. Setting up and operation. Persons interested in establishing and operating a bonded warehouse must submit a written application to the Customs Service containing the information indicated in Article 58 of these Regulations and must attach the documents mentioned in Article 59 of these Regulations.

Article 109. Documents. In addition to the documentation set out in Article 59 of these Regulations, the following must be provided:

- (a) Proof of ownership of, or of the right to use the facilities for which authorization is being sought, together with the relevant documentation;
- (b) a plan of existing facilities or those to be built for the storage, custody and preservation of goods and which must indicate the location, boundaries, area in square metres and access roads;
- (c) the original of an opinion given by a civil engineer or a licensed, practising architect regarding the type of construction of the facilities intended as a bonded warehouse and suitable for the storage, custody and preservation of goods according to the type or class of goods to be stored, above all if they are inflammable, toxic or may cause damage to health or the environment. The opinion must also indicate that there are the areas necessary for the reception, stay, operation and manoeuvring of the means of transport, without prejudice to the inspection referred to in Article 60 of these Regulations; and
- (d) an indication of the system for controlling the movement and inventories of goods and a description of the automated equipment to be used to perform those controls.

Article 110. Formalities prior to authorization. The applicant for authorization as a bonded warehouse operator shall be required to:

- (a) Have facilities suitable for receiving, storing, inspecting and clearing goods and the manoeuvring of means of transport, with a minimum surface area of ten thousand square metres to be used for the in bond storage of goods, including a built-up area of at least three thousand square metres;
- (b) have adequate means to ensure the proper custody and preservation of the goods, in keeping with the location and infrastructure of the warehouse and the nature of the goods;
- (c) in the case of public customs storage facilities, have an area intended for preliminary inspection and immediate verification, which shall be at least two hundred square metres;
- (d) have the requisite equipment and programs for the electronic transmission and exchange of information with the Customs Service pertaining to the operations carried out;
- (e) designate a suitable area for the operation of the customs office staff, when so required by the Customs Service, providing furniture, office and other equipment as needed for permanent staff specifically designated by the Customs Service to undertake the control and customs clearance of goods;
- (f) maintain and transmit inventories by means of electronic systems under the terms and conditions stipulated by the Customs Service;
- (g) provide the reports on operations requested by the Customs Service; and
- (h) meet any other requirements that may be set by the Customs Service of each State Party.

Where the control measures and the conditions prescribed in the Regulations are in place, the Customs Service may authorize the provision of services in addition to clearance and warehousing on the said premises, provided that the supplier is in possession of the required authorizations or concessions.

Likewise, bonded warehouse operators who also hold a concession to provide general warehouse services may engage in both activities on condition that they ensure the separation of premises, storage yards or other spaces, as well as controls, operations, inventories, and entries into and exits from the warehouse.

Article 111. Period of operation of a bonded warehouse. The authorized period for establishing and operating a bonded warehouse shall be 15 years renewable by equal and successive periods at the request of the warehouse operator, and renewal shall be granted subject to an evaluation of the warehouse operator's performance by the Customs Service.

Article 112. Security. For the purposes of Article 21(g) of the Code, the security to be posted for bonded warehouses shall be made out in favour of the Customs Service in an amount of at least one hundred fifty thousand Central American pesos or the equivalent in national currency. The amount of the security shall be updated annually.

Article 113. Further requirements for the start of operations. Before the start of operations, the bonded warehouse operator must meet the following requirements:

- (a) Establish the communication links required by the Customs Service for the transmission of information regarding operations taking place under the bonded warehouse regime;
- (b) he must have posted the security determined by the Customs Service in the authorization document;
- (c) acquire, install, maintain, and place at the disposal of the customs authorities security equipment appropriate to the type of operation, the location of the facilities and the fiscal risk associated with the goods and applicable customs regimes, as determined by the Customs Service;
- (d) be in possession of the confidential access code and user code issued by the Customs Service, and the private and public passwords granted by a certifier authorized by the Customs Service, when appropriate;
- (e) be enrolled as an auxiliary customs agent in the Register of auxiliary customs agents kept by the Customs Service; and
- (f) meet any other requirements set by the Customs Service of each State Party.

Article 114. Data transmission equipment specifications. For the purposes of Article 21(d) of the Code, bonded warehouses must have computer equipment with appropriate technology and data transmission capability permitting link-ups with the Customs Service, and must maintain a permanent, real time record of in bond goods operations showing when they are received or withdrawn, all of which must be linked electronically with the aforementioned Service. For the purposes of this article, the Customs Service shall establish the specifications that must be met for installing the equipment, maintaining the record of operations carried out and for linking the computer equipment of bonded warehouses with the Customs Service.

Article 115. Specific obligations. In addition to the obligations stipulated in the Code and these Regulations, bonded warehouse operators shall be required, *inter alia*, to:

- (a) Receive, store and safeguard the goods deposited with them;
- (b) keep the Customs Authority informed about goods received, withdrawn or subject to other permitted operations, in the manner stipulated by the Customs Service;
- (c) be directly answerable to the Customs Service for the storage, custody, security, protection and preservation of the goods deposited in their premises, as from the moment they are received;
- (d) be liable to the tax authority for the payment of customs tax obligations in connection with damaged, lost or destroyed goods, unless these events are the result of unforeseen circumstances or *force majeure*;
- (e) permit the exit of goods from the bonded warehouse upon fulfilment of the relevant legal requirements and formalities stipulated for the regime or the requested operation, with the prior authorization of the Customs Service;

- (f) inform the competent Customs Service authority of goods damaged, lost or destroyed and of any other irregularities that have occurred while they were deposited in the warehouse;
- (g) report via the channels determined by the Customs Service the differences between the quantity of packages received and the quantities declared, and any other circumstance affecting the goods;
- (h) allocate facilities for the preliminary inspection or immediate verification of deposited goods. These facilities must meet the specifications laid down by the Customs Service;
- (i) allocate an appropriate area for the storage of goods that have been surrendered or confiscated;
- (j) delimit the area for the conduct of permitted activities;
- (k) keep a record of all persons presenting authorizations for the release of goods and of all vehicles used to transport goods into and out of the bonded warehouse;
- (l) verify the validity of the authorization for release of goods using the means specified by the Customs Service;
- (m) during the first two weeks of each month, using authorized means, provide the corresponding customs office with a list of goods that have been in the warehouse for one year as from the time they were received or which have been surrendered;
- (n) comply with the technical and administrative provisions relating to the location, stowage, deposit and identification of goods in their custody;
- (o) receive and keep goods sent to them by the Customs Authority in special circumstances;
- (p) immediately place goods at the disposal of the appropriate person, at the request of the applicant and following authorization by the Customs Authority; and
- (q) meet any other requirements set by the Customs Service.

Article 116. Permitted activities. Goods under customs supervision in the bonded warehouse may undergo the following operations:

- (a) Consolidation or deconsolidation;
- (b) division and classification of packages;
- (c) packing, unpacking and repacking;
- (d) packaging;
- (e) marking, re-labelling and labelling;
- (f) placement of labels with commercial information;
- (g) taking of samples for analysis or examination; and

- (h) any other related activity, provided that it does not alter or change the nature of the goods.

The Customs Service may authorize the conduct of the above operations by bonded warehouse operators or any natural or legal person under their responsibility.

Article 117. Cessation of operations. The validity of the authorization to operate a bonded warehouse shall cease for the following reasons:

- (a) When the period of the authorization to operate the bonded warehouse has expired and no application for a renewal has been made either in advance or within the 30 days following the expiry; or
- (b) at the request of the bonded warehouse operator, in which case it must be duly justified and accepted by the Customs Authority. In this case he shall be required to notify the Customs Service at least with one month in advance of the cessation.

Once it is determined that there are no outstanding obligations to the tax administration, the Customs Service shall authorize the request, proceed to the temporary or definitive cessation and make the corresponding entries in the respective register.

In both cases, the bonded warehouse operators shall be required to advise the Customs Service of the presence in their facilities of goods subject to customs control, so that the Customs Authority may verify their existence and, if such is the case, order their transfer to another bonded warehouse.

If there are customs duties outstanding for payment, the Customs Service shall initiate the required administrative and judicial procedures for their collection.

SECTION VI

OTHER AUXILIARY AGENTS

Article 118. Other auxiliary agents. Pursuant to Article 19(d) of the Code, auxiliary agents shall be deemed to include, *inter alia*, temporary bonded warehouses, special customs attorneys, express delivery or courier companies, freight consolidation or deconsolidation companies and operators of duty-free shops.

Similarly, the status of auxiliary agent shall extend to enterprises covered by the in-works clearance, free zone and inward-processing regimes or modalities, as well as any others determined by the Customs Service.

Article 119. Special customs attorney. The status of special customs attorney shall apply to a natural person designated by a legal entity by means of a notarized power of attorney to be exclusively responsible, for and on its behalf, for the customs clearance of goods consigned to it; the said natural person must be authorized as such by the higher authority of the Customs Service, subject to fulfilment of the formalities and conditions prescribed in these Regulations.

The status of special customs attorney shall also apply to employees of public institutions, municipalities, diplomatic or consular missions or of international organizations as well as users of free zones, once they have satisfied the relevant requirements stipulated these Regulations.

The legal entities referred to in the first paragraph of this Article shall be directly liable for the actions of the special customs attorney on their behalf.

Article 120. Express delivery or courier companies. Express delivery or courier companies shall be persons legally established in a State Party, whose business or principal activity is the provision of express international transport services to third parties by air or land, for correspondence, documents and freight shipments that must be immediately transferred and delivered to the consignee.

Article 121. Freight consolidation or deconsolidation companies. Freight consolidators are persons whose main or secondary business activity, conducted on their own behalf and for their own account, is the international transport of goods which they themselves consolidate and which are destined for one or more consignees.

Freight deconsolidators are persons to whom the master transport document is addressed, whether the transport is by air, sea or land (master airway bill, master bill of lading or consignment note) for the purpose of deconsolidating the freight at its destination.

Article 122. Duty-free shop operators. Duty-free shop operators are entities that are classified under special laws as duty-free shops, into whose premises goods may enter with the suspension of duties and any other applicable charges.

Article 123. In-works clearance companies. In-works clearance companies are legal entities that may be authorized by the Customs Service to receive directly at their own facilities merchandise to be cleared either to be put on the market or to enter the industrial process, be it for the making up, manufacture or processing of the merchandise into final goods or compensating products.

SECTION VII

TEMPORARY BONDED WAREHOUSES

Article 124. Establishment of temporary bonded warehouses. Temporary bonded warehouses are set up as places authorized by the higher authority of the Customs Service for the temporary storage of goods awaiting the submission of the declaration assigning them to a customs regime or the request for a customs operation.

Article 125. Authorization. The Customs Service may authorize the operation of temporary bonded warehouses when they are located in buildings abutting the primary zone of the sea or land ports of entry into the States Parties.

The Customs Services have the power, in justified cases, to authorize the installation of temporary warehouses in buildings not bordering on primary zones, located at a maximum within a 15 km radius of these zones.

Article 126. Location of buildings, warehouses or storage yards in the primary customs zone. For legal purposes, buildings, warehouses or storage yards located in the primary customs zone of ports and airports shall be considered as temporary bonded warehouses.

Article 127. Obligations. Temporary bonded warehouse operators shall be required to comply with the obligations laid out in Article 115 of these Regulations, except as provided for in subparagraph (m).

Article 128. Supplementary provisions. The conditions, requirements, obligations and procedures for the authorization and operation of temporary bonded warehouses and any other provisions shall

be subject to the provisions governing bonded warehouse operators, except as provided for in Articles 107 and 116 of these Regulations.

SECTION VIII

DUTY-FREE SHOP OPERATORS

Article 129. Duty-free shops. Entities classified under special laws as duty-free shops shall be subject to the obligations set forth in this Section and in the special laws governing them.

Article 130. Registration. The Customs Service shall request from entities that have been authorized to operate as duty-free shops relevant information for the enrolment in the Register of auxiliary customs agents.

Article 131. Obligations. The entities enrolled in the Register of auxiliary customs agents as duty-free shop operators shall be required to fulfil the following obligations:

- (a) Post a security with the Customs Service, where appropriate, of at least one hundred and fifty thousand Central American pesos or its equivalent in national currency, covering the amount of taxes potentially payable on the goods entering the duty-free shops;
- (b) the goods must arrive at the duty-free shop consigned to its operator;
- (c) the goods entering the duty-free shops must be sold exclusively to in-transit passengers and those leaving or entering the customs territory, as the case may be, after verifying their status as passengers supported by the passport or some other authorized travel document and flight tickets; where applicable, the passport number or that of another authorized document as well as the flight code shown on the boarding pass or the flight ticket must be recorded on the invoice issued;
- (d) develop a special electronic system of control by type and class of goods, which is at the disposal of the Customs office concerned, making it possible to quantify the goods that have entered their depots and those sold to passengers and facilitating their release, in accordance with the requirements established by the Customs Service;
- (e) maintain and send to the relevant customs department records of goods admitted, deposited, sold or subject to other movements, in keeping with the formats and the conditions laid down by the Customs Service;
- (f) submit a goods declaration to the customs department concerned, in the form indicated by the Customs Service, confirming the sales and releases of goods that have entered their depots;
- (g) have sufficient and adequate surveillance measures to ensure the proper custody and preservation of the goods, in keeping with the location and infrastructure of the depot and the nature of the goods as determined by the Customs Service;
- (h) prepare and submit to the Customs Service in the month following the end of the financial year, the results of stocktaking duly certified by an authorized public accountant, which shall include a report of goods entering and leaving during that period.
- (i) allow and facilitate auditing by the Customs Authority;

- (j) pay the customs taxes due on goods that are not present but have been declared as received; and
- (k) meet any other requirements set by the Customs Service.

Article 132. Entry and exit of goods. The appropriate goods declaration shall be submitted for the entry of the goods into duty-free shops; the exit of goods from those premises must be confirmed by means of invoices issued to the persons to whom they are sold.

Once the merchandise has entered a duty-free shop and is transferred by the latter to another user of this regime, this operation shall be duly authorized by the competent authority and must comply with the prescribed procedures.

Article 133. Samples of no commercial value. Samples of no commercial value presented in miniature sizes and packaging, perfume testers, creams and cosmetics, blotters or absorbent paper, posters, printed and other material used as advertising may enter and be distributed in the duty-free store, and shall only form part of the inventory and not be subject either to goods declarations or commercial invoicing.

Article 134. Liability. The natural or legal persons authorized to operate duty-free shops shall be responsible for them, and be liable for the receipt, stay and preservation of the goods, as well as the corresponding tax revenue foregone, in case of loss or exit of the goods without supporting documentation.

Article 135. Destruction of merchandise. Subject to an opinion given by the competent authority, goods that are unfit for use or consumption may be destroyed at the request of the person responsible for the duty-free shop, with the permission and under supervision of the Customs Service.

The cost generated by the destruction shall be borne by the operator of the duty-free shop.

Article 136. Jurisdiction. For the purposes of the entry and exit of goods, duty-free shops shall operate under the jurisdiction of the customs department nearest to their place of operation, without prejudice to any retrospective control that may be carried out by the auditing bodies of Customs Service.

SECTION IX

SPECIAL CUSTOMS ATTORNEYS

Article 137. Application. The Customs Service shall admit the application for a natural person designated by a legal person to act for and on behalf of the latter as a special customs attorney if the legal person concerned submits the application in compliance with the requirements mentioned in Article 58 of these Regulations; the application must also contain a brief description of the goods and tariff chapters involved in the legal person's normal line of business and must be accompanied by the documents listed in Article 59 of these Regulations, together with an authenticated photocopy of the first registered deed conveying the special mandate of representation, duly inscribed in the respective register of the State Party, and it must be verified that the natural person for whom authorization is being sought, meets the following requirements:

- (a) Is a national of any of the States Parties;
- (b) holds a university degree in customs matters or in other fields of study, in which case the applicant must supply proof of at least two years' experience in customs matters;
- (c) has an employment or contractual relationship with the principal, which has granted him a notarized power of attorney. In the case of public institutions, the power shall be granted on the basis of designation by the head of the granting institution;
- (d) is neither a public servant nor in active military service, except in the case where the grantor is a public institution. A sworn statement to that effect made before a notary must be submitted; and
- (e) any other requirements set by the Customs Service.

The Customs Service may waive the prerequisites stipulated in subparagraph (b) of this Article.

Article 138. Applications for Government bodies and diplomatic missions. When the application referred to in Article 137 of these Regulations is submitted by State agencies, their departments, municipalities, autonomous and decentralized government bodies, it must be signed by the senior authority stipulated by law, and shall not contain the particulars of the applicant.

In the case of a diplomatic or consular mission or an international organization, the request shall be submitted via the Ministry of Foreign Affairs, in compliance with the requirements of law, and shall not contain the particulars of the applicant.

The following documents must be attached in both cases:

- (a) An authenticated photocopy of the identity card or document of the person for whom the authorization is being requested;
- (b) certification of the employment or contractual relationship of the applicant with the person for whom the authorization is being sought; and
- (c) a document containing the designation of the person for whom the authorization is being sought, made by the head the organization, body, department, municipality, entity or mission.

Article 139. Examinations. Natural persons designated by the legal person shall take psychometric and competence tests in keeping with the procedure stipulated for customs agents in these Regulations.

The competence test will focus mainly on the subjects referred to in Article 80 of these Regulations, and which form part of the normal business activity of the legal person in accordance with the description given in its application. The Customs Service shall grant authorization to act only within the scope of that activity.

Employees of public and private institutions, municipalities, diplomatic and consular missions or international bodies shall not be required to sit the examination.

Article 140. Security. No person shall be authorized, recognized, or be able to engage in customs-related activities as a special customs attorney *vis-à-vis* the Customs Service if the legal entity that has proposed that person has not posted a security to cover its liability in accordance with Article 21(g) of the Code. The security to be posted shall be at least twenty thousand Central American pesos or its equivalent in national currency.

Employees of public institutions, municipalities, diplomatic and consular missions or international bodies, shall not be required to post a security.

Article 141. Operating requirements. Once authorization has been granted, the special customs attorney and the principal shall, as applicable, be required to meet the following operating requirements:

- (a) Furnish an attestation from the Customs Service of possession of the requisite equipment for undertaking clearance by electronic transmission;
- (b) provide the relevant security as stipulated by the Customs Service;
- (c) have the confidential access code and user code issued by the Customs Service, and the private and public passwords granted by a certifier authorized by the said Service, allowing for certification of the transmission of declarations, electronic documents and electronic or digital signatures when appropriate; and
- (d) if applicable, accredit the representational staff who will operate in the different customs departments in which services will be provided.

Article 142. Specific obligations. In addition to the obligations stipulated in the Code and these Regulations, special customs attorneys shall be required, *inter alia*, to:

- (a) Comply and ensure compliance with the legal, regulatory and procedural rules governing customs regimes in which they participate;
- (b) undergo an annual refresher course in customs techniques, legislation and integrity given by the relevant Customs Service or as part of training programmes run by authorized institutions at the national or regional level; and
- (c) serve notice and, where appropriate, deliver to the Customs Service original documents or magnetic files, as appropriate, as well as the information stipulated in the rules governing the regimes in which they participate, in the event of the revocation of the authorization.

Article 143. Revocation of the authorization. Upon the termination of the employment relationship with the principal or if the latter revokes the power granted, the principal shall request the Customs Service to revoke the authorization accorded to the special customs attorney.

Upon receipt of the request, the Customs Service shall immediately disable the code used by the special customs attorney to access the Customs Service's computer system.

Article 144. Other employees. For the purposes of Article 21(j) of the Code, the special customs attorney and the principal shall accredit to the Customs Service the persons who will represent them in their customs formalities. To that end the attorney shall be required to produce the existing employment contract with the principal and meet any other requirements set by the Customs Service of each State Party.

The special customs attorney and the principal shall immediately inform the Customs Service of the termination of the employment relationship with the accredited persons.

The employees referred to in this Article shall be subject to disqualification as established in subparagraphs (a) and (c) of Article 67 of these Regulations.

SECTION X

EXPRESS DELIVERY OR COURIER COMPANIES

Article 145. Application. Companies providing express delivery or courier services must request authorization from the Customs Service, in accordance with the requirements laid out in Article 58 of these Regulations.

For that purpose, in addition to the documents indicated in Article 59 of these Regulations, the following shall be required:

- (a) An authenticated photocopy of the business licence, if applicable;
- (b) an authenticated photocopy of the identity document of the owner of the sole proprietorship or of the legal representative of the trading company submitting the application;
- (c) if the requesting company is an agent or representative of an international courier services company incorporated abroad, a contract or letter of representation certified in the country of origin and duly authenticated by the competent authorities attesting to this. If the document is drawn up in a foreign language, it must be accompanied by a certified translation. These documents must have been issued no longer than three months before the filing date of the application;
- (d) the roster of the employees of the international courier services company designated by it to engage in courier handling at the customs departments of the State Party, with the full name and identity document numbers and, if appropriate, the card showing the tax registration number together with simple photocopies of these documents, and proof of no criminal record for each of them. Those employees must identify themselves by means of a badge issued by the international courier services company; and
- (e) furnish proof of ownership of the means of transport or the freight services contract with the international transport companies duly registered with the competent authority, that guarantees the clearance and express delivery of goods.

Article 146. Security. Before the start of their activities, and having obtained the relevant authorization, international courier service companies, when so required, shall post a security in favour of and to the satisfaction of the Customs Service of at least twenty thousand Central American pesos or the equivalent in national currency.

Article 147. Requirements and obligations. Express delivery companies shall be required to comply, *inter alia*, with the following requirements and obligations:

- (a) Transmit the express delivery manifest in advance;
- (b) electronically transmit goods declarations, which must be duly signed and paid for;
- (c) keep copies of the express delivery manifest and of any other documents used in the normal course of business, such as vouchers of the delivery of goods cleared or delivered to the temporary bonded warehouse;
- (d) present to customs the packages transported under cover of the express delivery manifest;
- (e) be answerable to the customs for any discrepancies in the volume, nature or value of the goods declared in comparison with those actually delivered or shipped; and
- (f) keep at the disposal of the Customs Service the documents that formed the basis for preparing the formats for the delivery and exit of the goods.

Article 148. Notification of discrepancies. When the Customs Service so decides, the express delivery or courier services company shall inform the relevant customs office of any discrepancies in the volume, nature or value of the goods declared in relation to those actually delivered or shipped, in keeping with the procedure established by it.

SECTION XI

FREIGHT CONSOLIDATION OR DECONSOLIDATION COMPANIES

Article 149. Application. Freight consolidation or deconsolidation companies must request authorization from the Customs Service, in accordance with the requirements laid out in Article 58 of these Regulations.

In addition to the documents referred to in Article 59 of these Regulations, the following shall be required:

- (a) An authenticated photocopy of the business licence, if applicable;
- (b) an authenticated photocopy of the identity document of the owner of the sole proprietorship or the legal representative of the trading company submitting the application;
- (c) contracts or letters of representation of one or several international freight consolidation companies when they are domiciled abroad, authenticated in the country of origin and in conformity with the relevant legal procedures. If the document is drafted in a foreign language, it must be accompanied by a certified or official translation into the official language of the State Party. These documents must have been issued no longer than three months before the filing date of the application; and

(d) a roster of the employees of the freight consolidation or deconsolidation company, as applicable, designated by it to conduct business with the customs departments of the State Party as appropriate, giving the full name, identity document numbers and, if need be, the card showing the tax registration number together with simple photocopies of these documents. The employees must identify themselves by means of a badge issued by the consolidation or deconsolidation company.

(e) should the consolidation or deconsolidation company form part of an international organization of consolidation companies, compliance with the requirement referred to in subparagraph (c) of this Article shall simply entail proving its affiliation with the said organization by means of certification issued by its presidency listing the consolidation companies making up the entity. That certification must be authenticated by the competent authorities.

(f) likewise, when the document referred to in subparagraph (c) of this Article is issued within the national territory, it must bear a notarized signature and be accompanied by a photocopy of the document accrediting representation of the issuer.

Article 150. Security. Before the start of their activities and having obtained the relevant authorization, the freight consolidator or deconsolidator, as applicable, when so required, shall post a security in favour of and to the satisfaction of the Customs Service of at least twenty thousand Central American pesos or the equivalent in national currency.

The Customs Services may decide not to require a security.

Article 151. Representative entities. Any changes or additions of representative entities made by the consolidation companies must be reported to the Customs Service in compliance with Article 149(c) of these Regulations and the last paragraph of that Article.

Article 152. Transmission of consolidated or deconsolidated cargo manifest. The carrier shall deliver to the consolidated cargo operator the consolidated bill of lading showing the freight consolidator or deconsolidator as the consignee, as appropriate, and shall transmit to the Customs authority the details of the bill of lading.

The freight consolidator or deconsolidator, as applicable, or the legal representative shall transmit in advance to the customs authorities the details of the consolidated cargo manifest and when so requested by the Customs Service, shall deliver copies of bills of lading equal to the number of consignees indicated.

SECTION XII

IN-WORKS CLEARANCE COMPANIES

Article 153. Information and other documents to be submitted with the application. In addition to what is stipulated in Articles 58 and 59 of these Regulations, the application for authorization to operate as an auxiliary agent for in-works clearance must be accompanied by the following information and documents:

(a) Nature of the commercial activities: retailer or wholesaler;

- (b) identification of suppliers abroad and an indication of the trade and contractual relations with them, specifying whether or not operations will be as exclusive distributor, commission agent, broker or in some other capacity;
- (c) a report duly certified by an authorized public accountant, of imports for the past two years, as well as the monthly average, with a description of the goods, total customs value, weight or volume, unit of measure, tariff classification, origin and amount of duties payable on the imports made by the applicant;
- (d) a description of the goods to be imported under this modality, indicating their tariff classification, origin and provenance, and a projection of the quantities of goods that will be imported under this modality during the following calendar year of operation;
- (e) any tax benefits received;
- (f) copies authenticated or certified by a notary or competent authority of the approved plans of the facilities for receiving and clearing vehicles, transport units and goods; and
- (g) a certified copy of financial statements for the previous two financial years.

Article 154. Specific requirements and obligations. In addition to those stipulated in these Regulations, in-works clearance companies must comply with the following obligations:

- (a) Obtain authorization to operate as an auxiliary agent;
- (b) possess adequate facilities authorized by the Customs Service for the reception, storage, inspection and clearance of goods;
- (c) allow the Customs Authority to access its facilities, production areas, warehouses or records of production costs for the purposes of customs control;
- (d) post the security determined by the Customs Service in the authorization document; and
- (e) maintain a minimum annual import average with a declared customs value of three million Central American pesos or higher.

Article 155. Additional requirements. Companies authorized to undertake in-works clearance must meet the following additional requirements:

- (a) Submit to the Customs Service annually and on the date set by it, the financial statements for the preceding tax year;
- (b) submit annually to the Customs Service the updated certifications by an authorized public accountant referred to in subparagraph (c) of Article 153 of these Regulations;
- (c) report to the Customs Service any changes in tax benefits received, if applicable;
- (d) properly maintain their authorized facilities and keep at the disposal of the Customs Authority the staff and equipment needed for inspections and verifications of goods and customs declarations;

- (e) keep copies of goods declarations, commercial invoices, value declarations, certificates or certifications of origin, bills of lading, reports on the conditions in which vehicles and transport units are received and of reports on the entry of the goods received at their facilities;
- (f) maintain a permanent inventory in their computer systems in accordance with the format and specifications prescribed by the Customs Service;
- (g) in each new year, maintain the minimum operating average set in Article 154(e) of these Regulations; and
- (h) provide to the Customs Authority with the premises, installations and facilities necessary for the proper functioning of the service, including the requisite computer and telecommunications equipment.

Article 156. Authorization of facilities for receiving vehicles, transport units and goods. The Customs Service may authorize one or more facilities belonging to the applicant, bearing in mind the needs of the consignee and the number of imports taking place at each facility. It shall also consider the conditions of security and infrastructure as well as the human and logistical resources available to the Customs Service for performing the customs control of operations.

Article 157. Prerequisites for the authorized facilities. To be able to receive vehicles, transport units and goods, the enterprise authorized to perform in-works clearance must have facilities that fulfil the following conditions:

- (a) Be located in places that offer adequate conditions for receiving vehicles and transport units, in accordance with the stipulations of the Customs Service;
- (b) the area intended for the unloading and reception of goods must be spacious enough and offer adequate conditions for the handling of merchandise; and
- (c) any other conditions required under environmental and occupational safety standards and those established by the Customs Service to ensure the proper performance of verification and inspection of vehicles, transport units and goods.

Article 158. Security. Companies authorized to undertake in-works clearance must post an annual security equivalent to the average monthly amount of customs tax obligations incurred through goods imports during the preceding calendar year.

SECTION XIII

AUTHORIZED ECONOMIC OPERATORS

Article 159. Authorized economic operators. For the purposes of Article 28 of the Code, an authorized economic operator shall abide by the rules set out in these Regulations, those established by the Customs Service for facilitation and security in the operation the goods logistics chain and the World Customs Organization guidelines for securing and facilitating world trade.

Article 160. Customs service regulations. The rules laid down by the Customs Service on facilitation and security in the management of the goods logistics chain shall contain regulations on:

(a) **Partnership.** Authorized economic operators that form part of the international logistics chain shall commit to undertake a self-evaluation process the effectiveness of which shall be measured in accordance with safety standards and best practices determined in advance and approved by the Customs Service, in order to ensure that their internal policies and procedures provide sufficient safeguards against contingencies that could jeopardize their shipments and containers up to the time they cease being subject to customs control at their place of destination.

(b) **Security.** Authorized economic operators shall introduce into their current trade practices the security best practices determined jointly with the Customs Service beforehand.

(c) **Authorization.** The Customs Services or another competent body of the State Party, jointly with the representatives of the interested companies, shall devise validation mechanisms or quality accreditation procedures.

(d) **Technology.** Those involved in the international movement of goods shall endeavour to preserve the integrity of freight and containers, allowing for the use of modern technologies.

(e) **Communication.** The Customs Service shall periodically update partnership programmes with authorized economic operators in keeping with the regulatory framework of the World Customs Organization, adapting them to mutual needs or requirements and to those of world trade.

The Customs Services shall be required to hold regular consultations with all parties involved in the international logistics chain to discuss matters of mutual interest, including customs regulations, as well as the procedures and formalities pertaining to the security of installations and freight.

(f) **Facilitation.** The Customs Services shall work in collaboration with authorized economic operators to optimize the security and facilitation of the international logistics chain with respect to consignments originating in or transiting through the respective customs territories.

The Customs Services shall establish procedures that consolidate and speed up the presentation of the information required for clearance, in order to facilitate trade and identify high-risk freight, so that the appropriate measures can be implemented.

Article 161. Third-party validator. Customs services may call on other public or private entities to demonstrate compliance of the safety standards of the logistics chain.

The third-party validator must have suitable experience in the use of certification systems, knowledge of supply chain security standards, sufficient and appropriate knowledge of the different operations carried out by various economic and commercial sectors, and possess sufficient resources for conducting timely validations.

The validating entity must ensure that its staff appointed to carry out the validation procedure is duly trained and qualified.

Article 162. Application for approval as an authorized economic operator. The application for permission to act as an authorized economic operator must meet the requirements of Article 58 of these Regulations. Once the application is submitted, the Customs Service shall issue its decision within one month as from the time that a decision can be made on the dossier.

The grant of permission to act as an authorized economic operator shall be at the discretion of the Customs Service.

Article 163. Requirements. In addition to the requirements for auxiliary agents set down in the Code and these Regulations, the applicant shall be required to comply with the following:

- (a) Have a track record of more than five years in international trade;
- (b) have sufficient funds available to meet their commitments in line with the nature and characteristics of the type of economic activity concerned;
- (c) proven compliance with tax and customs laws and regulations for five consecutive years, and may adduce as a reference the performance record furnished by the competent authorities in the company's country of origin; and
- (d) have current certification issued by the third-party validator.

Article 164. Record-keeping. Once the requirements and formalities set forth in the Articles 58 and 59 of these Regulations have been satisfied, the State Party that has approved an authorized economic operator shall keep the appropriate documentary and electronic records, which must be linked up with the IT system of its Customs Service and with the risk management systems of the Customs Services of States Parties.

States Parties shall recognize economic operators authorized by another State Party.

States Parties shall exchange information regarding the activities of an economic operator authorized in another State Party.

Article 165. Obligations. In addition to the obligations set forth in Article 21 of the Code, the following obligations shall also be incumbent on authorized economic operators:

- (a) Full compliance of international supply chain security standards;
- (b) possessing adequate facilities in line with the requirements of the Customs Service;
- (c) having a CCTV system that is linked to Customs Service;
- (d) jointly with the Customs Service, determining and documenting appropriate security measures and ensuring that they are adhered to and kept up to date;
- (e) periodically reviewing security procedures and measures in line with the security risk profile determined for the enterprise;
- (f) taking appropriate IT security measures to protect the computer system in use from any unauthorized intrusion, and taking the necessary steps to ensure the security and proper maintenance of records and documents relating to customs operations subject to control; and
- (g) submitting the reports requested by the Customs Service.

Article 166. Facilities for authorized economic operators. The following facilities shall be available to authorized economic operators:

- (a) Simplified and fast-track freight clearance procedures while supplying a minimum of information; and
- (b) the possibility of receiving priority consideration for participation in new cargo processing programmes.

CHAPTER VIII

USE OF IT SYSTEMS AND CERTIFIERS OF DIGITAL SIGNATURES

SECTION I

USE OF IT SYSTEMS

Article 167. Security measures. IT systems must ensure the privacy, confidentiality, non-repudiability and integrity of data and documents that are transmitted and stored, as well as the authenticity of the entity issuing them and of users of the Customs Service's IT systems.

Data and documents transmitted via IT systems may be certified by entities specialized in the issuance of digital certificates that guarantee the authenticity of messages via which data is exchanged. These entities must be authorized by the higher authority of the Customs Service or by the agency that administers and supervises the State Party's certification system, as appropriate.

For the purposes of this chapter, authenticity means the technically verifiable veracity of the identity of the author of a document or communication. Technical authenticity does not preclude compliance with the authentication requirements prescribed by law for certain acts or transactions; document denotes the information that has been produced or received in executing, implementing or completing an institutional or personal activity and which encompasses the content, context and structure that make it possible to prove the existence of that activity.

Article 168. Contingency arrangements. The Customs Service shall establish contingency procedures for occasions on which computer systems are totally or partially out of service. The Customs Service shall be entitled to decide on such alternative procedures as may be required for the efficient operation of computer systems.

Article 169. Technical specifications. The Customs Service shall determine the minimum technical specifications for the software and communication links used by auxiliary agents, including those used to pay taxes by electronic means, as set forth in Article 37 of the code.

Article 170. Archiving. The Customs Service, auxiliary agents and other authorized persons shall be required to keep an electronic backup of declarations and documents transmitted electronically for the period specified in Article 21(b) of the Code, and to preserve their integrity and authenticity so that they may serve as a basis for the purposes determined by the Customs Service.

Article 171. Accessing the IT system. To be able to make transmissions to the Customs Service IT system, users must first be authorized as such by signing the commitment document prepared by the Customs Service.

The Customs Service shall issue the persons it authorizes with an access code as system users; they will then register their own confidential and non-transferable password. When technical conditions so permit, the Customs Service shall establish the form of authentication for the use of the documents transmission system, opting always for the safest and doing so in a manner consistent with the degree of evolution of the IT system.

For the purposes of Article 40 of the Code, the higher authority of the Customs Service shall issue the regulations required for the submission of appeals to and the conduct of formalities with the said Service via computer systems.

Article 172. Formalities. Customs regimes shall generally be formalized via the electronic transmission of data to the Customs Service, and goods declarations shall therefore be submitted and accepted by that means. The procedures relating to the application of risk criteria, the outcome of immediate verifications, authorizations of release and other clearance procedures shall also be conducted by this means.

Article 173. Payment by electronic means. Customs taxes shall be paid via electronic fund transfers in the banks authorized within the financial system by the Customs Service or the competent authority. In this case, the bank receiving the tax payments shall be required to transmit immediately to the Customs Service or to the corresponding authority all the information relating to the said payment.

Article 174. Liability. Banks that transmit erroneous, incomplete or false information to the Customs Service or the corresponding authority regarding customs tax payments causing the Customs Authority on that basis to authorize the delivery of goods under its control shall thereby become directly liable to the tax authority for the payment of any taxes that in part or in full have not been collected. For these purposes, banks shall be financially liable for the actions of their subsidiaries.

SECTION II

CERTIFICATES AND ELECTRONIC OR DIGITAL SIGNATURES

Article 175. Certificates and electronic or digital signatures. The structure, conditions and procedures for the issuance, suspension, revocation and expiry of electronic or digital certificates and signatures shall be determined by the Customs Services through the Central American Commission on Digital or Electronic Certification (*Comisión Centroamericana sobre Certificación Electrónica o Digital*).

Article 176. Presumption of authorship. Any document associated with a certified digital signature shall, in the absence of proof to the contrary, be presumed to originate from and be under the responsibility of the holder of the corresponding digital certificate valid at the time of sending.

Article 177. Functional equivalence. Any document transmitted through an electronic or informatics medium shall be deemed legally equivalent to documents issued, received or transmitted by physical media. Reference made in any legal rule to a document or communication shall be to both electronic and hard copy versions thereof.

When the presence of a signature is required under these Regulations, the digital and the handwritten signature shall be recognized equally.

Article 178. Liabilities. Customs officers and employees, auxiliary agents, declarants and other authorized persons shall be directly liable for all declarations and other acts effected electronically that have been transmitted or registered in compliance with the security measures established by the Customs Service, without prejudice to other liabilities set down in the Code and these Regulations.

SECTION III

CERTIFIERS OF DIGITAL SIGNATURES

Article 179. Accredited certifier. To be able to issue certificates to the Customs Service, all certifiers shall furnish proof of their status, expertise and technological capability in accordance with procedures laid down by the Customs Service, and shall be subject to the evaluation and audit procedures decided on by the Customs Service or competent body.

Article 180. Central American Commission on Digital or Electronic Certification. The Central American Commission on Digital or Electronic Certification shall comprise technical IT and legal experts from the customs services for the purpose of formulating the general operational policies of the system of electronic or digital signatures for the Customs Services.

The Commission's functions shall be to:

- (a) Formulate and propose the general operational policies and digital certification hierarchy, in keeping with the relevant international standards and best practices;
- (b) interpret or clarify digital certification policies in response to doubts or queries on the part of any operator;
- (c) periodically evaluate and update operational digital certification policies and formulate relevant recommendations where needed;
- (d) ensure the interoperability of the different computer systems with respect to digital signatures;
- (e) assess and recommend service costs in accordance with offers from certifiers;
- (f) evaluate and recommend the amount of the bond in the case of private certifiers, when this is required; and
- (g) fulfil any other functions assigned by the Customs Services of States Parties.

Article 181. Requirements for the authorization of certifiers. Applications for authorization as certifiers shall be submitted to the Customs Services or competent body, together with the following information:

- (a) Name or business name of the applicant, particulars of enrolment as a legal person in the appropriate register, domicile and mailing address, as well as the corresponding telephone and fax numbers, their website and at least an e-mail address for receiving communications;
- (b) full identification of the person(s) who will function as the certifier's administrative officer(s) *vis-à-vis* the Customs Service or the administering agency. The said person(s) must necessarily be the signer(s) in transactions and shall be the applicant's legal or official representative(s);

- (c) full identification of the person(s) who will be in charge of operating the certification service, should they not be the same ones mentioned in the preceding subparagraph. The said person(s) shall be those responsible for the operation of the certification and registration authority that provides the service, who will receive and ensure the confidentiality of the identification codes, passwords and/or mechanisms assigned to the certifier and who shall be able to sign digitally on the certifier's behalf;
- (d) the exact physical address of the establishment or premises from which the digital certification services will be provided.
- (e) documentation proving that they are qualified to provide the services of generating and certifying digital signatures, in accordance with the relevant guidelines recommended by the Central American Commission on Electronic or Digital Certification;
- (f) attestation of legal status in the case of private persons or, in the case of public servants, of their appointment. In the first case, the document must show that the legal entity is duly incorporated in accordance with the law and in the full exercise of its legal capacity;
- (g) in the case of private persons, proof of having posted the requisite bond for covering any liabilities to the tax authority when the State Party so requests, without prejudice to any administrative, civil or criminal liability that might be incurred;
- (h) certification of the instrument incorporating the applicant company and any additions or amendments to it; and
- (i) any other information required by the Customs Service or administering agency of each State Party.

Article 182. Processing the application. Once the application for authorization has been received and the stipulated formalities complied with, the Customs Service or administering agency shall continue to process it as appropriate or shall request the rectification of any errors or omissions in relation to any of the requirements enunciated in Article 58 of these Regulations, allowing a period of ten days for such rectification. Once the stipulated formalities have been fulfilled, the application shall then undergo an administrative and technical analysis.

Article 183. Functions of certifiers. The powers and responsibilities of approved certifiers shall be to:

- (a) Issue the respective certificates;
- (b) maintain an up-to-date physical and electronic register of subscribers and of the digital certificates issued to them;
- (c) deliver the services offered to their subscribers, in strict adherence to the certification policies that they have communicated to the public and which have been approved by the Customs Service or administering agency;
- (d) ensure the permanent and uninterrupted provision of the certification service;
- (e) preserve the data and records relating to certificates issued, for at least five years as from their expiry or revocation. In the event of the cessation of activities, the respective data and records must be turned over to Customs Service or administering agency, which will take a decision regarding their proper preservation and use;

- (f) maintain, for the parties involved, an electronic repository of the digital certificates issued, which must be permanently accessible online and continuously updated in accordance with the guidelines issued by the Customs Service or the administering agency.
- (g) furnish, in accordance with the relevant constitutional and legal provisions, the information requested by the competent authorities regarding their subscribers, certificates issued and the certifications of digital signatures that have been generated;
- (h) provide the system's subscribers with technical and safety guidelines based on those in turn laid down by the Customs Service or administering agency;
- (i) apply the instructions and directives issued by the Customs Service or administering agency to ensure the optimum security or reliability of the e-signature system;
- (j) provide the Customs Service or administering agency with the reports and data required for the proper performance of their functions and promptly report any other relevant circumstance that could hamper or compromise their activity; and
- (k) meet any other requirements set by the Customs Service or administering agency of each State Party.

Article 184. Cost of certification services. The cost of certification services shall be borne by subscribers.

Article 185. Applicable regulations. In addition to the rules contained in this Chapter, the regulations in force in each State Party regarding electronic or digital signing, certificates and certifiers of digital signatures shall apply.

TITLE III

BASES FOR THE APPLICATION OF CUSTOMS TARIFFS AND OTHER MEASURES ENVISAGED FOR THE TRADE IN GOODS

CHAPTER I

ORIGIN OF GOODS

Article 186. Origin of goods. Pursuant to Article 43 of the Code, the origin of goods shall be governed by the Central American Regulations on the Origin of Goods.

CHAPTER II

CUSTOMS VALUE OF GOODS

SECTION I

COMPONENTS OF CUSTOMS VALUE

Article 187. Customs valuation. For the purposes of Article 44 of the Code, this chapter gives effect to the provisions of the Agreement, as well as provisions under the regional legal system on the customs valuation of goods.

Article 188. Components of customs value. In addition to the components set out in the Article 1 of the Agreement, the following shall also form part of customs value:

- (a) The cost of transporting the imported goods to the port or place of importation;
- (b) loading, unloading and handling charges associated with the transport of imported goods to the port or place of importation; and
- (c) the cost of insurance.

For the purposes of subparagraphs (a) and (b) of this Article, "port or place of importation" means the first port or place of arrival of goods in the customs territory.

Article 189. Rates. When any of the elements listed in subparagraphs (a), (b) and (c) of the preceding Article are free of charge, not contracted or carried out by the importer's own means or services, the rates normally applicable shall be used to calculate their value.

For the purposes of the preceding paragraph, the importer shall determine the amount to be added as transport, loading, unloading and handling charges, to the price actually paid or payable for the goods being valued, in accordance with the rates to be provided by the Customs Service, by the means determined by the latter. The rates shall be those normally applied by the transport companies registered with the Customs Service for the transport of goods of the same class or kind.

As regards the cost of insurance, the importer shall determine the amount to be added to the price actually paid or payable for the goods being valued, in accordance with the rates to be furnished by the Customs Service. The rates shall be those usually applied by insurance companies to goods of the same class or kind.

Article 190. Accrued interest. Interest accrued under a financing arrangement entered into by the buyer and relation to the purchase of imported goods shall not be considered as part of customs value, provided that:

- (a) The interest is distinguished from the price actually paid or payable for the goods;
- (b) the financing arrangement has been made in writing; and
- (c) where required, the buyer can demonstrate that:
 - i. such goods are sold at the price declared as the price actually paid or payable; and
 - ii. the asked rate of interest does not exceed the level for such transactions prevailing in the country where and at the time when the financing was provided.

The decision shall apply irrespective of whether the financing is provided by the seller, a bank or another natural or legal person. It shall also apply, if appropriate, where goods are valued using a method other than the transaction value method.

Article 191. Discounts or rebates. Price discounts or rebates granted by the seller to the buyer shall be accepted for the determination of customs value provided that they are verifiable, quantifiable, do not correspond to previous transactions and that the price actually paid or payable complies with Article 1 of the Agreement.

SECTION II

DETERMINATION OF CUSTOMS VALUE IN RESPECT OF SUCCESSIVE SALES, RE-IMPORTS AND GOODS NOT BEING SOLD

Article 192. Successive sales. In successive sales occurring before of the definitive import of the goods being valued, the value corresponding to the last transaction before the submission of the goods declaration shall be taken into account; provided that that value complies with the specifications of the Agreement and this chapter.

Article 193. Re-imported goods. To determine the customs value of goods re-imported after being repaired abroad, the price actually paid or payable of all the goods incorporated in the repairs shall be taken into account; these include costs of delivery abroad, the value or cost of labour in the repairs, the profit earned by the party who did the work as well as commissions paid or payable to third parties, and the packing, transport and insurance costs incurred in the re-importation. When the re-imported goods have been repaired within the warranty period granted by the supplier, the customs value shall be determined taking only the expenses and costs not covered by the warranty into account.

Article 194. Goods that have not been sold. In imports of goods that have not been sold, such as goods supplied free of charge, goods imported on consignment, goods imported under a hire or leasing contract, loaned goods, goods imported for destruction against payment by the supplier and any other imports of goods that have not been sold, the customs value shall be determined in accordance with the valuation methods set forth in Articles 2 to 7 of the Agreement, applied in sequential order and to the exclusion of the preceding one.

SECTION III

REVERSAL OF THE VALUATION METHODS

Article 195. Reversal of the order of application of the valuation methods. The reversal of the order of application of the valuation methods prescribed in Articles 5 and 6 of the Agreement and foreseen in Article 4 of the Agreement shall take place only when the Customs Authority accedes to a request made to it by the importer.

Article 196. Request for the reversal of methods. Under the preceding Article, Article 4 and paragraph 3 of Annex III to Agreement, the importer shall submit the request to the Customs Authority concerned in writing or by the means stipulated by the Customs Service, stating the reasons for requesting the reverse application of the valuation methods, within the ten days following the date on which the Customs Authority notifies him of its intention to apply Article 5 of the Agreement for the customs valuation of the goods. Within a period of ten days following the date of submission of the request, the Customs Authority shall reply stating its reasons for accepting or denying the request for the reversal of the valuation methods provided for in Articles 5 and 6 of the Agreement.

Article 197. Application. The valuation method prescribed in paragraph 2 of Article 5 of the Agreement may be applied in accordance with the provisions of that paragraph, whether or not the importer so requests.

SECTION IV

AT OR ABOUT THE SAME TIME

Article 198. At or about the same time. The concept of "at or about the same time" referred to in paragraphs 2(b)(i) and 2(b)(iii) of Article 1 and in Articles 2 and 3 of the Agreement denotes a period not exceeding 90 days before or after the date of exportation of the goods being valued; under paragraph 2(b)(ii) of Article 1 of the Agreement, it is the period not exceeding 90 days before or after the date of acceptance of the goods declaration; and for paragraph 1(a) of Article 5 of the Agreement, it is the period not exceeding 90 before the date of acceptance of the goods declaration.

The date of exportation shall be that shown on the transport document and in its absence, the date set by the Customs Service.

Article 199. Existence of two or more values. When more than one value is available at or about the same time as prescribed in the preceding Article for the application of Articles 2 and 3 of the Agreement, the date closest to that of the exportation of the goods being valued shall be taken, and only when there are two or more values for the same export date shall the lowest be used.

SECTION V

CURRENCY CONVERSIONS

Article 200. Currency conversions. In accordance with Article 9 of the Agreement and Article 20 of the Convention on the Central American Tariff and Customs Regime, when it is necessary to determining customs value, foreign currencies shall be converted into Central American pesos and Central American pesos into the currency of States Parties at the exchange rate supplied by the Central Bank of the State Party concerned and in effect on the date of acceptance of the goods declaration.

SECTION VI

FAMILY TIES

Article 201. Family ties. For the purposes of Article 15(4)(h) of the Agreement, persons shall be deemed to be "of the same family" when they are spouses or relatives within the fourth degree of consanguinity or second degree of affinity.

SECTION VII

THE SECURITY

Article 202. Release under security. If in the course of determining the customs value of imported goods it is necessary to delay the final determination of that value, the importer may request the release or clearance of the goods from customs if, where so required by the Customs Service, the importer posts a security sufficient to cover the amount of taxes for which the goods may be ultimately liable.

The Customs Authority shall set the security on the basis of values that satisfy the criterion of reasonable doubt.

Article 203. Forms of providing a security. The security mentioned in the preceding article may take the form of a deposit, surety or any other means specified by the Customs Service covering the difference in relation to the amount of import taxes to which the goods may ultimately be subject. The Customs Authority shall enforce the aforementioned security if the importer is required to make the corresponding payment and fails to do so, or release it within 30 days following the date on which the Customs Authority notifies the importer of its acceptance of the value declared as the customs value. This shall be without prejudice to the powers of the Customs Service to verify or determine the customs value retrospectively within the time-frame set in the Code.

SECTION VIII

VERIFICATION AND INVESTIGATION OF THE DECLARED VALUE

Article 204. Doubts regarding data and documents and additional information. When the Customs Authority has reason to doubt the veracity or accuracy of the data or documents submitted, it may request the importer to provide a further explanation as well as documents or other evidence showing that the declared value represents the total amount actually paid or payable on the imported goods, including the elements referred to in Article 8 of the Agreement.

If after receiving the additional information or in the absence of a reply from the importer, the Customs Authority still has reasonable doubts regarding the declared value, it may decide, in the light of Articles 11, 17, and paragraph 6 of Annex III of the Agreement, that the customs value of the imported goods cannot be determined in accordance with the provisions of Articles 1 and 8 of the Agreement, but before taking a final decision, the Customs Authority shall communicate its reasons to the importer and shall give him a reasonable opportunity to reply. Once the final decision is taken, the Customs Authority shall communicate it to the importer in writing.

Article 205. Customs Authority procedures. In accordance with the foregoing article, the Customs Authority shall proceed as follows:

(a) Request the importer to provide, within the ten days following the date of notification, information, documents and any other proof that may be requested of him to substantiate the truthfulness and accuracy of the value originally declared.

If the requested proof must be obtained from abroad, the time-frame shall be 30 days, provided that the importer requests this during the ten days referred to in the foregoing paragraph.

(b) Should the information and documentation submitted by the importer dispel the reasonable doubt, the Customs Authority shall notify the importer of its acceptance of the declared value within the ten days following the submission of the requested proof, without prejudice to the power of the Customs Service to make retrospective verifications.

(c) If upon expiry of the period mentioned in subparagraph (a) of this Article the importer has not furnished the requested information, or if the information submitted fails to dispel the reasonable doubt, the Customs Authority shall, within the ten days following the expiry of the said period or of the submission of proof, notify the importer that the declared value shall not be accepted for customs purposes and shall indicate to him the customs value being assigned to his imported goods, allowing him ten days as from the day following the date of notification in which to make a statement and submit the relevant proof in his defence.

(d) Once the period granted to the importer under the preceding subparagraph has expired, or as of the date of submission of the evidence in his defence, the Customs Authority shall notify within 15 days its acceptance or rejection of the declared value; this shall be without prejudice to the application of the appropriate penalties.

(e) If upon expiry of the period available to the Customs Authority, as indicated in the preceding subparagraph, to determine and notify the customs value this has not been done, the release of the goods or the duly provided security shall be authorized at the request of the importer in accordance with the provisions of Article 202 of these Regulations; this shall be without prejudice to the powers of the Customs Service to verify or determine the customs value retrospectively within the time-frame set in the Code.

The Customs Authority shall make the requests to the importer prescribed in this article either in writing or by the means stipulated by the Customs Service, and the importer shall likewise respond by the prescribed means.

The importer shall neither be guilty of any infringements nor subject to the payment of fines when the Customs Authority does not accept the declared value as the transaction value owing to the circumstances laid out in Article 1.1 of the Agreement and provided that the importer indicates this in the value declaration.

Article 206. Reasons for rejecting the transaction value. The Customs Service that shall also reject the value declared by the importer and shall determine the customs value of imported goods on the basis of the successive methods set forth in the Agreement, in the following cases:

- (a) Failure to keep, preserve or make available to the Customs Service accounting records or other requisite documents related to foreign trade;
- (b) preventing the Customs Service from carrying out its verification;
- (c) failure to register foreign trade transactions or alteration of the information pertaining to them;
- (d) failure to comply with the requirement of the Customs Service to submit within the permitted time-frame documentation or information proving that the declared value was determined in conformity with the provisions of the Agreement and these Regulations;
- (e) when it is proven that the information or documentation presented is false or contains false or inaccurate data or the value declared was not determined in accordance with the provisions of the Agreement and this chapter; or
- (f) when the importer is requested to demonstrate that no relationship has influenced the price and fails to do so.

Article 207. Request for an explanation of the method applied. For the purposes of Article 16 of the Agreement, the importer may request, within the three days following the date of notification of the customs value determined by the Customs Authority, an explanation regarding the method used as the basis for determining the customs value of the importer's goods. The Customs Authority shall respond within the ten days following the date of receipt of the request.

Both the importer's request and the Customs Authority's reply must be done in writing or by the means specified by the Customs Service.

Article 208. Verification subsequent to release. The Customs Service may carry out the investigation and verification of the declared customs value after the release of the goods, within the time-frame established in the Code and in accordance with the applicable provisions of law, in the light of the last paragraph of the Article 205 of these Regulations.

Article 209. Obligation to furnish information. All natural or legal persons directly or indirectly connected with goods imports into the customs territory shall be obliged to furnish the Customs Authority with documents, books, accounting records or any other necessary information, including that stored on electronic, magnetic and magnetic optical media or any other digital medium, for the verification and investigation of the customs value.

SECTION IX

CUSTOMS VALUE DECLARATION

Article 210. Customs value declaration. The value declaration when importing goods must be presented and must contain the information, elements, and other data required in the form and related instructions appearing as an annex to these Regulations.

Article 211. Sworn declaration. The value declaration shall be signed under oath only by importers who are natural persons; or by the legal representative in the case of legal entities. The signing party shall be responsible for the accuracy of the data entered in it, the authenticity of the supporting documents, for furnishing any data and documents needed to verify the correct declaration and determination of the customs value.

The submission and validation of the value declaration may be done using electronic, magnetic, magnetic optical or optical media or by any other medium stipulated by the Customs Service.

Article 212. Exemption from the requirement to submit a value declaration. Submission of the customs value declaration shall not be mandatory in the cases of:

- (a) Imports by the State and municipalities;
- (b) imports by tax-exempt international agencies or entities;
- (c) imports of a non-commercial nature (parcels, postal consignments, urgent consignments, samples, free goods, grants);
- (d) goods imported on consignment;
- (e) commercial imports of a customs value not exceeding one thousand Central American pesos, provided that they are not split consignments;
- (f) goods subject to the temporary or suspended-duty regime;
- (g) goods subject to the exemption regime;
- (h) imports under cover of the Central American Uniform Customs Form;
- (i) household effects;
- (j) imports by tax-exempt, non-profit entities;
- (k) relief consignments;
- (l) travellers' luggage; and
- (m) others decided by the Customs Service.

SECTION X

VALUE DATABASE

Article 213. Value database. The Customs Services shall set up a value database containing updated price data for the purpose of investigating values declared for imported goods; to that end they may request information regarding the value of imported goods from importers, auxiliary customs agents and other foreign trade operators.

The data referred to in the preceding paragraph and any other that can be obtained from other sources shall be used to set up the regional database, which will be located at the Secretariat for Central American Economic Integration and shall be accessible to the Customs Services of States Parties.

SECTION XI

THE POWERS OF THE CUSTOMS COMMITTEE AND ESTABLISHMENT OF THE VALUATION COMMISSION

Article 214. Technical criteria. The Customs Committee shall analyse the problems relating to the customs valuation of goods and shall issue the relevant technical criteria for the correct interpretation and uniform application of the Agreement and of this Chapter. The technical criteria issued by the Customs Committee shall be mandatory and shall be published on the website of the Customs Services and via other communications media.

Article 215. Central American Commission on Customs Valuation. For the purposes of the foregoing article and based on Article 10 of the Convention on the Central American Tariff and Customs Regime, the Central American Commission on the Customs Valuation of Goods (*Comisión Centroamericana del Valor Aduanero de las Mercancías*) is hereby created as a technical working group of the Customs Committee, comprising a regular and an alternate representative from the Customs Service of each State Party. The Commission shall meet regularly twice per year and extraordinarily when ordered by the Customs Committee.

Article 216. Functions of the Commission. The Commission's functions shall be, *inter alia*, to:

- (a) Deal with customs valuation problems faced by the Customs Services;
- (b) propose the relevant technical criteria to the Customs Committee for approval;
- (c) propose to the Customs Committee the administrative provisions (regulatory or operational) to be issued by it for the proper interpretation and application of the Agreement and of this chapter; and
- (d) discharge any other functions assigned to it by the Customs Committee.

CHAPTER III

CUSTOMS OBLIGATIONS

SECTION I

GENERAL PROVISIONS

Article 217. Inception of the customs tax obligation. The customs tax obligation arises between the State and taxable persons with the occurrence of the event giving rise to the taxes in accordance with Article 46 of the Code. It is a personal, asset-based legal relationship secured by a bond on the goods, and takes precedence over any other guarantee or obligation that may encumber the merchandise.

Article 218. Event giving rise to the obligation. In addition to those laid down in Article 46 of the Code, events giving rise to the customs tax obligation shall be deemed to have occurred:

- (a) In cases of customs tax offences, the tax regime applied shall be the one in force on the date of:
 - i. Commission of the customs tax offence;
 - ii. preventive confiscation, when the date of commission is unknown; or
 - iii. discovery of the customs tax offence if none of the foregoing can be determined.
- (b) on the date of acceptance by the Customs Service of the voluntary surrender of the goods;
- (c) on the date of acceptance of the declaration of goods fully or partly exempt from import taxes, in the event of non-fulfilment of the conditions of the exemption;
- (d) on the date of acceptance of the declaration of goods brought into the customs territory under a suspended-duty regime, in the event of non-fulfilment of the condition for the grant of the regime;
- (e) on the date of acceptance of the declaration of goods leaving the customs territory under a suspended-duty regime, in the event of non-fulfilment of the condition for the grant of the regime; and
- (f) in the case of provisional declarations, the applicable taxes shall be those in force on the date of acceptance of the declarations.

Article 219. Event giving rise to the obligation in the case of split import consignments. In the case of goods imports which for tariff purposes constitute a single unit but which are introduced in a dismantled or unassembled state in split consignments to be imported on different dates, the entire unit shall be subject to the taxes in force on the date of acceptance of the declaration for the importation of the first portion, subject to the following conditions:

- (a) Importers must expressly request this from the Customs Service, before importing the first portion; and
- (b) all the partial shipments must be imported within the time-frame indicated in the authorization issued by the Customs Service.

Article 220. Means of extinguishing customs tax obligations. The customs tax obligation shall be extinguished by the means stipulated in Article 58 of the Code.

Article 221. Payment. The customs tax must be paid in cash, in legal tender or in the other forms permitted by law.

Article 222. Set-offs. The competent authority may agree to the discharge of the customs tax obligation by means of setoffs in the following circumstances:

- (a) When the debts are tax debts that are immediately and unconditionally due; and
- (b) credits held by the taxable person with the tax authority are recognized by a final administrative act as arising from undue or excess collection, or credits in the taxable person's favour in the form of taxes, interest and surcharges of any kind.

The Customs Services shall determine by means of administrative measures, the mechanisms for effecting the set-off.

Article 223. Limitation. The following shall be barred by limitation within a period of four years:

- (a) The power of the Customs Service to demand payment of customs taxes that may not have been received, the interest thereon and any surcharges, counted as from the date of acceptance of the goods declaration;
- (b) the right of the taxable person to demand the refund of sums paid in excess or unduly in the form of taxes, interest and surcharges or the crediting in taxable person's favour of those sums by the tax administration, counted as from the date of payment of the customs tax obligation; and
- (c) the taking of action to impose penalties for administrative and tax infringements.

Payments made to meet a time-barred customs tax obligation may not be the subject of action for recovery, irrespective of whether the payments were made with or without knowledge of the time bar.

Article 224. Suspension of limitation. The period of limitation shall be suspended:

- (a) By notification of the decision or initial act of the administrative procedure to determine customs obligations, including tax and administrative customs infringements;
- (b) by the filing of any kind of appeal by the taxable person that is admissible under the Code and these Regulations;
- (c) by the launch of judicial proceedings that in effect suspend the administrative procedure or prevent the taking of the final administrative decision;
- (d) a request or claim submitted by the taxable person for the reimbursement of sums paid in excess or unduly; or
- (e) by any action on the part of the taxable person leading to recognition of the customs tax obligation.

Article 225. Confusion of rights. For the purposes of Article 58(g) of the Code, the customs tax obligation shall be deemed extinguished when the taxing authority becomes both debtor and creditor

as a consequence of voluntary surrender, the failure to sell goods by public auction or the transfer of goods subject to import or export duties.

Article 226. Loss or destruction. The loss or destruction of goods owing to unforeseen circumstances or *force majeure* duly substantiated to the satisfaction of the Customs Service, or the destruction of goods under customs supervision shall extinguish the tax liability in proportion with the loss or destruction, without prejudice to any civil, tax, administrative or criminal liabilities that may arise.

Goods under customs supervision whose condition or state renders them unsuitable for industrial or commercial use may be destroyed at the request of the interested party. The destruction shall be done on behalf of and at the expense of the interested party in the presence of the Customs Authority. Goods which owing to their nature or their degree of degradation affect the normal conditions of the environment or animal, plant or human health shall be destroyed in the presence and according to the instructions of the competent authorities of the branch of activity.

SECTION II

CUSTOMS BOND

Article 227. Rights arising from the customs lien. The customs lien gives rise to the exercise of the rights of retention, prosecution, seizure and precedence in the manner set out hereunder:

(a) The customs authorities shall exercise the right to retain goods or vehicles belonging to the person against whom a claim is being made and which are under customs supervision in order to cover the payment of duties, fines and other charges generated:

- i. By the goods retained;
- ii. by goods belonging to same taxable person, present in the same customs facility; and
- iii. by other goods belonging to same taxable person, present in another customs facility in the customs territory.

(b) The tax authority shall take precedence over any creditor for the collection of overdue and unpaid customs credits relating to the goods referred to in the preceding subparagraph; and

(c) If after the retention of the goods the interested person fails to make the corresponding payment, the provisions of these Regulations shall be followed.

Article 228. Common procedural actions. To decree the customs lien, the Customs Service shall observe the following basic rules:

(a) There must be a final ruling containing an amount that is immediately and unconditionally due; and

(b) the preliminary process must have been notified to the persons or entities that may be affected.

The customs lien shall only be admissible before the start of judicial recovery proceedings as a precautionary administrative measure.

Article 229. Enforcement of the customs lien. The customs lien enforcement procedure must begin within the period of limitation for the collection of the customs tax obligation.

Article 230. Cancellation of the customs lien. The effective payment of the taxes, fines and other charges to be covered by the goods shall cancel the customs lien decreed.

SECTION III

SECURITY FOR THE CUSTOMS TAX DUE

Article 231. Updating of the amount the security. For the purposes of the Article 53 of the Code, and in the case of adjustments or differences determined during clearance, the amount of the security shall be updated every three months or within a longer time-frame, when so decided by the Customs Service; the said time-frame shall be counted as from the date of posting of the security, and where appropriate, must include the interest that would be owed on that date on the unpaid amounts.

Article 232. Distraint of the security. After administrative channels have been exhausted or when the condition attached to the corresponding regime is not fulfilled, the security given to the Customs Service shall become subject to distraint in the manner and time-limits corresponding to the type of security concerned.

TITLE IV

ENTRY OR EXIT OF PERSONS, GOODS AND MEANS OF TRANSPORT

CHAPTER I

ENTRY OR EXIT OF PERSONS, GOODS AND MEANS OF TRANSPORT

Article 233. Authorized points, routes and schedules. Persons, goods and means of transport may enter or exit the customs territory only via the points, routes and at the times authorized by the Customs Authority.

Means of transport and their cargo crossing borders or authorized points shall be subject to customs control upon their entry into and exit from the customs territory.

Travellers and transporters carrying with them or transporting goods by any means of transport shall immediately present and declare them to the Customs Authority at the point via which they entered, without altering their state and packaging.

Article 234. Transport of dangerous goods. International transport companies carrying dangerous goods, such as explosive, flammable, corrosive, polluting and radioactive substances shall be required to notify them to the Customs Authority before the arrival of the means of transport on customs territory.

In these cases, the Customs Authority shall accordingly inform the competent authorities so that they can jointly verify that appropriate security measures are taken.

The carrier bringing in such goods shall also ensure that the nature of the goods is indicated on the packages. When such goods are carried in duly authorized means of transport, the code or symbol indicating the dangerousness of the goods must be shown on the outside, in accordance with the provisions of special legislation and international law.

Goods of this type may be admitted to a bonded warehouse facility if it meets the requirements for storing this type of merchandise and the auxiliaries have prior authorization from the Customs Authority.

For loading, unloading and any other operations related to such goods, the rules issued by the competent authorities shall be followed.

The goods referred to in the first paragraph of this Article may be inspected at the customs office of destination. If special arrangements are needed to facilitate the inspection or when delivery and custody of the goods by the customs office of destination is dangerous, they may be delivered and inspected outside the customs facilities, with the prior authorization of the Customs Service.

Article 235. Operating hours. In coordination with the other agencies operating at border posts, seaports and airports, the Customs Service shall establish operating hours and, where appropriate, indicate special periods for the provision of Customs Services. States Parties shall agree and abide by uniform and uninterrupted schedules for the provision of services relating to the entry and exit of persons, goods and means of transportation.

In the case of air and maritime traffic, the transport companies or failing this, the port and civil aviation authorities shall communicate in advance the itineraries and established schedules

of arrivals in and departures from the customs territory for vessels and aircraft, so as to facilitate the Customs Service and other relevant authorities in the discharge of their functions.

Article 236. Presentation and legal reception of means of transport. All means of transport entering the customs territory via authorized points must be presented to and received by the Customs Authority responsible for dealing with the mode of transport concerned.

Legal reception means the act of control of any means of transport carried out by the Customs Authority in which it requests and examines the documents stipulated in Article 242 of these Regulations and the declarations required by the relevant laws and regulations, and inspects and monitors the means of transport when the circumstances so warrant.

The said documents shall be presented at the time of the inspection visit. If no visit is made, they must be presented within three working hours of their arrival.

Once the legal reception is complete, the means of transport may proceed with boarding or disembarkation of persons and goods. For all relevant purposes, the reception date shall be deemed to be the date of arrival of the means of transport and the goods being carried.

Article 237. Control measures during reception. In receiving means of transport, the Customs Service may take, *inter alia*, the following control measures:

- (a) Inspection and search of the means of transport;
- (b) closing and sealing compartments containing goods that may be disembarked clandestinely;
- (c) verification of documentation; and
- (d) continuous surveillance of the means of transport.

Article 238. Use of risk criteria. To ensure the fulfilment of customs obligations, the Customs Service shall apply the control measures set out in Article 237 of these Regulations on the basis of risk criteria.

Article 239. Inspection and search. Once the cargo manifest has been transmitted to the customs department, it shall inform the carrier, as appropriate, whether on the basis of risk criteria an inspection visit will be made to the incoming means of transport for control and audit purposes.

In the case of means of transport leaving the customs territory, the Customs Service may carry out the inspections it deems relevant, on the basis of risk criteria.

Article 240. Purpose of the inspection. The aim of the inspection, when deemed it advisable, shall be to ascertain that the passengers and crew of the means of transport are in conformity with the customs laws and regulations and to adopt the necessary surveillance and fiscal security measures with respect to the goods.

Amongst other surveillance and security measures, the Customs Authority may order the placing of stamps on the packages or the closing of holds or compartments by means of stamps, locks or seals. The breaching of these security mechanisms shall be subject to the penalties provided for in the relevant laws.

A document shall be drawn up setting out the findings made during the inspection visit.

Article 241. Prohibition of sale or donation of goods. The sale or donation of any type of goods on board any means of transport entering the customs territory to individuals or to public officers and employees is prohibited. The above shall be without prejudice to goods that constitute stores, which will be accorded the customs treatment contemplated in these Regulations.

Article 242. Obligation to provide information. When appropriate, transporters are obliged to provide, by electronic transmission or other authorized channels, the information contained in the following documents:

- (a) The general cargo manifest;
- (b) the transport document;
- (c) the list of passengers, crew and their luggage, indicating whether or not they will be disembarked;
- (d) the list of on-board provisions;
- (e) the bill of lading for postal consignments;
- (f) the list of empty transport units destined for the customs port of arrival in the customs territory;
- (g) the list of dangerous goods, such as explosive, flammable, corrosive, polluting and radioactive goods by port of destination; and
- (h) any other information that may be legally required.

In the case of means of transportation arriving with no freight, documentation must be presented attesting thereto.

Article 243. Information in the cargo manifest. Depending on the type of traffic, the cargo manifest shall contain, *inter alia*, the following information:

- (a) Ports of provenance, departure and destination, as appropriate, as well as the voyage number;
- (b) nationality, name of craft, steamer or vessel and registration number of the means of transport, depending on the type of traffic concerned;
- (c) transport document numbers; marks, numbering and quantity of packages;
- (d) identification code and number of containers being transported, as well as information regarding the destination of the goods it contains and other equipment being used to transport the cargo. The quantity and number of empty containers shall also be indicated;

- (e) class, content of the packages and their gross weight expressed in kilogrammes; physical state of the goods; an indication as to whether the goods are arriving in bulk, separately identifying batches of the same class of goods, in which case the batches shall be considered as one single package. In addition, an indication must be given of whether dangerous goods are being transported. These include explosive, flammable, corrosive, polluting and radioactive goods. The Customs Service may determine other goods which it is mandatory to identify;
- (f) place and date of loading; name, trade name or designation of shippers and consignees;
- (g) total number of packages;
- (h) total weight of the cargo, in kg;
- (i) description of the goods;
- (j) place and date of issue of the document; and
- (k) name or trade name or designation, code and signature of the carrier.

Article 244. Supplementary information. At the time of arrival, the carrier shall inform the Customs Authority of all circumstances reflecting the physical state of the goods, such as wastage or damage occurring during their transportation, as well as any other circumstance affecting the information that had previously been supplied to the Authority.

Article 245. Advance transmission of the cargo manifest. The customs carrier shall be required to furnish the Customs Service with the relevant information from the cargo manifest via electronic data transmission and in the formats specified by that Service.

This information shall be provided in the time-frames decided by the Customs Service or within the following:

- (a) In the case of maritime traffic, the information must be transmitted at least 24 hours before the arrival of the vehicle at customs port. If the transportation time between the ports of departure and destination is of a shorter duration, the time-period for the advance transmission of the information must be at least equivalent to the duration of the transportation time;
- (b) in the case of air traffic, the information must be transmitted at least two hours before the arrival of the aircraft. If the transportation time between the port of departure and that of destination is of a shorter duration, the time-period for the advance transmission of the information must be at least equivalent to the duration of the transportation time;
- (c) deconsolidation and express delivery or courier services companies must transmit their waybills before the arrival of the aircraft; or
- (d) in the case of land transport, the cargo manifest may be transmitted electronically in advance, and in exceptional cases may be submitted upon the arrival of the means of transport at the customs department concerned or at the approved customs premises.

The carrier may amend the information in the previously transmitted cargo manifest up until the time of the official reception of the means of transport.

For outbound cargo manifests, each Customs Service shall set the time-limits for their transmission.

Article 246. Flaws in the information transmitted from the cargo manifest. If the cargo manifest information transmitted does not conform to what is required, the Customs Service shall not process it in the normal way.

When there is no record of the cargo manifest in the customs system and the transmitting entity asserts that it was sent electronically, for it to be considered as having been sent, the sender must submit the registration number or a copy of the message of acceptance, which will have to be validated in the customs computer system.

The Customs Service shall regulate the manner and conditions for the submission of the cargo manifest should its transmission be prevented by unforeseen circumstances or *force majeure*.

CHAPTER II

FORCED ARRIVAL

Article 247. Forced arrival. In the event of forced arrival, the carrier shall notify the competent Customs Authority on the day of the arrival, specifying the reasons therefor.

Article 248. Control by the Customs Authority. Upon learning of a forced arrival either through notification by the carrier or by any other means, the Customs Authority shall immediately visit the place of arrival and shall request the person responsible for the means of transport to produce the cargo manifest; if there is no manifest, the Customs Authority shall draw up a report setting out the necessary information.

The means of transportation making a forced arrival, its cargo and other effects, shall remain under the control of the Customs Service.

Article 249. Authorization to unload in the event of forced arrival. Should it be necessary for good reasons to unload the goods from the means of transport upon a forced arrival, the Customs Authority shall authorize the unloading provided it is done in its presence.

However, should the reason for the forced arrival of the means of transport be a duly justified imminent danger, the carrier may allow the goods to be unloaded under its exclusive responsibility, even before being authorized by the Customs Authority. No penalty is incurred in either eventuality.

Once the emergency has passed, the carrier shall be required to submit the corresponding cargo manifest to the Customs Authority nearest to the place of unloading.

Should the means of transport be carrying goods consigned to the customs territory, once the formalities contemplated in the Code and these Regulations have been completed, the Customs Authority shall authorize definitive unloading and/or storage in the primary customs zone, while awaiting assignment of the relevant customs regime by the consignee(s).

Article 250. Verification of unforeseen circumstances or *force majeure*. If it is established that unforeseen circumstances or *force majeure* gave rise to the forced arrival, the onward shipment, transshipment or unloading of the goods may be authorized.

Should the explanations given be deemed unacceptable, the Customs Authority shall order the seizure of the means of transport, the warehousing of the goods and shall deduce the corresponding liabilities.

CHAPTER III

TEMPORARY UNLOADING OF CREWS' CLOTHING AND OTHER GOODS

Article 251. Procedure for temporarily unloading crews' clothing and other goods. With the prior permission of the competent Customs Authority, clothing or other items may be temporarily unloaded for washing or disinfection when the captain of the vessel or the shipping agent submits a request to the customs stating the reason for the unloading, listing the goods to be unloaded, as well as the time-frame and place in which the service will take place.

The goods must be re-loaded before the departure of the vessel and must be presented for inspection to the Customs office concerned, together with a copy of the authorization granted for their unloading.

The shipping agent or the captain of the vessel shall be required to pay the taxes when the goods referred to in this Article are not reshipped within the time-frame specified in the relevant authorization.

Article 252. Deposit of goods for use in air traffic. The firms authorized to provide international air transport services for passengers and goods may deposit in the areas allocated for that purpose within the primary customs zone goods from abroad that are indispensable to meeting the basic needs of attending to passengers and crew during the flight; this shall be done in compliance with the formalities and conditions indicated by the Customs Service in the authorization concerned.

CHAPTER IV

DECONSOLIDATION AND CONSOLIDATION OF GOODS

Article 253. Deconsolidation operations. Deconsolidation operations shall be carried out in the primary or customs operation zones authorized for that purpose, taking into account the existing infrastructure and the established procedures.

Bills of lading issued by the freight deconsolidator be required to show the identification number of the master bill of lading previously transmitted by the carrier to the customs office of entry.

Article 254. Freight consolidation process. Freight consolidation shall take place when goods are leaving the customs territory and shall be undertaken by the authorized auxiliary agent who receives and groups goods for several consignees, under his responsibility and undertaking to transport them whether by his own means or using a provider of transportation services. For this purpose, he takes charge of the cargo and issues a single document that must support the cargo manifest.

Article 255. Authorized locations for consolidation. Freight consolidation shall be carried out in cargo terminals, authorized fiscal warehouses or other customs operation areas authorized by the Customs Service, where security devices shall also be affixed for subsequent embarkation.

CHAPTER V

LOADING, UNLOADING, TRANSHIPMENT, RESHIPMENT AND TEMPORARY STORAGE OF GOODS

SECTION I

LOADING AND UNLOADING

Article 256. Loading and unloading. Once the legal reception of the means of transport is complete, authorization shall be given for the customs-supervised loading or unloading of goods and embarkation or disembarkation of crews and passengers or for any other appropriate customs operation.

The port or airport authority, the concessionaire or the public port or airport services contractor, the competent official or the auxiliary agent authorized by the Customs Service shall monitor the loading or unloading of the items shown on the manifest and to that end shall conduct the relevant control, and may draw on the controls carried out by the entities managing the port or airport premises and the transport companies themselves, and shall note on the manifest the result of this operation, communicating it immediately to the customs via the means authorized by the Customs Service.

The officer appointed, where applicable, to carry out the inspection shall record his actions and entries in the computer system or in the document attesting to the receipt or unloading of goods, in particular regarding the identification, the quantities of transport units, goods or packages unloaded or loaded, their customs stamp numbers, any discrepancies with the cargo manifest, the time and date.

The Customs Service shall notify the carrier of the outcome of the loading and unloading via the computer system or other authorized means.

Article 257. Unloading and loading of transportation units and reception of goods under the responsibility of the customs carrier. When the Customs Service has authorized the unloading or loading of transport units or the reception of goods under the responsibility of the customs carrier, the latter shall, within three working hours of completing the operation, notify the competent customs office of the transport units or packages actually unloaded, loaded or received, the customs stamp numbers and any other information required by the Customs Service.

Article 258. Other authorized locations for loading and unloading. The Customs Authority may allow goods to be loaded or unloaded at other unauthorized sites, upon the request of the consignee, carrier or the carrier's legal representative, bearing in mind:

- (a) The nature of the goods, such as plants and live animals;
- (b) urgency or good cause, such as refrigerated goods, vaccines, serums and relief consignments;
- (c) dangerousness of goods such as explosive, corrosive, inflammable, polluting, toxic and radioactive goods;
- (d) perishability and liability to decompose, such as: flowers, fresh or chilled fruit and meat;
- (e) volume, dimensions or lack of infrastructure; and
- (f) any other factors determined by the Customs Service concerned.

Article 259. Entry or exit via a different customs office. Goods destined to enter or exit via a particular customs office may do so via another on the same customs territory, with the same original documentation, provided that:

- (a) That of destination has been closed or is unable to receive the cargo, owing to any circumstance duly justified by the Customs Service;
- (b) there is a case of unforeseen circumstances or *force majeure*, duly proven to the customs; or
- (c) the captain of the vessel or the consignee of the goods being transported by sea makes a reasoned request for unloading and clearance at a port other than that designated as the port of destination.

In such a case, the customs office receiving the goods shall take delivery of the packages or other transport elements on the basis of the cargo manifests or the authorized means. The competent official or authorized person shall take delivery of the goods, indicate his acceptance or make comments using the means authorized; the foregoing shall be without prejudice to the performance of controls in the exercise of the legal authority of customs.

If owing to their condition and nature the goods have been authorized to enter or exit exclusively via a particular customs, the interested party shall be required to apply to the competent authority for the change of the customs of entry or exit.

Article 260. Authorization to leave the customs territory. The Customs Authority shall grant the authorization for goods and transport units to leave the customs territory when the formalities and customs requirements have been met and there is no legal impediment.

Article 261. Time-frame for justifying missing or excess goods. Missing or excess goods in relation to the quantity shown in the cargo manifest must be justified within a maximum period of 15 days.

That period shall be counted as from the day following the completion of unloading, whether at the port of arrival or at some other location approved for the reception of cargo or as from the time of notification of the document attesting to the receipt of the goods and showing the discrepancy identified, as determined by the Customs Service.

If upon expiry of this period the discrepancies have not been justified, the appropriate legal actions shall be taken.

Article 262. Those responsible for justifying surplus or missing goods. The following persons shall be responsible justifying surplus or missing goods:

- (a) The carrier or his legal representative at the port of loading or unloading;
- (b) the exporter or shipper, through his representative in the country where the goods are unloaded, when the carrier has received the containers sealed with security devices;
- (c) the consolidator, the express delivery or courier services company, or the consignee where the latter effected the shipment and the carrier received the containers sealed with security devices;

In special cases the Customs Service may require the justification to be furnished by the carrier's legal representative at the port of shipment, the exporter or shipper, the deconsolidator, or the express delivery or courier services company, by submitting the relevant voucher.

Article 263. Justifications of missing goods. The justification of missing goods must show, as appropriate, that:

- (a) They were not loaded on to the means of transport;
- (b) they were lost or destroyed during the journey;
- (c) they were unloaded by mistake at a place other than the one indicated in the manifest;
- (d) they were not unloaded from the means of transport; or
- (e) other causes admitted by the Customs Service.

Once the justifications have been received and accepted by the Customs Authority, it shall confirm the quantities received, for customs clearance purposes. If all the goods are missing, it shall cancel the transport document in the manifest concerned.

Should it not accept the justifications presented, it shall issue a reasoned decision within the three days following the receipt of the justifications, setting out the reasons for the rejection.

Article 264. Justifications of surplus goods. The justification of surplus goods must show, as appropriate, that:

- (a) They were unloaded by mistake or needed at another port;
- (b) there are errors in the information transmitted, provided that the goods are of the same class and nature as those shown in the manifest; or
- (c) other causes admitted by the Customs Service.

Once the justifications have been received and accepted by the Customs Authority, it shall confirm the quantities received so that they can be added to the cargo manifest.

Should it not accept the justifications presented, it shall issue a reasoned decision within the three days following the receipt of the justifications, setting out the reasons for the rejection.

Where no justification has been provided for excess goods, they shall be deemed surrendered and shall remain at the disposal of the Customs Authority to be put up for auction or disposed of in any other legally authorized manner.

Article 265. Special case of discrepancies. In the case of bulk cargo, discrepancies shall not need to be justified, provided that they represent no more than five per cent of the weight or volume, as the case may be in relation to the figures declared.

Article 266. Rectification of the cargo manifest. Upon presentation and acceptance of the justification for missing or excess goods, the Customs Authority, by the end of the following working day at the latest, shall take a decision and order the corrections to be made to the corresponding cargo manifest or other equivalent document, as follows:

- (a) By subtracting from the corresponding cargo manifest the duly justified missing goods; or
- (b) by adding to the corresponding cargo manifest the duly justified excess goods.

The justified excess goods may be cleared for any of the regimes or customs operations. In such a case, the period of temporary storage shall be computed as from the date on which the correction is ordered for the addition of the excess goods.

Article 267. Damaged, looted or degraded packages or elements of transport. If the unloading of packages or elements of transport with signs of damage, looting or degradation takes place with the intervention of the Customs Authority, the latter, in conjunction with the representative of the port and airport authority, concessionaire or the public port or airport services contractor and the customs carrier declaring the entry of the goods to the customs territory, shall draw up a report or shall place the facts on record. The Customs Authority shall also order the carrier to separate them so as to verify their content and weight, after which they will be rebuilt, repacked, sealed, stamped or other relevant measures taken to secure and protect the packages or elements of transport.

Should the unloading take place in the absence of the Customs Authority though with its prior authorization, the customs carrier jointly with the representative of the port and airport authority, concessionaire or the public port or airport services contractor, shall count and verify, within the port area, the packages or goods that are damaged or showing signs of tampering and shall immediately report the findings to the customs. The carrier shall be required to transmit or present the findings to the Customs Authority in writing, with the signatures of the port or airport authority, the concessionaire or the public port or airport services contractor attesting to their content.

Article 268. Control of time spent and exit from the port or airport zone. The port or airport authority, the concessionaire or the public port or airport services contractor shall transmit electronically to the relevant Customs Authority and in accordance with the stipulations of the Customs Service, a weekly report on the means of transport unloaded at the port, the goods unloaded in their warehouses and the itinerary arranged in advance by the port or airport authority for the mooring of vessels or the arrival of aircraft during that week.

The port or airport authority, the concessionaire or the public port or airport services contractor shall not allow the means of transport and their cargo to leave the primary zone without the permission of the Customs Authority.

Article 269. Cancellation of the cargo manifest. Upon presentation of the goods declaration determining a customs regime or of other documents authorizing a customs operation, the transport document in the cargo manifest will then be cancelled, if appropriate.

It shall be understood that the cancellation of all transport documents will result in the cancellation of the cargo manifest.

The cancellation shall be done in the Customs Service's electronic system or in the medium it uses for the control of cargo manifests.

SECTION II

TRANSHIPMENT

Article 270. Provenance. The transshipment shall take place when the goods are shown in the cargo manifest, which also indicates the customs post where it is to be done, except in cases of unforeseen circumstances or *force majeure* proven to satisfaction of the Customs Service, which justify undertaking the operation at another customs post or location authorized by it.

Article 271. Direct and indirect transshipment. Direct transshipment is that in which goods are transferred directly from one means of transport to another.

Indirect transshipment is that in which goods are transferred from one means of transport to another, after having been deposited in customs areas. The relevant manifest must be presented in both cases.

Article 272. Application. The transshipment application shall be submitted to the Customs Authority by the carrier, the consignee or his representative, in the prescribed formats and by electronic data transmission or other authorized means, and shall contain the following information:

- (a) Identification of the carrier;
- (b) identification of the means of transport on which the goods arrived and of that which will take them to their final destination;
- (c) cargo manifest number;
- (d) quantity, weight and generic description of the goods;
- (e) justification for the transshipment and an indication of the place where it will be done;
- (f) indication of the final destination of the goods; and
- (g) indication of any additional activities required.

When required by the Customs Authority, the related application must be accompanied by a copy of the cargo manifest.

Article 273. Permitted transshipments. The Customs Service may permit goods to be transferred from one means of transport to another, though it must be the totality of the goods shown in the transport document included in the cargo manifest.

Article 274. Intervention of the Customs Authority. Transshipment operations shall invariably require the involvement of the Customs Authority, and if appropriate, even that of some other competent authority.

Transshipment operations shall take place at the customs facilities concerned or in areas of operation authorized by the Customs Service, provided that they fulfil the conditions for adequate security and handling, except in cases of unforeseen circumstances or *force majeure* proven to satisfaction of the Customs Service, which justify undertaking the operation at another customs post or location authorized by it.

Article 275. Cancelling the transport document. The transport document included in the inbound manifest shall be cancelled in the appropriate cases once the transshipment has been effected and recorded in the outbound manifest.

Article 276. Transshipment time-frame. Transshipment shall be carried out on a controlled basis, under conditions established by the Customs Authority, within a maximum of 24 working hours calculated from the time of authorization.

If for some substantiated reason the interested party should need more time for the transshipment, he must indicate this in a written request and the Customs Authority shall examine the situation and grant the extension of the period if appropriate.

Should the transshipment not take place within the set time-frame or the extra time granted, as the case may be, the goods shall be deemed surrendered.

Article 277. Goods requiring special handling. Authorization may be granted for the transshipment of dangerous goods such as explosive, flammable, corrosive, polluting and radioactive goods the handling of which could endanger general health or security and in general those requiring technical or specialized handling, when they fulfil the requirements and conditions stipulated by the competent authority.

Article 278. Damaged or destroyed goods. Goods that are damaged or destroyed during transshipment operations owing to unforeseen circumstances or *force majeure* may be:

- (a) Imported as they are; or
- (b) rendered completely useless under the supervision of the Customs Service.

Article 279. Additional activities. During the transshipment process, the Customs Authority may authorize the following activities with respect to the goods:

- (a) Regrouping;
- (b) identification of packages; and
- (c) repair or replacement of defective packaging.

SECTION III

RETURN SHIPMENT

Article 280. Application for reshipment. The application for reshipment of foreign goods unloaded by mistake shall be submitted to the relevant Customs Authority by the carrier, the consignee or his representative, in the prescribed formats and by electronic data transmission or other authorized means.

The Customs Authority may expressly authorize the transshipment operation, provided that it complies with the conditions set down in Article 67 of the Code.

Article 281. Reshipment time-frame. No security shall be required for the granting of reshipment authorization, and it must take place within ten days as from the authorization.

If for some substantiated reason the interested party should need more time for the reshipment, he must indicate this in a written request and the Customs Authority shall examine the situation and grant the extension of the period if appropriate.

If reshipment is not effected within that period, the goods shall be deemed surrendered, without prejudice to other liabilities that may be inferred.

SECTION IV

TEMPORARY WAREHOUSES

Article 282. Goods in temporary warehouses. The consignee, carrier, deconsolidator, express delivery or courier companies, customs agent or the special customs attorney may request, as appropriate, in the manner and by the means specified by the Customs Service, the transfer of goods to temporary warehouses, except in the case indicated in Article 126 of these Regulations.

Article 283. Temporary warehousing time-frame. Goods may remain in temporary storage for a maximum of 20 days counted as from the date of completion of unloading from the vessel or aircraft, and in the case of land traffic as from the arrival of the means of transport.

Should this period expire without the goods having been assigned to a customs regime or operation, they shall be considered surrendered goods.

Article 284. Verification. The entry of goods into or their exit from temporary warehouses shall be verified by computerized means and in accordance with the procedures corresponding to the authorized operation or regime and those established by the Customs Service.

Article 285. Request for permission to carry out activities during temporary storage. To carry out the activities provided for in Article 289 of these Regulations, a request for permission must be submitted to the competent Customs Authority by the consignee, his representative, the customs agent or special customs attorney, deconsolidator or express delivery or courier services company.

The Customs Authority shall take a decision within the working day following the submission. If the activity is authorized, it must be undertaken during business days and hours. If no decision is issued within the stated time-frame, it shall be assumed to be favourable to the applicant. In no case shall this decision suspend or extend the time during which goods may remain in temporary warehouses.

Article 286. Report on receipt of goods. Upon receipt of goods for custody, the temporary bonded warehouse operator shall to transmit electronically to the Customs Service a report on the receipt of the cargo manifest concerned, indicating the outcome of the unloading; this must be done within three hours of completion of the unloading and must indicate, *inter alia*, the information contained in the unloading report in accordance with Article 489 of these Regulations.

Article 287. Goods that may be placed in temporary warehouses. Except for the cases foreseen in these Regulations, all types of goods coming from abroad or in free circulation and intended for export may be introduced into temporary warehouses.

In the case of dangerous goods, Article 234 of these Regulations shall apply.

Article 288. Goods in a state of decomposition. When the deposited goods are in a state of decomposition or contamination, the legal representative of the temporary bonded warehouse is required to inform the Customs Service so that, once the competent authority has intervened, an order can be given for them to be destroyed; the interested party shall be notified of the place, date and time of the said destruction so that the party can be present. Failure of the interested party to be present shall be taken as consent. The competent authorities shall participate in the destruction of the goods and must be notified in good time thereof.

Any costs incurred shall be borne by the consignee of the goods or the warehouse operator, as the case may be.

The consignee may request the permission of the Customs Service to take delivery of items in those shipments that are in good condition, and may route them as appropriate, in accordance with the decision of the competent authority.

Article 289. Activities during temporary storage. While the goods are in temporary storage they may be subject to the following actions by the interested party under the supervision of the Customs Authority:

- (a) Preliminary examination;
- (b) inspection, weighing, measuring or counting;
- (c) the placement of marks or signs to identify packages;
- (d) the taking of samples for analysis or examination;
- (e) division or repacking;
- (f) emptying or partial unloading;
- (g) destruction;
- (h) checking the operation of machinery or performing maintenance, provided their state or nature is not altered;
- (i) care of live animals;
- (j) steps to preserve perishable goods; and
- (k) those necessitated by unforeseen circumstances or *force majeure*.

Article 290. Liability. Persons who have obtained authorization to provide temporary goods storage services shall be directly liable to the Customs Service for the amount of taxes payable on goods that are lost or damaged during storage for reasons attributable to the warehouse operator.

TITLE V
CUSTOMS CLEARANCE
CHAPTER I
PRELIMINARY PROCEDURES
SECTION I
ADVANCE RULINGS

Article 291. Definitions. For the purpose of this Section, the following definitions shall be used:

Competent authority for issuing advance rulings, which may be abbreviated as "competent authority": Customs Service and competent authority for the administration of treaties of each State Party, acting jointly or separately.

Full identification: Includes the full name of the applicant, whether a natural or legal person; the identity document number if it is a natural person or the corresponding registration number if it is a legal person; the name and tax registration number of the parent company if it is a branch, and the importer registration number if applicable.

Article 292. Capacity and representation. Any importer, producer or exporter, whether a natural or legal person, has the capacity to request an advance ruling from the competent authority.

The importers, producers or exporters, may submit their requests in person or be represented by duly accredited proxies or legal representatives.

Any party with a legitimate interest in the issue of an advance ruling may adhere to the respective application, without altering any of the elements presented by the applicant. To do so, the party shall state that interest in writing. In such a case the applications will be grouped together and a single advance ruling issued.

Article 293. Requirements and form of the application. Requests for the issue of an advance ruling must be submitted in writing to the competent authority, must concern just one of the matters envisaged in Article 72 of the Code and contain the following:

- (a) Full identification and domicile of the applicant(s);
- (b) full identification and domicile of the legal representative of the applicant(s), if applicable;
- (c) an indication of the type of advance ruling being sought;
- (d) address or channels for receiving notifications relating to the application;
- (e) a statement that the goods whose importation could be affected by the advance ruling have not been imported;
- (f) affirmation under oath of the veracity of the information provided. The oath is deemed to have been taken with the signing and submission of the relevant application; and

- (g) an accurate and detailed description of the goods covered by the application as well as any other information necessary for the advance ruling to be issued and for the application.

The applicant shall submit the above information in physical or electronic form and may add any information or clarification he may deem relevant. Where appropriate, the applicant shall be required to keep the electronic confirmation of receipt as proof of the date of filing of the application.

Article 294. Documents to be submitted with the application. The following must be submitted with the application:

- (a) A copy of identity document of the applicant when it is a natural person or proof of the existence of the applicant when it is a legal person;
- (b) proof of legal representation, mandate or power, as applicable; and
- (c) other documents requested by the Customs Service depending on the kind of ruling being applied for.

Article 295. Timing. No advance ruling may be requested in respect of goods already imported, for which the clearance process has begun, or which are in the process of being verified or challenged.

Article 296. Truthfulness of the information. Should the applicant supply false or inaccurate information or omit circumstances or facts of relevance to the adoption of the advance ruling, or fail to act in accordance with the terms and conditions of the advance ruling issued, the competent authority may cancel, modify or revoke the ruling and apply the appropriate sanctions including civil, criminal and administrative actions.

Article 297. Express withdrawal. The applicant may withdraw his application at any time and shall accordingly inform the competent authority. However, should the competent authority deem it necessary to rule on the application, it may issue a general ruling that clarifies the subject-matter of the withdrawn request.

Article 298. Tacit withdrawal. The applicant shall be deemed to have withdrawn the application when, having been requested by the competent authority to complete requirements or attach documents or submit the information mentioned in the preceding articles, the applicant fails to respond within the period stipulated in Article 300 of these Regulations, whether to furnish the information or documents or to demonstrate the impossibility of obtaining them, or show their irrelevance. In such a case the application will be filed away, without precluding a new request from the applicant at a later date.

Article 299. Issuance of advance rulings. In each case the competent authority shall have a maximum of 150 calendar days as from receipt of the application in which to issue the advance ruling, provided that the applicant has provided all information required by the competent authority, including a sample of the goods for which an advance ruling is being sought, should the authority request it.

Article 300. Incomplete applications. When the application is not accompanied by the documents or information necessary for the advance ruling to be issued, the competent authority shall request the submission of those that are lacking. The applicant shall submit them within the ten days following the receipt of the request from the competent authority; this period may be extended at the request of the interested party.

Article 301. Consistency of criteria. In issuing the advance ruling, the competent authority shall maintain the same criteria used to interpret and apply the relevant legal provisions in advance rulings previously issued to other applicants, provided that the facts and circumstances are identical in all material respects. When the criteria must be changed, the competent authority shall explain the reasons for the change in the advance ruling.

Article 302. Administrative responsibility. The expiry of the period for the issuance of the advance ruling pursuant to Article 299 of these Regulations neither absolves officers from responsibility nor relieves them of the obligation to settle the application, provided that the import operation to which it relates has not taken place.

Article 303. Features of rulings. Advance rulings must be issued in writing and must fully cover the subject-matter submitted by the applicant as well as any other information deemed relevant by the competent authority.

Article 304. Content of rulings. Advance rulings must consist at least of the following parts:

- (a) A header clearly indicating the authority responsible for issuing it;
- (b) the factual and legal basis on which it was issued;
- (c) an evaluation of the information attached to the application;
- (d) an exact description of the goods and, if appropriate, a reference to the samples, photographs, plans, drawings or relevant detailed descriptions submitted with the application;
- (e) a description of the operations and measures to be carried out or conditions to be met at the time of entry of the goods, when the subject-matter of the application so warrants;
- (f) a description of the industrial process and operations undergone by the goods before entering the customs territory of importation, when the subject-matter of the application so warrants;
- (g) a statement on the subject-matter of the application; and
- (h) the effective date.

Article 305. Notification. The applicant shall be notified of advance rulings in accordance with the information provided in the application.

Article 306. Appeals. Customs-related complaints and appeals filed against advance rulings issued by the Customs Authority as the competent authority shall be governed by the provisions of the relevant chapter in these Regulations.

In the case of advance rulings issued by the authority in each State Party responsible for the administration of treaties, the appeals shall be those that are applicable for that body.

Article 307. Validity. Advance rulings shall apply as of the date of their notification or as of a later date specified in the ruling itself, provided that the facts and circumstances assessed in it are still extant.

Article 308. Cancellation, amendment or revocation. Final advance rulings may be cancelled, modified or revoked by the issuing authorities, either ex officio or at the request of the applicant, when one of the following situations arises:

- (a) The competent authority becomes aware that the resolution was issued on the basis of false or inaccurate information. In these cases the cancellation shall be effective as from the date on which the ruling was issued;
- (b) the competent authority deems it fitting to apply different criteria to the same facts and circumstances covered by the initial advance ruling. In this event, the modification or revocation shall apply as of the date of the change and in no case may be invoked in connection with situations that arose while the ruling was in force; or
- (c) when the decision must be amended owing to changes to the rules that served as its basis. In this event, the amendment shall apply only as of the date of the changes to the said rules and in no case may be invoked in connection with situations that arose while the ruling was in force.

In the cases foreseen in subparagraphs (b) and (c), the competent authority shall make the revised information available to the interested persons sufficiently in advance of the effective date of the amendments so that those persons can take them into account, except when it is impossible to publish the information in advance.

Article 309. Publication of rulings. The competent authority shall publish final advance rulings on its website.

To preserve confidentiality in accordance with the provisions of the domestic laws of each State Party, the competent authority shall keep confidential the information furnished by the applicant.

Final advance rulings must also be circulated to all customs offices, starting with the one where the goods will be declared.

Article 310. Binding nature of advance rulings. Advance rulings are binding on individuals and the competent authority when presented in connection with any imports that match the facts and circumstances that gave rise to their issuance.

SECTION II

PRELIMINARY EXAMINATION

Article 311. Preliminary examination. For the purposes of Article 74 of the Code, the person making the declaration or his representative shall be entitled to conduct a preliminary examination of goods about to be cleared.

The bonded warehouse operator shall be required to make the necessary facilities available to consignee for the conduct of the preliminary examination of the goods.

Article 312. Conduct of the preliminary examination. No acts that modify or alter the nature and quantity of the goods shall be permitted during the preliminary examination. When a preliminary examination has taken place, the goods declaration shall indicate this.

The bonded warehouse operator must take the relevant protective and custodial measures during the conduct of the preliminary examination.

In the case of goods located in premises under the custody of the Customs Authority, the application must be submitted to this authority, and must state the intention to inspect the goods physically.

A report on the preliminary examination shall be drawn up and signed by the person who carried it out and by the representative of the bonded warehouse operator; the said report shall remain in the custody of the bonded warehouse operator.

Article 313. Discrepancies during the preliminary examination. If discrepancies are found with respect to the supporting documentation during the preliminary examination, the designated Customs Authority or the representative of the bonded warehouse operator shall verify the fact and state it in a report for immediate transmission to the Customs Authority. A copy of that report may be attached to the relevant customs declaration.

SECTION III

CORRECTION OF TRANSPORT DOCUMENTS

Article 314. Correction of transport documents. The information in transport documents may be corrected by means of a letter issued by the carrier at the point of shipment or by the shipper's agent or representative in the State Party, as the case may be. Such corrections must be made before the goods are cleared.

SECTION IV

TAKING OF SAMPLES

Article 315. Taking of samples. The customs office overseeing the goods may take or authorize the taking of samples from the goods before clearance, whether ex officio or at the request of the interested party. When the customs office acts ex officio it shall be required to notify the consignee or his representative beforehand. The taking of samples shall not affect the nature of the goods and shall be subject to the procedure prescribed in Article 344 of these Regulations.

Should a physical or chemical analysis of the sample be requested, the cost shall be borne by the interested party. If the analysis is ordered by the Customs Authority or any other government authority, it shall be at no cost to the consignee or his representative.

SECTION V

INTELLECTUAL PROPERTY

Article 316. Border measures in respect of intellectual property. The Customs Services of States Parties shall be empowered to apply border measures in respect of intellectual property in the case of goods that may be infringing intellectual property rights, pursuant to the provisions of the applicable laws.

Border measures shall mean those applied by the Customs Authority with a view to the due observance and protection of industrial property rights, copyrights and neighbouring rights.

The customs authorities shall apply border measures based on rulings by the competent authority or ex officio when appropriate, and upon a duly substantiated complaint filed by the owner of the right, subject to the posting of a security to indemnify the consignee of the goods for possible damages.

As a precaution, the Customs Authority may retain the goods and prevent their clearance. It shall then notify to owner of the intellectual property rights that are presumably being violated so that the owner may launch the corresponding legal actions. If this is not done, the Customs Authority may then authorize the clearance of the goods, unless there is reasonable presumption of a crime, in which case it shall report the matter to the competent authority.

If ordered by the competent authority, the Customs Authority may proceed to destroy the goods that are infringing protected intellectual property rights, when appropriate.

CHAPTER II

COMMON PROVISIONS FOR THE CUSTOMS CLEARANCE OF GOODS

SECTION I

THE GOODS DECLARATION

Article 317. Goods declaration. To be assigned to a customs regime, all goods must be covered by a goods declaration. The obligation to declare also covers duty-free goods and those enjoying any form of tax exemption or exoneration.

The provisions of the preceding paragraph shall not prevent the application of prohibitions or restrictions warranted by considerations of public order, morality and public safety, the protection of health, the environment, human life, the fauna and flora, the protection of the national artistic, historical or archaeological heritage or of intellectual property.

Article 318. Form and medium for presenting the goods declaration. The goods declaration shall be submitted via electronic transmission or using the forms or formats authorized by the Customs Service, after completion of the customs formalities and the advance electronic payment of the duties and taxes, where appropriate.

Simplified declarations may be submitted when the nature of the regime so permits, in which case the Customs Service shall specify the information that they must contain at a minimum.

The use of computerized media and electronic channels for the exchange of information shall be entirely valid for the formulation, transmission, recording and filing of the goods declaration, the related information and the documents that must be attached to it.

Article 319. Conditions for the submission of the goods declaration. For the purposes of submitting the goods declaration, the following conditions, *inter alia*, must be fulfilled:

- (a) It must be related to a single customs regime;
- (b) it must be done on behalf of the persons with the right to dispose of the goods, subject to any legal exceptions;
- (c) the goods must be stored in a single warehouse or at a single location;

- (d) the landed goods must be shown in the respective cargo manifest, even if they are covered by one or more transport documents, subject to any legal exceptions; and
- (e) any other legally established conditions.

Article 320. Content of the goods declaration. Depending on the customs regime involved, the goods declaration shall contain, *inter alia*, the following information:

- (a) Identification and tax registration of the declarant;
- (b) identification of the customs agent or of the special customs attorney, when appropriate;
- (c) the identification code of the carrier and of the means of transport;
- (d) the customs regime being requested;
- (e) the country of origin and provenance; and if applicable, the country of destination of the goods;
- (f) the cargo manifest number, if appropriate;
- (g) the characteristics of the packages, such as quantity and class;
- (h) the gross weight of the goods in kilogrammes;
- (i) the tariff code and commercial description of the goods;
- (j) the customs value of goods; and
- (k) the amount of the customs tax obligation, where appropriate.

In the case of goods that can be identified individually, the serial numbers, make, model, or, failing that, the technical or commercial specifications must be declared.

Article 321. Documents supporting the goods declaration. Depending on the customs regime involved, the goods declaration must be supported, *inter alia*, by the following documents:

- (a) A commercial invoice in case of an international purchase and sale transaction, or an equivalent document in other cases;
- (b) transport documents, such as the bill of lading, consignment note, airway bill or some other equivalent document;
- (c) the declaration of the customs value of the goods, if applicable;
- (d) the certificate of origin of the goods, when appropriate;
- (e) licences, permits, certificates or other documents relating to compliance with the restrictions and non-tariff regulations to which the goods are subject, and any other authorizations;

- (f) securities that may be required owing to the nature of the goods and the customs regime for which they are intended; and
- (g) the document covering the exemption or exoneration if applicable.

The originals of the aforementioned documents must be attached to the goods declaration subject to the exceptions set down in these Regulations, or they may be transmitted electronically to the Customs Service's computer system, in which case they shall have the same legal effect as those in hard copy.

In the case of definitive imports and when the Customs Service so requests, the export or re-export declaration or equivalent document from the exporting country must be attached to the goods declaration, as stipulated by that Service.

Article 322. Documents for partial withdrawals. When a transport document covers goods intended for two or more regimes, the number of the goods declaration containing the original documents that covered the clearance must be indicated. For this purpose, the Customs Services may allow the use of photocopies certified by the Customs Authority.

The use of photocopies of the supporting documents certified by the Customs Authority shall also be permitted when partial shipments need to be made.

In both cases the consignee must be the same, and the goods declarations using photocopies must show the number of the goods declaration to which the original supporting documents are attached.

Article 323. Commercial invoice. The Customs Service may decide that the commercial invoice should be in Spanish or that the corresponding translation should be attached. The commercial invoice must contain at least the following information:

- (a) Name and domicile of the seller;
- (b) place and date of issue;
- (c) name and domicile of the buyer of the goods;
- (d) a detailed description of the goods, by make, model or style;
- (e) quantity of the goods;
- (f) unit and total value of the goods; and
- (g) the terms agreed with the seller.

When the commercial description of the goods given in the commercial invoice comes in coded form, the importer shall be required to attach to the invoice a duly decoded statement of the information.

Article 324. Content of the transport document. The transport document shall contain at least the following information:

- (a) An indication of the means of transport (air, land, sea) and the name of the vehicle in the case of maritime traffic and the flight number in case of air traffic;

- (b) the name, business name or denomination of the shipper, the carrier and the consignee, as appropriate;
- (c) the port of loading or shipment and of unloading;
- (d) class and quantity of packages;
- (e) a generic description of their content;
- (f) gross weight in kg;
- (g) value of the contracted freight and other charges;
- (h) number of the bill of lading enabling it to be processed individually; and
- (i) the place and date of issue of the document.

Article 325. Transmission of the transport document. The bill of lading, the airway bill and the consignment note shall constitute the document of title to the goods and shall be subject to the regulations on securities in force in States Parties. When being transmitted in full, it must be done by endorsement. Where the transmission is partial, it shall be done by assignment of rights in the cases and on the terms stipulated by the higher authority of the Customs Service.

Article 326. Inadmissibility of the declaration. If the goods declaration contains inconsistencies or errors, or if in general the requirements for the application of the requested regime have not been fulfilled, the goods declaration will be rejected and returned to the declarant for correction and re-submission, by the same electronic channels or any other authorized means, as the case may be.

Amongst others, the grounds for non-acceptance of the goods declaration may be the following:

- (a) There is a discrepancy between the inventory or record of goods entered in the computer system of the Customs Service and the requested clearance;
- (b) not all the available spaces in the goods declaration have been filled out, when it is mandatory to do so under the regime or modality being requested;
- (c) there is an inconsistency in the information transmitted electronically, between the data contained in the declaration itself or between those data and the information registered;
- (d) when there are discrepancies between the information contained in the goods declaration and that shown in its supporting documents;
- (e) when not all the requisite documents are provided or transmitted electronically in keeping with the nature of the regime involved;
- (f) the applicable taxes have not been paid or guaranteed, where required; and
- (g) any others determined by the Customs Service.

When it is determined that the electronic transmission of the goods declaration was done making undue use of a code to access the Customs Service's computer system, the acceptance of the declaration shall be cancelled and the corresponding liabilities deduced.

Article 327. Dispatches with partial or staggered unloading. For shipments involving goods which, owing to their nature, cannot be transported by a single means of transport, the merchandise may be dispatched with a single goods declaration in the following cases:

- (a) Operations carried out by rail;
- (b) knocked-down machinery or entire production lines or prefabricated structures that have been disassembled;
- (c) bulk goods of the same type;
- (d) sheet metal and rolled wire;
- (e) reels of paper; and
- (f) shipments of goods of the same quality and, if applicable, make and model, provided that they are classified under the same tariff heading. The provisions of this subparagraph shall not apply when the goods can be identified individually by their serial number.

In these cases, the goods declaration must be submitted when the goods contained in the first means of transport are being shipped, and must indicate the total number of vehicles in which the partial or staggered shipments associated with the aforementioned declaration will take place. For subsequent dispatches, a record shall be kept of partial or staggered unloading, which will indicate the corresponding batch number and contain a report on or copy of the goods declaration covering the shipment and shall be subject to the risk analysis system.

Article 328. Minimum information for partial or staggered unloading. For cases in which the partial or staggered unloading process is used, the following minimum data must be submitted:

- (a) The number of the goods declaration concerned;
- (b) the corresponding batch;
- (c) the consignee of the goods;
- (d) a description of goods; and
- (e) gross weight in kg.

Article 329. Invoice for different shipments or partial dispatches. When the commercial invoice covers two or more shipments that are entering on different dates, the subsequent goods declarations must be accompanied by a copy of the invoice certified by the Customs Authority, unless this control is performed via the computer system.

Article 330. Advance declaration. For the purposes of the Article 80 of the Code, the goods declaration may be submitted prior to the arrival of the goods, when they are intended for the following regimes:

- (a) Definitive import and its modalities;
- (b) temporary importation and re-exportation in the same state;
- (c) temporary admission for inward processing;

- (d) free zones;
- (e) re-import, including goods that are re-imported under the regimes involving temporary export and re-importation in the same state and temporary export for outward processing; and
- (f) any others determined by the Customs Service.

Goods admitted under consolidated transport documents may not be subject to advance declaration. Likewise, the higher authority of the Customs Service may determine other goods that shall not be subject to advance declaration, in the light of the physical infrastructure and technological facilities needed to process these declarations and perform proper controls.

Article 331. Provisional declaration. The goods declaration may be authorized provisionally by the Customs Service in the case of bulk goods shipments and others that may be determined by the higher authority of the Customs Service.

Article 332. Formalities for the provisional declaration. For the purposes of the preceding article, all the cargo shown on the manifest must be declared and the duties duly paid, or, if applicable, guaranteed when the higher authority of the Customs Service so authorizes, even though the goods may still be required to undergo immediate verification. The goods may be released by means of partial withdrawals, which must be notified electronically and validated in the computer system.

The definitive declaration shall be submitted within the five days following to the completion of the loading or unloading of the goods covered by the declaration, except when there are time-limits stipulated by specific regulations. In the case of other goods, the deadline shall be 15 days as from the date of authorization of the provisional declaration. The Customs Services may set a different deadline for goods imported by State institutions.

Article 333. Procedure for correcting the declaration. Whenever the declarant has reason to believe that a declaration contains incorrect information or omissions, he shall immediately file a request for rectification. If the request for rectification is admissible, the declarant shall be required to transmit the corrected goods declaration and, if appropriate, attach to it the voucher confirming payment of the duties plus the corresponding interest when applicable.

If notice of the start of an audit procedure has been served at the time of submission of the request for correction, the said request shall automatically form part of the procedure, provided that it is still ongoing. For this purpose, the auditee shall inform the officers concerned of the existence of the request, which will be considered for the final settlement of the customs tax liability. At all events, the request for rectification will be settled when the audit procedure is concluded.

Auditees may correct goods declarations, taking the following into account:

- (a) The request for correction shall be subject to approval by the Customs Authority.
- (b) In cases of assessment by the Customs Authority, the auditee may rectify the goods declaration following notification of the conclusion of the audit procedure and pending the final ruling that assesses the tax obligation.
- (c) The correction of the goods declaration may furthermore include any item or element that affects the tax base used for the assessment.

The submission of the request or the corrected goods declaration shall not prevent the execution of the corresponding audits or the determination of any liabilities.

SECTION II

CUSTOMS CLEARANCE OF GOODS

Article 334. Acceptance the goods declaration. The goods declaration shall be deemed accepted once it is validated and recorded in the computer system of the Customs Service or another authorized medium.

Article 335. Risk analysis methodology. The goods declaration accepted by the Customs Service shall be made subject to the risk analysis system within the time-frame set by the Customs Service, with a view to determining the appropriateness of an immediate verification of the declared information.

When the risk analysis determines the appropriateness of an immediate verification of what has been declared, the customs agent, or the declarant or the special customs attorney shall submit to the Customs Service the documents supporting the goods declaration.

Those documents shall be submitted within the time-frame set by the Customs Service.

Article 336. Immediate verification. Immediate verification may consist of a review of documents or a documentary and physical examination for the purpose of verifying the exact fulfilment of customs obligations.

Documentary verification shall consist of an analysis by the Customs Authority of the information declared and a comparison with the documents supporting the declaration and other information requested of the declarant or his representative, and contained in the archives or database of the Customs Service.

The physical and documentary examination is the act whereby the Customs Authority verifies, physically and based on the documentation, compliance with respect to such determinants of the customs tax obligation as nature, origin, provenance, weight, tariff classification, state, quantity, value and other identifying characteristics or conditions.

The physical and documentary examination may be total or partial, based on the general guidelines or criteria issued by the Customs Service, and must take place within the 24 hours following the time when the goods are made available to the customs officer appointed for that task, unless the Customs Authority requests a longer time-frame according to the characteristics and nature of the goods.

Article 337. Making the goods available. The declarant shall make the goods available to the appointed customs officer so that he may conduct the physical inspection within the time-limit set by the Customs Service; it shall be incumbent on the declarant to open and group the packages and to undertake any other operations necessary to facilitate their inspection.

Article 338. Handling at the expense of the declarant. When the goods to be inspected call for measures including technical or specialized ones for handling, moving or inspecting them, the Customs Authority shall request the declarant or his representative to place personnel at its disposal within a period of 48 hours counted as from the time the request is made. Should the declarant or his representative fail to do so, the Customs Authority is empowered to hire the relevant services at the expense and risk of the declarant.

The declarant or his representative shall also be required, within the same time-limit, to provide the Customs Authority when required with technical reports allowing for the full identification of the goods, such as catalogues, industrial designs, plans, brochures and others.

Article 339. Verification without the presence of the declarant or his representative. The Customs Authority shall proceed ex officio with the verification and review of the customs tax liability assessment on the basis of the available information and without prejudice to appropriate penalties or complaints against the responsible auxiliaries and the declarant, when immediate inspection cannot be carried out within the time-limits stipulated in Article 336 of these Regulations, because the interested parties:

- (a) Fail to present the documents requested by Customs in support of the electronically transmitted declaration;
- (b) fail to present other information requested of the declarant or the customs agent;
- (c) have not provided facilities to the customs official or fulfilled technical requirements for the physical inspection of the goods, in accordance with the applicable statutory provisions; or
- (d) are the subject of a complaint received by the Customs Authority or another competent authority.

Article 340. Effects of the physical inspection. When the physical inspection involves only some of the goods covered by a single declaration, the results of the inspection shall also be applied to the other goods in the same tariff category.

Article 341. Taking of samples in verifying the goods. In the process of immediate verification the Customs Authority may take samples in accordance with the conditions and procedures prescribed in these Regulations. For all legal purposes, samples taken shall constitute a certified samples.

Article 342. Return of samples. Samples shall be returned to the interested party in an unimpaired state, except where they are entirely used up or destroyed as a result of the analysis. The Customs Authority shall keep the sample in its possession for the time needed to conduct the analysis.

Article 343. Tax obligation in the event of destruction of samples. If the taxes have not been paid, the value of the sample destroyed during the analysis shall be deducted from the tax base of the resulting customs tax obligation, unless the destruction is attributable to the interested party.

If the relevant taxes have been paid on samples that are used up, rendered useless or destroyed during the process of analysis, the declarant or his representative shall be notified so that an application can be filed for a refund of the taxes concerned.

Article 344. Sampling procedure. When samples are taken during the verification process, a record shall be drawn up containing the names of those present, the place, date and time, a detailed description of the samples, the packaging used to protect them and any other circumstance that has affected the process, which must be recorded in the computer system.

This procedure shall not prevent release of the goods, except where the possible commission of a customs tax or criminal offence is detected, in which case the relevant proceedings shall be initiated immediately.

When the result of the analysis has been finalized, the interested party shall be notified that the samples are at his disposal and that if they not recovered within a period of one month as from the notification, they shall be deemed surrendered.

Article 345. Delivery of samples. The Customs Service shall send the samples to the place where the analysis is to be undertaken by the fastest means available to it, except when the samples are taken, as the case may be, by the customs laboratory staff, another laboratory recognized by the Customs Service or a particular customs office, in which case this fact must be placed on record.

Laboratories and customs offices that receive samples shall make the necessary records and controls to identify the officers responsible for keeping or handling them in any way.

If instances of theft or improper handling are determined to have occurred, the administrative or judicial procedures shall be initiated to establish the corresponding liabilities.

Article 346. Non-requirement of samples. No samples shall be needed to determine the customs value of goods when they are fully identifiable by means of their make, model, series or manufacturer's catalogue, technical specifications or any other documents based on which they can be valued.

Article 347. Place of the inspection. The physical inspection of the goods shall take place at the facilities or locations authorized for the purpose by the Customs Authority.

Authorization may be given for the inspection to be done at other facilities in the special cases contemplated in Article 258 of these Regulations.

Article 348. Presence of the declarant or his representative during the physical inspection. The declarant or his representative are entitled to witness the physical inspection of the goods.

Should the declarant or his representative not attend, the procedure stipulated in Article 339 of these Regulations shall be followed.

Without prejudice to the provisions of the preceding paragraph, the Customs Authority may require the mandatory presence of the declarant or his representative during the physical examination, so that he may furnish any information needed for the purposes of the inspection.

Once the immediate verification has begun, the appointed customs officer is responsible for its completion. Should the aforementioned officer be unable to complete the immediate verification, the respective Customs Authority shall appoint another officer to carry out the operation, and shall make a note of this change in the corresponding record or report.

Article 349. Results of the immediate verification. When there is conformity between what is declared and the outcome of the immediate verification, the release of the goods shall be permitted.

When the results of the immediate verification reveal discrepancies as to tariff classification, value, quantity, origin of goods or any other information supplied by the declarant or his representative with respect to the fulfilment of customs obligations, the Customs Authority shall undertake the relevant corrections and adjustments to the goods declaration and, if appropriate, shall launch administrative and judicial proceedings to determine the corresponding actions and liabilities, unless the Customs Services regulate the handling of the above-mentioned discrepancies in some other manner.

Without prejudice to the corresponding administrative procedure, the Customs Service may authorize the release of the goods upon the posting of a security that covers the duties and taxes, fines and surcharges that may be applicable.

Article 350. Authorization of the release. The Customs Service shall authorize the release of the goods in the following cases:

- (a) When no immediate verification is required upon submission of the goods declaration;
- (b) if the immediate verification reveals no discrepancies with the goods declaration or any failure to comply with formalities required for the authorization of the regime requested; or
- (c) when the immediate verification has revealed discrepancies with the goods declaration and they are rectified, the adjustments and fines are paid, or if appropriate, the corresponding security is posted when so required by the Customs Authority.

Release shall not be authorized in the case foreseen in letter (c) of the preceding paragraph if the goods are to be the subject of administrative or judicial seizure in accordance with the law.

Article 351. Authorization of release subject to security. The declarant or his representative shall apply to the Customs Authority for authorization of release subject to a security, pursuant to Article 350(c) of these Regulations.

The Customs Authority or the competent body, where appropriate, shall enforce the security ex officio, when a final assessment is made of the taxes due and they are not paid within the relevant legal time-limit.

The Customs Services shall decide on other ways of authorizing release subject to the posting of a security.

At all events, authorization of release subject to security shall not be granted when that authorization entails derogation from non-tariff restrictions and regulations.

Article 352. Security. When the release of the goods is authorized before a security is posted, the security shall be provided in the manner and under the terms stipulated in Articles 52 and 53 of the Code.

Article 353. Dangerous and perishable goods. Priority shall be given to shipments of dangerous goods such as explosive, flammable, corrosive, polluting and radioactive goods, as well as, perishable or easily decomposable goods and any others that in the judgement of the Customs Authority so warrant.

Article 354. Bulk goods. In the case of bulk goods imports, when the total weight or volume shows a surplus of up to five per cent of the figures shown in the goods declaration, no administrative penalty shall apply and payment of the respective customs duties shall be requested by means of the rectification of the relevant goods declaration, which may be submitted after the exit of the goods from the customs facility.

When the total weight or volume of the goods shows a shortfall of up to 5 per cent, a record shall be made of the shortfall at the request of the interested party.

Article 355. Conservation of documents. When the risk analysis system authorizes automatic release or release without immediate verification of the goods, the declaration and its supporting documents must be archived by the declarant, as appropriate. In such a case he must keep the documentation available to the Customs Authority for the period prescribed in Article 87 of the Code.

When the risk analysis system determines the need for an immediate verification of what has been declared, the goods declaration and its supporting documents shall be archived by the Customs Service, when it so decides.

The Customs Service shall keep the documents that have been transmitted and received electronically and which support the goods declaration, in accordance with the penultimate paragraph of Article 321 of these Regulations.

Article 356. Declarations in which the value is not determined by the declarant. The customs duty payable shall be determined by the customs officers in the following cases:

- (a) The import of merchandise other than luggage by travellers;
- (b) relief consignments;
- (c) non-commercial postal communications;
- (d) small non-commercial consignments; and
- (e) other cases laid down in these Regulations or indicated by the Customs Service.

TITLE VI

CUSTOMS REGIMES

CHAPTER I

GENERAL PROVISIONS

Article 357. Assignment to a customs regime. All goods entering or leaving the customs territory must be made subject to one of the regimes indicated in Article 91 of the Code and must comply with the formalities and procedures prescribed by law.

Article 358. Declaration of goods of Central American origin. Goods originating in States Parties shall be declared using the Central American Uniform Customs Form and transmitted electronically, under the terms and conditions prescribed in the applicable regional regulations.

Article 359. Goods benefiting under trade agreements. Goods accorded preferential tariff treatment under trade agreements shall be recorded in the goods declaration, to which the certificate of origin must be attached, in accordance with those agreements.

Goods accorded preferential tariff treatment under trade agreements may be included in the declaration for goods not accorded such treatment, provided that the certificate of origin is attached thereto.

Article 360. Security devices and identification. The Customs Service shall take appropriate steps to identify goods when this is necessary to ensure fulfilment of the conditions attached to the customs regime for which the goods are declared.

The security devices placed on the goods or on the means of transport may only be removed or destroyed by the Customs Authority or with its permission, except in cases of unforeseen circumstances or *force majeure* duly verified to satisfaction of the Customs Service.

CHAPTER II

DEFINITIVE IMPORT

Article 361. Conditions for the application of the regime. The application of the definitive import regime shall be conditional on the payment of duties and taxes where applicable and the fulfilment of any non-tax customs obligations.

Article 362. Content of the goods declaration under the regime. In addition to the elements stipulated in Article 320 of these Regulations, the goods declaration for the definitive import regime shall contain the following:

- (a) Information regarding the port of shipment or loading and the means of transport used;
- (b) the amount of the customs tax obligation, other applicable charges, exchange rate, and exemptions and tariff preferences applied, as well as payments made or securities posted, if applicable;
- (c) identification of the documents required under the regime;

- (d) the cost of insurance and freight and the amount declared on the invoice; and
- (e) the transport document number.

Article 363. Acceptance and verification of the goods declaration. The import goods declaration shall be deemed accepted at the time stipulated in the Article 83 of the Code and Article 334 of these Regulations.

Once the goods declaration is accepted and where applicable, the customs duties are paid, the risk analysis system will be used to determine whether immediate verification is required or the release of the goods may be authorized.

Article 364. Replacement of goods. The replacement of goods, which is governed by Article 88 of the Code, must be authorized by the Customs Service, where appropriate.

The application for replacement must be submitted within a period of one month following the release of the imported goods, and must provide the following information:

- (a) Specification of any hidden defects exhibited by the goods or an indication of the reasons why they are deemed not to satisfy the terms of the relevant contract, as the case may be;
- (b) a detailed description of the imported goods and of the goods that will replace them;
- (c) a declaration by the foreign supplier attesting to the commercial replacement operation or acknowledging non-fulfilment of the contract in question;
- (d) a certified copy of the relevant contract, in the event that the reason for the non-fulfilment of the contract is given; and
- (e) the arguments, documents, expert reports and technical specifications required to provide evidence of hidden defects in the goods.

Article 365. Conditions for replacement. The replacement of the goods shall be authorized when the following conditions are met:

- (a) When the application for the replacement has been filed by the declarant or his representative within the time-frame stipulated in the preceding Article;
- (b) the goods to be replaced can be fully identified and individually classified by means of numbers, series, models or similar means;
- (c) the goods to be replaced are of the same quantity and in the same state as when they were imported;
- (d) when the definitive import declaration allows for confirmation that the goods declared are the same ones being presented for replacement; and
- (e) others set by the Customs Service.

The definitive exportation of the goods to be replaced shall not entitle the declarant to the tax benefits accorded in connection with this operation.

Article 366. Authorization procedure. Upon receipt of the application for the replacement of goods, the Customs Service shall verify that it meets the requirements and conditions laid down in Articles 364 and 365 of these Regulations and, if appropriate, shall authorize the definitive export of the goods for replacement; they must be accompanied by a copy of the authorization granted as well as a copy of the customs import declaration originally submitted. Before granting the authorization, the Customs Service may order any tests or inspections deemed appropriate.

Article 367. Rejection of the application. The Customs Service shall not approve the application when it fails to fulfil the requirements and conditions prescribed in Articles 364 and 365 of these Regulations.

Article 368. Effects of replacement. If the application for authorization of replacement is admissible, the Customs Service shall issue a ruling revoking the declaration covering the goods to be replaced and shall offset the duties and taxes paid on them against the goods declaration covering the replacement goods, which must be identical or similar goods of equal value. If this is not the case, the declarant shall pay the difference when a higher tax obligation is assessed or, if applicable, the importer may apply to the competent authority for a refund of the amounts paid in excess.

The following documentation must be submitted upon the return of the replacement goods: the customs declaration for the definitive import of the goods, to which must be attached a copy of the customs import declaration originally made, a copy of the definitive export declaration and a copy of the authorization granted by the Customs Service, together with the documents supporting the goods declaration pursuant to Article 321 of these Regulations. The preceding formalities may be executed by means of applications developed in the Customs Service IT system.

An authorization to replace goods shall not exempt the person submitting the declaration or his representative from liability for any customs offences committed.

In all cases, the goods shall be physically inspected by the Customs Authority.

Article 369. Final nature of the obligations arising from importation. The definitive exportation of goods that had been imported definitively into the customs territory of a State Party shall not entitle the importer to the reimbursement of the duties and taxes paid in connection with the importation, except in the cases foreseen in Article 88 of the Code and Article 368 of these Regulations.

CHAPTER III

DEFINITIVE EXPORT

Article 370. Declaration. In addition to the elements stipulated in Article 320 of these Regulations, the goods declaration for the definitive export regime shall contain, where applicable, the following:

- (a) The identity of the consignee;
- (b) an indication of the reference number of the goods declaration, customs office of departure and of control;
- (c) an indication of the port of shipment, if applicable;
- (d) the net weight of the goods;
- (e) the f.o.b. value declared in the invoice;

- (f) the cost of insurance and freight, if applicable; and
- (g) identification of the documents regarding compliance with non-tariff restrictions and regulations.

Article 371. Supporting documents. The goods declaration must be supported by the documents mentioned in Article 321 of these Regulations, except for those indicated in subparagraphs (c), (d), (f) and (g).

Article 372. Minimum requirements for export purposes. Prior to exportation, registered exporters must submit or electronically transmit the goods declaration with the minimum information prescribed by the Customs Service through administrative regulations, and it shall be processed via the risk analysis system.

The export process shall be completed by submitting the goods declaration and supplementary information within three days following the shipment of goods and confirming the payment of the tax difference, if any.

Article 373. Ex officio preparation of the export goods declaration. The States Parties may dispense with the submission of a goods declaration when the goods do not exceed an amount set by the Customs Service through administrative regulations and comply with the conditions laid down by it; in such a case the commercial invoice shall be accepted as documentation of the exit of the goods and the Customs Authority shall issue the export declaration ex officio, provided that compliance with non-tax obligations has been ascertained, where applicable.

Article 374. Acceptance and verification of the goods declaration. Once the goods declaration is accepted and where applicable, the customs duties are paid, the risk analysis systems will be used to determine whether immediate verification is required or the release of the goods may be authorized.

Article 375. Authorization of the release of goods. The release of goods shall be authorized when the risk analysis system has determined that they may be released without inspection, or if immediate verification has been done and no discrepancies have been found between the information declared and the information verified.

Release shall also be authorized when any discrepancies found have been rectified.

Article 376. Cumulative goods declaration. Registered regular exporters may, with the permission of the Customs Service and within the first five days of each month, submit a cumulative declaration of exports done via the same customs post during the previous calendar month, provided that they have a proven record of compliance with customs and tax regulations of at least five consecutive fiscal years. Once permission is granted, the cumulative export goods declaration must be submitted to the customs of departure along with the documentation for each transaction carried out.

Any exporter who fails to meet the deadline referred to in the first paragraph of this Article shall not continue to enjoy the facility envisaged in this Article.

Article 377. Procedure for the physical inspection of goods. If the physical inspection of goods is ordered, the Customs office shall immediately notify the declarant to that effect, and shall appoint the officer responsible for carrying out the inspection.

The appointed officer shall visit the authorized facilities and physically inspect the goods within a maximum of six hours from the time when the goods are made available to him. He shall be required to ascertain the number of packages, the net and gross weight of the goods, the state of the means of transport, to inspect the loading operation and verify the security devices on the means of transport, if appropriate.

If the findings of the physical examination tally with the information declared to the customs office, the officer shall immediately authorize the release of the goods, and shall inform the supervising customs office of the quantity of packages or merchandise loaded and the date and time of departure of the means of transport, as well as the particulars of the safety devices put in place, if appropriate.

Article 378. Discrepancies revealed by the physical inspection. If the physical inspection reveals discrepancies between the information declared and the information that should have been declared, the officer shall note this fact and report the matter to the customs office concerned. As part of the same procedure, the officer may implement measures to secure the merchandise if the discrepancies relate to the nature of the merchandise.

In such a case, the goods declaration shall be corrected and adjusted accordingly, and if appropriate, the Customs Service shall initiate administrative and judicial procedures to determine the corresponding actions and liabilities.

Discrepancies found shall not interrupt the dispatch of the goods, unless the nature of the offence is such that they must remain as evidence.

Article 379. Physical inspection at the exporter's premises. At the request of a regular exporter, the Customs Service may authorize the physical examination to be carried out on the exporter's premises, or at the processing or industrial plant where the goods are being packaged and loaded.

The Customs Service may decide that the service costs incurred in carrying out the inspection envisaged in this Article are to be borne by the requesting exporter based on rates determined by means of administrative regulations.

Article 380. Clearance without physical inspection. If no physical inspection is required, the exporter and the person in charge of the authorized facilities, as applicable, shall be responsible for supervising the packaging and loading of the goods on to the transport unit and shall notify the relevant customs office electronically of the quantity of packages or merchandise loaded, the date and time of departure of the vehicle and of the unit of transport and the particulars of the security devices put in place, if applicable.

Article 381. Communication from the corresponding customs office to the customs office of departure. If the goods are bound for a customs office other than the corresponding one, the latter shall transmit the export authorization to the customs office of departure together with information as to the time of departure of the means of transport and the safety devices put in place, if appropriate.

Without prejudice to the exercise of its powers of control and inspection, the Customs Authority, through the customs office of departure, shall limit itself to verifying information regarding the means of transport and the particulars of seals or stamps put in place, when appropriate.

Article 382. Authorization of regular exporters' facilities. The Customs Service may authorize the requesting exporter's facilities as a primary or customs operations zone, bearing in mind the needs of the regular exporter and the security conditions, infrastructure and human and logistical resources available to the said Service for carrying out the customs control at those facilities.

Article 383. Request for authorization. For the purposes of the preceding Article, the exporter shall submit the relevant request to the Customs Service together with the following information:

- (a) Name, business name or company name and other general particulars of the exporter;
- (b) address and channels for receiving notifications concerning the request;
- (c) exact location of the facilities, expressly indicating those dedicated to the loading of goods for export;
- (d) details of exports during the two preceding years, providing the description, total f.o.b. value, weight or volume, unit of measure and tariff classification of the goods;
- (e) indication of any tax or export incentives that may be received; and
- (f) documents proving that the applicant conducts at least 12 export operations per year.

Article 384. Documents to be attached to the request. The following documents must be attached to the request:

- (a) In the case of legal persons, notarized or registered articles of association;
- (b) in the case of natural persons, a certified or authenticated copy of the identity document;
- (c) the original or a certified or authenticated copy of the document conferring the power of representation, if applicable;
- (d) certification issued by the competent authorities that the applicant is up to date with all tax obligations; and
- (e) certification by an authorized public accountant of the number and value of the exports made by the applicant in the preceding calendar year.

Article 385. Authorization procedure. Upon receipt of the request, the Customs Service shall verify compliance with the prescribed requirements and shall issue its decision to authorize or reject the application, as the case may be, within one month as from the time that a decision can be made on the dossier. If the request as submitted does not meet all the requirements, a period of ten days shall be granted for any rectifications needed. Should the applicant fail to meet the requirements within the given time-limit, the case shall be closed without further action.

Article 386. Prerequisites for approved facilities. The facilities must fulfil the following requirements:

- (a) Be located in places that offer adequate conditions for the loading of transport units, in accordance with the stipulations of the Customs Service;
- (b) be spacious enough and offer adequate conditions for the handling and loading of merchandise, in the view of the Customs Authority; and

- (c) any others arising from environmental and occupational safety standards and those established through administrative measures by the Customs Service to ensure the proper verification and inspection of means of transport and merchandise.

Article 387. Obligations. Authorized regular exporters shall be required to:

- (a) Submit annually to the Customs Service the financial statements for the preceding tax year;
- (b) submit annually to the Customs Service certification by an authorized public accountant of the number and value of the exports made by the exporter during the preceding year;
- (c) inform the Customs Service of changes to any tax or export incentives that may be received;
- (d) ensure the preventive and corrective maintenance of their approved facilities and keep at the disposal of the Customs Authority the staff and equipment needed for the inspection and verification of merchandise and customs declarations; and
- (e) keep copies of goods declarations under the export regime and the respective transport documents.

Failure to comply with the provisions of this Article shall entail the temporary loss of the benefits envisaged in this chapter until the obligations are met.

Article 388. Exceptions. The Customs Service may waive the application of this procedure to a given category of goods.

It may also suspend or cancel the application of this procedure to a regular exporter who fails to meet the statutory and regulatory requirements, without prejudice to the penalties that may apply.

Article 389. Supplementary provisions. Matters not covered in this Chapter shall be governed by the provisions in these Regulations on definitive importation, as applicable.

CHAPTER IV

CUSTOMS TRANSIT

SECTION I

VEHICLES AUTHORIZED FOR CUSTOMS TRANSIT

Article 390. Authorization of vehicles. Customs transit shall take place only via means of transport duly registered with the Customs Service. Means of transport registered in States Parties and used for customs transit may enter and circulate within the customs territory, subject to compliance with the requisite formalities. Upon leaving the customs territory via any customs post, such units may be used to transport cargo directly destined for export or re-export, and may not provide domestic goods transportation services. Vehicles registered in States Parties shall be governed by regional agreements and international treaties.

Article 391. Customs transit in non-sealable transport units. When goods transit is effected in transport units on which it is not possible to place safety devices, the customs authorities shall establish the necessary safety conditions for the customs transit, such as the inspection of goods, the taking of samples, requirement of the commercial goods invoice or the placement of seals or identification marks on each package, the use of tarpaulins, belts, special fasteners and other accessories to secure the merchandise.

SECTION II

DOMESTIC CUSTOMS TRANSIT

Article 392. Information to be contained in the goods declaration. In addition to the relevant information prescribed in Article 320 of these Regulations, the goods declaration for domestic transit must contain at least the following:

- (a) Particulars of the security devices;
- (b) Identification of the customs office and place of destination;
- (c) name of the consignee;
- (d) number and date of the transport document, which may be a separate bill of lading, air waybill or consignment note;
- (e) number and date of the commercial invoice(s) associated with the merchandise if it is an international transaction, or equivalent document in other cases;
- (f) value of the goods as per the commercial invoice if it is an international transaction, or an equivalent document in other cases;
- (g) date and signature of the declarant; and
- (h) any other information determined by the Customs Service.

Article 393. Documents supporting the goods declaration. The documents referred to in subparagraphs (a), (b) and (e) of Article 321 of these Regulations must be attached to the goods declaration for domestic transit, and copies may be used in the case of the first two subparagraphs. The document referred to in subparagraph (f) of the same article must be furnished when so decided by the Customs Service.

The movement of each transport unit must be covered by a goods declaration for transit or a simplified document, and the supporting documents shall be filed by the Customs Service when it so decides.

Article 394. Customs Authority procedures. Provided that the requirements of the customs transit regime are fulfilled, the customs authorities shall monitor the status of the safety devices and other control measures at the points where transit will begin. They will also monitor compliance with provisions on public safety, drug control, morality or public health, and others that they are required to enforce. The competent customs office shall set the time-frame in which transit must take place.

Article 395. Start of the time-frame. The time-frame for transit shall begin as from the time the authorization of departure for the means of transport is registered in the Customs Service IT system by the Customs Authority or the person in charge of the approved facilities.

Once permission has been granted for transit to begin, the carrier shall remove the means of transport from the customs premises forthwith.

Article 396. Time-frames and routes. The Customs Service shall determine the time-frames and routes for transit across the customs territory.

Article 397. Interruption of transit. In case of accidents or other circumstances arising during transit across the customs territory as a result of unforeseen circumstances or *force majeure*, the carrier must ensure that the goods are not being moved under unauthorized conditions, and therefore, in addition to the intervention of the competent authorities, shall immediately inform the nearest Customs Authority so that it may take the measures necessary for the security of the cargo.

Article 398. Inspection of the vehicle and the transport unit. Upon receipt of the transit declaration or simplified document, the Customs Authority shall proceed to inspect the means of transport and to verify whether the authorized security devices are in good condition and whether the transit time-frames have been respected.

In the absence of any irregularity, the Customs Authority or the person in charge of the bonded warehouse or other locations authorized for the purpose shall treat the means of transport as received.

Should there be any irregularity, the means of transport shall remain in the facilities of the customs office of destination, bonded warehouse or other locations authorized for the purpose, and may not be manipulated in any way. The customs office of destination shall order the immediate inspection of the means of transport and shall take the appropriate administrative action.

Article 399. Actions taken at the customs offices of destination and departure. The customs office of destination shall inform the customs office of departure electronically or otherwise of the arrival of the means of transport in transit, and of any irregularities observed upon reception. At all events, the customs office of destination shall be responsible for investigating the non-receipt of means of transport in transit and any other irregularities and for applying penalties, for which purpose the customs office of departure shall provide any assistance necessary. Should any non-compliance be found, the Customs Authority shall be empowered to request any necessary information from the customs carrier and other auxiliaries who took part in the transit operation and shall take the necessary administrative action.

The means of transport may not be used for domestic transit or goods transport until the arrival of the previous operation is completed or an explanation is given for the failure to observe the time-limit.

Article 400. Termination of the regime. The customs transit regime shall be terminated in the Customs Service IT system operated by the Customs Authority or the person in charge of the approved facilities upon completion of the delivery and receipt of the goods at the facilities of the customs office of destination, the bonded warehouse or other locations approved for the purpose, as the case may be.

Article 401. Supplementary provisions. Matters not covered in this Section shall be governed, as applicable, by the provisions on international customs transit contained in the Regulations on International Customs Overland Transit, Declaration Form and Instructions.

SECTION III

INTERNATIONAL CUSTOMS OVERLAND TRANSIT

Article 402. International customs overland transit. International customs overland transit shall be governed by the provisions of the Regulations on International Customs Overland Transit, Declaration Form and Instructions.

CHAPTER V

MULTIMODAL TRANSPORT

Article 403. Multimodal transport. Multimodal transport means the carriage of goods by at least two different modes of transportation under a single multimodal transport contract from a point where the multimodal transport operator takes the goods into its custody and responsibility to another location designated for their delivery and which entails crossing at least one border.

Article 404. Multimodal transport operator. The multimodal transport operator is the person that concludes a multimodal transport contract, thereby assuming *vis-à-vis* the consigner the responsibility of the carrier for the full performance of the contract; the carrier may also be the multimodal transport operator.

Article 405. Proof of the transport contract. If it so requests, the Customs Service may obtain the document proving the existence of the multimodal transport contract by means of electronic data transmission.

Article 406. Liability. Without prejudice to its liability to the consigner and consignee, the operator performing the multimodal transport contract shall be directly and personally liable to the Customs Service for the transportation of the goods covered by the contract. The operator shall be directly liable for the civil and administrative consequences of the actions of its employees and shall be jointly and severally liable for the actions of subcontractors when they give rise to fiscal prejudice. The operator assumes liability from the time it takes charge of the goods until their delivery to the consignee.

Once the goods are delivered at the authorized location, the consignee is obliged to fulfil the requirements and tax obligations stipulated in the Code and in these Regulations.

CHAPTER VI

MARITIME OR AIR TRANSPORT

SECTION I

MARITIME TRANSPORT

Article 407. Declaration and guarantee. When the Customs Services of States Parties determine that maritime transport will be used between one port and another of the States Parties, this shall be declared accordingly by the carrier and may be subject to the provision of a guarantee to cover the applicable taxes, the amount of which shall be assessed by the higher authority of the Customs Service.

Article 408. Simplified procedure. When the use of the maritime transport is mandatory from a port in a State Party, the Customs Services may, if requested by the shipping companies concerned, authorize the transport using the goods manifest as the declaration or maritime transport document.

Upon receipt of the request, the higher authority of the Customs Service of the State Party in which the shipping company is established shall notify the request to the other Customs Services of the States Parties in which the scheduled ports of departure and destination are located.

The higher authority of the Customs Service receiving the request shall grant permission to the requesting shipping company within a period of 30 days counted as from the date of receipt of the reply from the Customs Services notified, if there is no objection. The authorization shall be valid in all the States Parties notified and which have indicated their approval.

When permission is not granted, the international goods transport procedure stipulated in the Regulations on International Customs Overland Transit, Declaration Form and Instructions shall apply.

As appropriate, the provisions of the simplified procedure for air transport prescribed in Article 421 of these Regulations shall be applicable to maritime transport.

Article 409. Authorization of the simplified procedure. The authorization referred to in the preceding Article shall be granted to shipping companies that fulfil the following conditions:

- (a) Allowing the customs authorities monitor their activities;
- (b) they have not been penalized through the suspension of their customs activities during the preceding year, counted from the date of the application;
- (c) they use manifests that can be easily checked by the customs authorities; and
- (d) the manifests can be submitted to the customs authorities electronically before of the departure of the vessels to which they correspond.

Article 410. Liability. The shipping companies transporting goods covered by the manifests referred to in the preceding article shall be directly liable for the maritime transport operations entailed.

Article 411. Cancellation of the cargo manifest. The maritime transport manifests used must be transmitted electronically to be cancelled by the customs authorities at the port of destination, and the said authorities shall keep a copy for the purposes of subjecting the goods to customs control or surveillance.

Without prejudice to the foregoing, the customs authorities at the port of destination shall transmit monthly to the customs authorities at the port of departure a list of the manifests submitted during the preceding month, drawn up by the shipping companies or their representatives.

Article 412. List of manifests. The list of manifests must contain at least the following information:

- (a) Manifest reference number;
- (b) name of the shipping company that transported the goods; and
- (c) date of maritime transportation.

SECTION II

AIR TRANSPORT

Article 413. Air transport. When the Customs Services of States Parties determine that air transport will be used, it shall be regulated by the provisions of this Section.

The manifests shall bear the date and the signature of the head of the airline company identifying them as transport declarations and shall specify the goods they cover; once they are completed and signed, they shall be deemed authorized for the start of air transportation.

Article 414. Simplified procedure. When air transportation is mandatory, the simplified procedure provided for in this Section shall be used; the relevant authorization must be requested and shall be processed in accordance with the provisions of Article 408 of these Regulations.

Article 415. Liability. The airline company transporting the goods covered by the respective manifest shall be primarily liable for the air transport operations entailed.

Article 416. Advance transmission. The airline company that transports the goods must electronically transmit the relevant manifest in advance to the customs authorities at the airport of destination.

Article 417. Submission of the manifest. The airline company shall submit for the control of the customs authorities at the airport of destination a copy of the manifest or manifests covering the cargo it is carrying and which will be unloaded there. In addition, those authorities may request presentation of all the air waybills relating to the consignments listed in the manifests.

Article 418. List. The customs authorities at the airport of destination shall transmit on a monthly basis to the customs authorities at each airport of departure a list drawn up by the airline companies showing the manifests that have been submitted in the course of the preceding month. The list must contain at least the following information:

- (a) Reference number of each manifest;
- (b) name of the airline company that transported the goods;
- (c) flight number; and
- (d) date of the flight.

Article 419. Irregularities. Should any irregularities be detected in the information contained in the manifests on the list, the Customs Authority at the airport of destination shall report them to the Customs Authority at the airport of departure, referencing the manifests for the goods that have given rise to the irregularities.

Article 420. Conditions. The procedure referred to in Article 414 of these Regulations shall apply only to airline companies that meet the following conditions:

- (a) They carry out a significant number of flights between the States Parties;
- (b) they send and receive goods frequently;

- (c) their manual and computer records enable the customs authorities to monitor their operations both at the airport of departure and of destination;
- (d) they have not been penalized through the suspension of their customs activities during the preceding year, counted from the date of the application;
- (e) they make all their records available to the customs authorities; and
- (f) they make a commitment to the customs authorities to fulfil all their obligations and to cooperate in resolving all possible infringements and irregularities.

Article 421. Procedure. The air transport procedure shall be as follows:

- (a) The airline company shall keep in its business records the documentation substantiating all shipments made;
- (b) the manifest transmitted electronically from the airport of departure shall be the manifest at the airport of destination;
- (c) the airline company shall indicate the nature of the simplified transport document corresponding to each shipment on the manifest;
- (d) transit between States Parties shall be deemed to be concluded when the customs authorities have received the manifest transmitted under information-sharing arrangements to the airport of destination and when the goods have been presented to them; and
- (e) the Customs authorities at the airports of departure and destination may undertake inspections in the form of audits based on an analysis of possible risks observed and, if necessary, cross-check the information on the manifests sent under information-sharing arrangements in order to verify it.

Any air transport-related infringements detected shall be resolved in accordance with the relevant laws of the States Parties.

Article 422. Replacement of the procedure. At the request of the interested airline companies, the higher authorities of the Customs Services may exempt them from the use of the manifest and authorize them instead to utilize other procedures based more on information-sharing techniques amongst the airlines in question.

CHAPTER VII
TEMPORARY IMPORTATION AND RE-EXPORTATION
IN THE SAME STATE

SECTION I
TEMPORARY IMPORTATION AND RE-EXPORTATION
IN THE SAME STATE

Article 423. Declaration and supporting documents. The declaration for the regime involving temporary importation and re-exportation in the same state shall contain the information referred to in Article 320 of these Regulations and shall be supported by the documents mentioned in subparagraphs (a), (b) and (e) of Article 321 of the said Regulations. The application of this regime shall be subject to fulfilment of non-tax customs obligations upon entry into the customs territory.

If the commercial invoice is not available owing to the type of merchandise to be temporarily imported, the Customs Authority may authorize that it be replaced by a list of the goods to be temporarily imported, which must contain a breakdown of quantity, description and commercial value, without prejudice to the faculty of the Customs Service to establish the customs value of the goods prior to authorization.

Article 424. Identification. The Customs Service may authorize temporary importation when it is possible to identify goods by means of marks, numbers, seals, measurements or other special characteristics.

However, if the goods are not fully identifiable, the Customs authority shall order the declarant to take such measures as it deems necessary to ensure their identification and the monitoring of their use.

Article 425. Goods that may be imported temporarily. The goods included in the following categories may be imported temporarily:

- (a) **TOURISM:** Vehicles entering the customs territory for tourism purposes.
- (b) **EVENTS:** Goods to be displayed at international, fairs, exhibitions conventions or conferences.
- (c) **RECREATIONAL AND SPORTING:** Equipment, vehicles, animals and other goods owned by circuses or similar public shows.
- (d) **PROFESSIONAL EQUIPMENT AND MATERIAL:** Press, broadcasting and television equipment and material; cinematographic equipment and material; and equipment and material necessary for the exercise of a person's art, craft, profession and occupation.
- (e) **HUMANITARIAN AID:** Goods for dealing with situations caused by natural disasters or phenomena, including medical, surgical and laboratory equipment and material for non-profit activities.
- (f) **EDUCATIONAL, RELIGIOUS AND CULTURAL:** Goods used for display and to support activities designed to boost and disseminate the arts and those classified as educational, religious and cultural by the competent authority.

(g) **SCIENTIFIC:** Goods used for technological support or to complement scientific research, authorized by the competent authority, including scientists' personal implements.

(h) **EXECUTION OF PUBLIC WORKS:** Machinery, equipment, apparatus, tools and instruments to be used in the execution of public works or the provision of public services, which are imported directly by the contractors under special laws or administrative contracts.

(i) **STATE:** Goods imported temporarily by the State in the pursuit of its objectives.

(j) **CONTAINERS AND ELEMENTS OF TRANSPORT:** Special material, elements of transport or reusable containers to be used for the handling and protection of goods.

(k) **UNITS AND MEANS OF TRANSPORT AND SPARE PARTS FOR REPAIRING THEM:** The units and means of transport earmarked for customs controls of any kind and parts and equipment for their repair, which must be incorporated into the transport units. Replaced parts and spare parts must be destroyed under the supervision of the Customs Authority.

The temporary importation of the parts and equipment listed in this subparagraph shall be subject to the requirements and conditions set down by the Customs Service for that purpose.

The vehicles and transport units may not be used for domestic transport in the customs territory, except as provided for transport by sea or air.

(l) **COMMERCIAL:** Those used *inter alia* to demonstrate products and their features, for quality testing, display, advertising and promotion, provided that they are not marketed.

(m) **FILM AND OTHER MATERIAL FOR SOUND AND IMAGE REPRODUCTION:** Films, magnetic tapes, magnetized films and other sound and image carrying media for the purpose of being provided with a sound track, dubbed, exhibited or reproduced, provided that they are authorized by the copyright holder.

(n) **AIRCRAFT ON LEASE OR LEASE-PURCHASE:** Those intended for use in air services supplied by companies in possession of an operating certificate or provisional registration granted by the aeronautical authority of State Party.

(o) those authorized under specific regulations, international agreements or by the Customs Service.

The competent Customs Authority may authorize the temporary importation of samples and sample collections for non-commercial purposes or which will not be put up for sale, imported temporarily in reasonable amounts in accordance with the nature of the goods and arriving by any means together with the business traveller.

For this purpose, the goods must be described, quantified and valued and the Customs Authority shall issue the simplified goods declaration *ex officio*, holding the traveller responsible for their return or for the payment of those, if any, that do not leave the territory of States Parties.

For the purposes of the preceding paragraph, samples or sample collections shall denote, in addition to the goods, the suitcases, trunks or similar containers used to carry them and which by themselves or owing to their presentation cannot be marketed.

Article 426. Security. For the categories indicated in subparagraphs (l) and (m) of the preceding article and for samples and sample collections for non-commercial purposes, the Customs Service shall require the provision of a guarantee, which may be global in nature, to cover the full amount of any duties that may be applicable under the terms and conditions set down in Article 437 of these Regulations. The Customs Service shall not require any guarantee for the categories indicated in subparagraphs (a), (d), (e), (f), (g) and (i).

For the other categories not indicated in this Article, the Customs Service shall determine the cases in which it is necessary to provide a guarantee, when this is warranted by the nature of the operation.

When a guarantee has been provided, it shall be enforced if the regime is not terminated within the set time-frame or if the purposes for which it was originally authorized are not respected, without prejudice to other appropriate actions.

Article 427. Time-frame. The time during which goods remain under the regime of temporary importation and re-exportation in the same state shall be up to six months counted as from the acceptance of the declaration, which does not preclude the establishment of special time-frames by each State Party in keeping with the nature and specific purpose of temporarily imported goods.

In the case of the temporary import of containers, platforms and chassis, their period of stay within the customs territory shall be three months counted as from the time of their entry.

Temporary imports contemplated in international treaties or special laws shall be governed by the provisions of those instruments.

Article 428. Prohibition of disposal. The ownership of goods intended for the regime of temporary importation and re-exportation in the same state may not be transferred or conveyed under any circumstance while they remain under that regime.

Article 429. Events. For purposes of Article 425(b) of these Regulations, the term events means, *inter alia*, the following:

- (a) Exhibitions and fairs in the realms of trade, industry, agriculture, livestock breeding and crafts;
- (b) exhibitions organized mainly for philanthropic purposes;
- (c) exhibitions organized to promote science, technology, art, education, culture, sport, religion and tourism; and
- (d) international conferences or congresses.

Fairs or exhibitions shall be understood as organized public or private demonstrations or exhibitions the aim of which is to promote products or services; international conferences or congresses shall mean conferences, symposia, meetings and similar events intended to bring together a particular number of people on pre-established dates.

Article 430. Professional equipment and material. For purposes of Article 425(d) of these Regulations, the following, *inter alia*, may be brought in as a professional equipment and material:

- (a) Press, broadcasting and television equipment and material required by the press, broadcasting or television representatives who enter the customs territory in order to produce reports, recordings or programme broadcasts;
- (b) cinematographic equipment and material required for film-making; and
- (c) the equipment and material required for the exercise of the craft, trade, profession and occupation of a person resident outside the customs territory, in order to carry out a particular task.

Authorization shall be granted for the temporary import of professional equipment for re-exportation in the same state when it is to be used exclusively by the beneficiary of the regime and under his responsibility.

When the equipment and materials mentioned in this Article are travellers' luggage, they shall be processed under their own regime.

Article 431. Execution of public works. The time-frame and guarantee relating to the temporary imports envisaged in administrative contracts concluded with the State in keeping with Article 425(h) of these Regulations shall be governed by the provisions of those contracts.

Article 432. Educational and scientific equipment and material. For the purposes of Article 425, subparagraphs (f) and (g) of these Regulations, educational material and scientific equipment shall be any equipment and material intended for use in teaching, vocational training, research, scientific dissemination or any other related activity.

Their importation shall be permitted provided that they are imported by centres or public institutions or those authorized by the State, under the control of the competent authority and are intended for the exclusive use of the beneficiary of the regime and under the beneficiary's responsibility.

Authorization may be granted for the definitive import of educational and scientific material that is used in educational work and which serves as supporting documentation for the knowledge transmitted during the learning process.

Article 433. Containers and elements of transport. For the purposes of Article 425(j) of these Regulations, containers shall mean receptacles intended to be reused in the same state in which they were temporarily imported.

The elements of transport admitted under this category are all those that are reusable and imported by the beneficiary for his exclusive use, such as wrappers, packaging, pallets and other devices for the protection of goods and which prevent possible damage during their handling and transportation.

In both cases, the containers and elements of transport may not be used in domestic traffic except for the export of goods.

Article 434. Termination of the regime. The temporary import regime may be terminated for the following reasons:

- (a) When the goods are re-exported within the period specified;
- (b) when the goods are assigned to the definitive import regime or to another regime with the prior authorization of the Customs Service, in both cases within the stipulated time-frame;
- (c) on account of the total destruction of the goods with authorization of the Customs Service, or owing to unforeseen circumstances or *force majeure* proven to satisfaction of the Service;
- (d) where the goods are voluntarily surrendered to the tax authorities; and
- (e) any others determined by the Customs Service.

Article 435. Authorization and clearance procedure. In the case of temporary importation and re-exportation in the same state, the relevant authorization shall be sought beforehand from the Customs Service, and the interested party shall be liable in the event of non-compliance of the obligations established under the regime. The request for authorization shall meet the requirements and be supported by the documents stipulated by the Customs Service for the purposes of temporary importation.

The Customs Service shall issue the appropriate decision. Should it be favourable, it shall state the time-frame for re-exportation, which may not exceed that provided for in these Regulations for the category concerned, and impose any other condition it may deem appropriate.

Upon receipt of the authorization, the declarant shall transmit the goods declaration electronically together with the supporting documents stipulated in Article 423 of these Regulations. Once the goods declaration has been accepted, the clearance of the goods shall proceed in accordance with Article 335 and other applicable provisions of these Regulations.

Article 436. Re-export of goods imported temporarily. The declaration for the re-export of goods imported temporarily shall be transmitted electronically before the expiry of the time-limit and in compliance with the requirements and formalities prescribed in Article 537 of these Regulations.

The re-exportation of goods admitted under this procedure shall invariably entail physical and documentary inspection.

Article 437. Type of guarantee. The guarantee for temporary importation and re-exportation in the same state shall be governed by Article 52 of the Code and, *inter alia*, the following specific regulations:

- (a) It must be made out in favour of the Customs Service or revenue collecting entity;
- (b) it must cover the total customs duty payable under the terms of Article 53 of the Code;
- (c) it must be issued for the period indicated in the ruling issued by the Customs Service granting authorization; and

- (d) it must contain a special and specific clause on the obligations being guaranteed, the amount and circumstances of the guarantee and an express condition subsequent for its enforcement should the taxpayer fail to meet the requirements laid down in the ruling.

In the event of refusal to make payment, the Customs Service shall initiate administrative or judicial actions pursuant to the applicable legislation.

Article 438. Proceedings for the temporary import of goods in the category of professional material. In the case of press, broadcasting and television equipment and materials needed by the representatives of these media entering the customs territory to make reports, recordings or programme broadcasts, the Customs Service is empowered to authorize the temporary admission, provided that an application is submitted substantiating the data identifying the said media or the company they represent and also identifying the professional equipment or materials that will enter the customs territory. The Customs Authority shall assign an authorization number and shall determine the customs tax liability of the goods being temporarily imported, ascertaining whether they match those described in the application, and if appropriate, shall permit their entry, taking all necessary control measures to ensure the subsequent return of the goods.

In the case of equipment and material required for the exercise of the craft, trade, profession and occupation of a person resident outside the customs territory in order to carry out a particular task, the Customs Administration is empowered to allow their temporary admission provided that it receives an application that identifies the equipment and material concerned; it shall authorize the operation after verifying the goods.

These cases shall require neither customs agent or special customs attorney services nor the use of goods declarations, but one essential requirement shall be that the professional equipment and material is re-exported preferably via the same customs post by which it entered, after physical inspection.

Article 439. Aircraft on lease or lease-purchase. For the purposes of Article 425(n) of these Regulations, the time-limit shall be determined in accordance with the stipulations of the contract duly approved by the aeronautical authority of the State Party.

SECTION II

TEMPORARY IMPORTATION OF VEHICLES FOR TOURISM

Article 440. Persons authorized. Authorization for the temporary import of motorized land vehicles, aircraft and seagoing vessels for non-profit purposes shall be granted to tourists from third countries.

For the vehicles concerned to be able to circulate on national territory, it is essential that they carry such authorization visibly.

When the vehicle enters under cover of a cargo manifest, the beneficiary of the temporary import regime must also be the holder of the bill of lading, for which reason authorization shall not be given for its endorsement to allow another person to benefit from the temporary import regime, unless that endorsement is done in favour of another natural person who fulfils the same requirements for entitlement to temporary importation in this category.

Article 441. Vehicles authorized. Authorization may be granted for the temporary importation of a vehicle in each of the following categories:

- (a) A land motor vehicle for the transport of persons, which is not intended to be used for such transport against payment, and may have a trailer or semi-trailer for living or camping purposes, intended exclusively for attachment to other vehicles by means of a special device, including an automated one;
- (b) a vessel for pleasure boating, as indicated in the certificate of seaworthiness or its registration document;
- (c) an aircraft for private non-lucrative use, as stated in the certificate of airworthiness or its registration document; and
- (d) recreational equipment such as bicycles, tricycles, quads, mopeds, motorcycles, boats and the like for recreational use. The interested party shall be entitled to import temporarily up to a maximum of three types indicated in this subparagraph.

Article 442. Temporary stay of motorized land vehicles, boats and aircraft. The Customs Authority shall authorize the temporary stay of the land vehicle, aircraft or boat for the exclusive use of the tourist, which may be for the period accorded by the corresponding immigration authority for stay as a tourist, unless the Customs Service decides on a different period.

The placing of the vehicle, boats, aircraft and other recreational equipment under customs control, as well as their temporary removal from that control to another country, operated by the beneficiary in person, shall suspend the allowed time-period, for the purposes of the expiry of the permit. The maximum period for such placement of the vehicle shall be one year, counted as from its entry into the bonded warehouse. Upon expiry of that period they shall be deemed surrendered. In the case of temporary exit, the time-period shall be suspended for three months, counted as from the time of actual exit from the customs territory.

Authorization shall be granted for vessels and aircraft being placed under the control of the Customs Authority to be entrusted to duly incorporated companies that provide surveillance and custodial services and which are duly authorized by the competent authority. For these purposes, liability for custody and preservation shall be borne by the authorized company.

No new authorization may be granted for the temporary import of a vehicle before a period of three months has elapsed since its exit from the customs territory without the effective suspension of the period granted or of its placement under customs control.

Article 443. Malfunction or damage to the vehicle. When the vehicle is unable to leave the customs territory owing to a malfunction or damage, the interested party shall request the permission of the Customs Service, before the expiry of the period granted, to carry out repairs for as long as necessary to enable the vehicle to leave the customs territory, subject to the consideration of relevant evidence. If permission is granted, the details must be entered into the Customs Service IT system.

Article 444. Basic information. The interested party shall request permission for the temporary importation of motorized land vehicles, aircraft and seagoing vessels and the matter shall be processed ex officio by the Customs Authority; the request must contain at least the following data:

- (a) Particulars of the applicant: name of the permit holder and of the other persons who, besides the holder, are authorized by the customs to operate the vehicle in the customs territory, passport number and country of issue, as well as the temporary residential address in the State party;
- (b) description of the vehicle:
 - i. Motorized land vehicle: make, type, year, model, engine number, chassis number, serial number or vehicle identification number (VIN) as the case may be, and the license plate number from the country in which it is registered. If it has a trailer, an indication must be given of its characteristics as well as the quantities and characteristics of the recreational equipment it contains;
 - ii. vessel: type, size, engine number, number of decks, registration number and country of provenance. If there are boats on board, their number and characteristics must be given;
 - iii. aircraft: type, series, model, name of manufacturer, international registration number and country of provenance. If applicable, the quantity and characteristics of any recreational equipment must also be declared;
- (c) authorized period and expiry date; and
- (d) other information: number and date of the permit, the granting customs office, comments, name and signature of the authorizing officer and name and signature of the beneficiary.

Article 445. Other persons authorized to operate the vehicle. At the request of the permit holder, the customs may additionally authorize up to two other co-travellers who are entitled to temporary importation under the terms of these Regulations to operate the vehicle in the customs territory. In accordance with the provisions of subparagraph (a) of preceding Article, the names and other particulars of the authorized persons must be shown on the permit, and they shall be responsible to the customs and national authorities for fulfilling the obligations and duties prescribed in the Code, these Regulations and other related provisions.

Article 446. Requirements for the grant of the permit. To obtain the permit, the applicant must complete the following formalities with the customs office at which the vehicle will arrive:

- (a) Submit the original and a copy of the title deed issued under the regulations of the country of provenance. If the applicant is not the owner, he must submit, in addition to the original title deed, the original or a certified copy of the owner's authorization issued abroad, showing the owner's consent for the applicant to enter the customs territory with his vehicle, or failing this, the applicant shall furnish a sworn notarized statement to that effect made by the owner;
- (b) submit the original and a copy of his passport showing his immigration status; and
- (c) submit the original and a copy of the certificate of airworthiness or seaworthiness and of the certificate of registration in the case of aircraft and boats.

In addition, the States Parties may request the fulfilment of other requirements, such as having accident and third-party liability insurance.

Article 447. General obligations of the beneficiary. The beneficiary's obligations shall be to:

- (a) Carry the original permit in the vehicle while it is in circulation in the customs territory;
- (b) personally operate the vehicle concerned, subject to the exceptions of Article 445 of these Regulations;
- (c) deliver the original permit to the customs if an application is being made for definitive importation, placement under customs control or for permission to leave the customs territory, within the authorized time-frame; failing this, the corresponding penalties shall apply;
- (d) immediately report the loss or destruction of the permit to the customs;
- (e) notify the customs in advance of the future sale or any other act of disposal of the vehicle, indicating whether it will be re-exported, imported definitively or will utilize the remainder of the period granted, provided that in this latter case the party acquiring the vehicle meets the relevant requirements, in which case a new permit must be obtained for the remaining time. When sale or disposal is to a party not entitled to make use of this regime, the vehicle must first be placed in a bonded warehouse or under the control of the customs office concerned so that it can be made subject to the corresponding regime; and
- (f) immediately report to the competent authority and to the customs the theft of the vehicle or any accident in which it is involved.

Article 448. Re-export. In the case of vehicles admitted for tourism purposes and which have not been re-exported at the end of the period granted, the fine stipulated in the laws of each State Party must be paid before they are assigned to the regime covering re-export or definitive import.

Should the tourist be unwilling to re-export or definitively import the vehicle, it shall be deemed surrendered.

SECTION III

OTHER CASES OF TEMPORARY IMPORTATION OF VEHICLES

Article 449. Temporary importation of ships or aircraft for public transport. Ships or aircraft used for public transport may remain under the temporary import regime for up to six months, which period may be extended provided that it does not exceed of a period of one year.

Article 450. Temporary importation of motorized land vehicles by international organizations and diplomats. The officers of international organizations whose constituent agreements provide for this privilege or members of the foreign diplomatic corps accredited to the State Party may temporarily import a motorized land vehicle for the period foreseen in those agreements or, failing this, for consecutive six-month periods up to a period equal to that of their stay in the State Party for the purposes of the mission for which they were appointed. In the case of motor vehicles imported temporarily by officers of the diplomatic corps, authorization shall be granted based on the principles of reciprocity prescribed in the Vienna Convention on diplomatic relations between States.

Article 451. Temporary importation of motorized land vehicles by foreign students pursuing graduate studies in the State Party. Foreign students pursuing graduate studies in the State Party and who furnish evidence of their status by means of certification issued by the relevant institution of higher learning may be accorded the privilege of temporarily importing a motorized land vehicle for consecutive periods of six months until the end of a reasonable period for the completion of their studies.

Article 452. Obligations of beneficiaries. In the cases mentioned in the two preceding Articles, the beneficiary shall be required to renew the temporary import permit every six months and before its date of expiry, failing which the Customs Authority shall cancel the regime, with the relevant legal consequences. Except as provided for in Article 442 of these Regulations, the other provisions of this Section shall apply.

Article 453. Temporary import of vehicles by nationals of States Parties. States Parties may allow their nationals legally resident in a neighbouring country and whose vehicle is registered in that country to temporarily import a vehicle for tourism purposes for up to one month, subject to fulfilment of the requirements and conditions stipulated by the Customs Service.

Article 454. Beneficiaries of the Agreement. Pursuant to the Regional Agreement on the Temporary Importation of Road Vehicles, the beneficiaries of the said Agreement may choose the regime most favourable to them.

Article 455. Bilateral or multilateral agreements. This Section stipulates the minimum requisite customs facilities for the temporary importation of tourist vehicles and does not hinder the application of more extensive facilities that have been or may be accorded by certain countries under bilateral agreements or bilateral or multilateral treaties.

CHAPTER VIII

ON-BOARD PROVISIONS

Article 456. On-board provisions. On-board provisions are goods admitted temporarily to be used for the maintenance of the crew, to be consumed, sold or presented to passengers by the airline or maritime company; also included are those used in the operation, functioning and preservation of international passenger transport vehicles, vessels, aircraft and trains, not including spare and replacement parts and equipment for the vehicle or transport unit.

Article 457. Legal status of goods considered on-board provisions. Import taxes shall be waived for goods considered on-board provisions, provided that they remain in the vehicle that brought them into the customs territory or are placed under customs control, in warehouses or premises authorized by the Customs Authority exclusively for the storage of that category of goods, intended as provisions for international transport vehicles while they remain in the customs territory.

On-board provisions may also be assigned to the definitive import regime, trans-shipped or declared for another regime in accordance with the procedures established for those regimes.

Article 458. Liability. Enterprises that keep goods considered as on-board provisions in warehouses or premises authorized for that purpose, shall comply with following obligations and requirements:

- (a) Comply with the procedures and control regulations prescribed by the Customs Service;

- (b) keep records of all their activities and operations *vis-à-vis* the Customs Service, in the form and under the conditions prescribed by it. The records shall be made available to the Customs Authority when it so requests in the exercise of its powers of control and oversight;
- (c) provide information regarding their management in the form and by the means decided by the Customs Service;
- (d) be linked to the computer systems authorized by the Customs Service;
- (e) enter the goods received at their premises into company records, in keeping with the procedures and means laid down by the Customs Service;
- (f) maintain and send to the Customs Authority records of goods admitted, deposited, withdrawn or subject to other movements, in keeping with the formats and conditions laid down by the Customs Service;
- (g) make available to the customs authorities the means for controlling the entry, presence and exit of goods; and
- (h) provide a guarantee to cover the possible payment of taxes for non-compliance, loss, deterioration or damage not caused by unforeseen circumstances or *force majeure* or on account of changing the purpose for which the goods were admitted, without prejudice to the corresponding criminal or administrative actions.

Article 459. Authorization of warehouses or premises. The enterprises responsible for vehicles that regularly bring goods in the form of on-board provisions into the customs territory may keep warehouses or premises for the storage of those goods; such facilities must be under customs supervision at all times, and shall require prior authorization by the Customs Service.

Article 460. Goods declaration for on-board provisions being transferred from the vehicle to authorized warehouses or premises. Goods considered on-board provisions being imported in international passenger transport vehicles, ships, aircraft and trains may be transferred to warehouses or premises authorized by the Customs Service upon acceptance of the goods declaration submitted to the customs office concerned by the representative of the company responsible for the vehicle.

Article 461. Information that must be given in the goods declaration for the transfer. The goods declaration referred to in the previous article shall contain the necessary information regarding:

- (a) Identification of the company responsible for the vehicle and of the representative who submits the goods declaration;
- (b) information as to the country of origin of the goods, the country of provenance, the foreign port of shipment or loading of the goods and the transportation used;
- (c) an exact description of the goods, including commercial name and identifying features, number of packages and identification marks, gross and net weights, tariff classification and value of the goods;
- (d) place and date of entry of the vehicle transporting the goods; and
- (e) identification of the documents accompanying the goods declaration, such as the commercial invoice, transport document and non-tariff requirements, when called for.

Article 462. Acceptance of the goods declaration. If the goods declaration is accepted and no immediate verification is required, the release of the goods shall be permitted for their transfer to the authorized warehouses or premises.

The physical inspection may be done in the vehicle itself or at the authorized warehouses or premises.

Article 463. Time-frame. The maximum period for which the goods may remain in the customs territory shall be six months counted as from the time of their entry. If that deadline expires and the goods have not been re-exported nor has their regime been changed, they shall be deemed surrendered to the tax authorities.

Article 464. Amount of the guarantee. When the Customs Service requires a guarantee, it shall be equal to the average monthly value of the goods that have been stored in the authorized warehouses or premises during the preceding calendar year. If the enterprise responsible for the warehouse or premises has not functioned as such for the last six months of the previous calendar year, the guarantee shall be calculated based on the monthly average value projected for the year in which the guarantee shall be in effect.

The guarantee shall be governed by Article 52 of the Code and shall cover the period from 1 January to 31 December, and be renewable for equal periods.

Article 465. Provisions for ships and aircraft. On-board provisions brought by seagoing vessels and aircraft with them to be consumed or given to passengers and crew and which remain in the means of transport shall not be subject to taxes. The captain or person in charge shall declare to the Customs Authority the list of on-board provisions for the purposes of possible customs controls. Any provisions that are unloaded shall be subject to the clearance procedures foreseen in these Regulations.

CHAPTER IX

TEMPORARY ADMISSION FOR INWARD PROCESSING

Article 466. Definitions. For the purposes of this chapter, the following definitions shall apply:

- (a) Inward processing operations:
 - i. Preparation of goods, including mounting, assembly or adjustment to other goods;
 - ii. working of goods;
 - iii. repair of goods including their restoration and finalization;
 - iv. the use of some specific goods that are not part of compensating products, but which make for or facilitate the obtention of these products even though they disappear totally or partially when used.
- (b) Compensating products: The products resulting from processing operations.
- (c) Production coefficient: The quantity or the percentage of compensating products obtained in the processing of a given quantity of import goods.
- (d) Wastage: Goods that are consumed or lost during processing and whose integration into the product cannot be proved.

- (e) Waste: Residues of goods left behind after they are processed.

Article 467. Time-frame of the regime. Goods introduced under the regime of temporary admission for inward processing may remain for a maximum, non-renewable period of 12 months counted as from the day of acceptance of the corresponding goods declaration.

For this regime to be applied, a security must be posted, unless this is not required under special laws.

Article 468. Declaration. The declaration for the regime on temporary admission for inward processing shall contain the information prescribed in Article 320 of these Regulations.

Article 469. Documents supporting the declaration. The goods declaration must be supported by the documents mentioned in Article 321 of these Regulations, except for those indicated in subparagraphs (c) and (d) of that article.

Article 470. Authorization. Any person duly authorized by the competent authority that imports goods into the customs territory for the purposes of transformation, manufacturing and repair or other legally permitted operations may benefit from this regime.

To guarantee the operations taking place under the regime and any corresponding duties, a security must be provided in one of the forms prescribed in Article 52 of the Code.

Article 471. Time-frame for the start of operations. Persons authorized to undertake operations under this regime shall launch them within a period of six months from being notified of the ruling authorizing their regime status. This deadline may be extended by the competent authority for up to a further six months, following a reasoned application by the interested party. If operations have still not commenced upon the expiry of that period, the authorization shall be deemed cancelled;

Article 472. Controls. Without prejudice to any other powers, the Customs Service shall be responsible for monitoring the use and purpose of the goods admitted to this regime. In exercising that monitoring function, the Customs Service may:

- (a) Review or audit the production coefficient or the method of determining it and the production processes and other operations covered by the regime;
- (b) monitor the transfer of the goods, any losses and waste, and defective subproducts or compensating products;
- (c) authorize and supervise the destruction of raw materials, inputs, supplies, waste or compensating products;
- (d) monitor the delivery of goods donated by beneficiaries of the regime to philanthropic institutions;
- (e) verify the termination of the regime; and
- (f) any other actions that the Customs Service may deem relevant.

Article 473. Obligations. The beneficiaries of the regime shall be under the following obligations, amongst others, *vis-à-vis* the Customs Service:

- (a) Have the equipment needed for the electronic transmission of records, answers to queries, and any other information required by the Customs Service;
- (b) establish the communication links to facilitate the transmission of declarations and other information regarding operations taking place under the regime;
- (c) have sufficient means to ensure the custody and preservation of goods admitted temporarily;
- (d) inform the Customs Authority of goods damaged, lost or destroyed and of any other irregularities that have occurred while they were deposited in the warehouse;
- (e) be directly liable to the Customs Service for goods admitted temporarily to their premises from the time they are received and for the payment of customs tax obligations in connection with damaged, lost or destroyed goods, unless these events are the result of unforeseen circumstances or *force majeure*;
- (f) provide the information referred to in Article 475 of these Regulations;
- (g) computerize their accounting records, the control of their customs operations and the inventory of the goods subject to the regime, according to the requirements determined by the Customs Service;
- (h) provide the information needed to determine the goods that are required for the production or assembly of compensating products, and to determine the waste, subproducts or scrap resulting from production process;
- (i) allow and facilitate the inspections and checks made by the Customs Service;
- (j) provide any other relevant information that facilitates the necessary audits or checks carried out by the Customs Service; and
- (k) provide the Customs Service with the physical facilities and equipment necessary for the work of officers who will monitor the operations being carried out by the beneficiaries of the regime.

Article 474. Transfers permitted. The following transfers shall be permitted:

- (a) Between beneficiaries of the regime: Goods introduced under the regime of temporary admission for inward processing may be transferred definitively;
- (b) between beneficiaries of the regime and subcontractors: Beneficiaries of the regime may transfer temporarily imported goods to third parties subcontracted by them so that they may produce merchandise for re-export, in which case the beneficiaries shall be liable for the payment of the duties and taxes concerned, if the said merchandise is not re-exported from the customs territory within the set time-frame;
- (c) between beneficiaries of the regime and users of free zones: Goods may also be transferred between beneficiaries of the regime and enterprises located in free zones, subject to fulfilment of the corresponding legal obligations.

The transfers mentioned in the preceding subparagraphs shall be done using the formats and under the terms and conditions established by the Customs Service for the purpose.

Article 475. Duty to furnish information. The beneficiaries of this regime shall provide, at the time intervals specified by the Customs Service, the information necessary for the effective monitoring of the regime, especially as regards the re-exportation of the goods, the proportion represented by temporarily admitted goods, wastage and scrap that are not re-exported, donations and destroyed goods, as well as definitive imports into the customs territory.

The information shall be provided using the formats prescribed by the Customs Service.

Article 476. Liabilities. The Customs Service shall demand payment of the amount owed and shall apply the corresponding sanctions or lodge the relevant complaints in the following cases:

- (a) When the authorized period has expired and the beneficiary of the regime has not proven to the satisfaction of the Customs Service that the goods or compensating products have been re-exported or destined to any of the other legally authorized treatments;
- (b) when it is ascertained that goods or compensating products were used for a purpose other than that for which authorization was given; and
- (c) when the goods or compensating products are damaged, destroyed or lost for reasons attributable to beneficiary.

Article 477. Termination of the regime. The temporary import regime shall be terminated for the following reasons:

- (a) When the temporarily admitted goods are re-exported in any state within the authorized time-limit;
- (b) when the temporarily admitted goods are transferred definitively to other beneficiaries or persons authorized to operate the regime, who shall then become liable for them;
- (c) when the goods are earmarked for other customs regimes or legally authorized treatments;
- (d) when the goods are deemed definitively imported by operation of law;
- (e) where the goods are voluntarily surrendered to the tax authorities; and
- (f) when goods are destroyed owing to unforeseen circumstances, *force majeure* or with the authorization and under the supervision of the Customs Service.

For the purposes of subparagraph (c) of this Article, when goods admitted for transformation, processing or repair change from the temporary admission to the definitive import regime, they shall not need to be presented to customs for clearance.

Article 478. Treatment of waste products. Waste resulting from processing operations that do not leave them entirely devoid of commercial value shall be assigned to any other legally permitted regime or purpose.

In such a case, the goods shall be classified depending on how they are presented for clearance.

Waste from temporarily admitted goods shall not be deemed definitively imported provided that they are destroyed or are recycled in the same production process and that the monitoring rules laid down by the Customs Service are complied with.

The destruction of waste generated in production processes shall require the prior permission of the Customs Service. The request for the relevant authorization must contain data relating to the company, its legal representative, the goods to be destroyed, the place and date of destruction. Depending on the type of waste to be destroyed, the Customs Service shall seek the opinion of the competent bodies so that they may participate in the destruction or give their consent thereto. The relevant report on the destruction shall be drawn up, and when certified shall serve for the purposes of crediting the qualified company's current account.

Likewise, in specific situations and at the request of the interested party, the Customs Authority may allow waste resulting from production processes to be donated to philanthropic institutions or, if applicable, to be imported in its current state, subject to compliance with the requirements and formalities of the definitive import regime.

Article 479. Re-import. In re-importing goods exported after undergoing inward processing in the customs territory, they shall be subject, upon their return to the customs territory from abroad, to the payment of taxes on the foreign raw materials and intermediate goods used to process them and which had been imported earlier under the suspended-duty regime.

Article 480. Returned products. Finished products that have been exported or re-exported after undergoing inward processing in the customs territory and which are being returned to it for repair, may enter under the temporary admission regime for inward processing, subject to the posting of the corresponding security.

Article 481. Special case of definitive importation. Temporarily imported goods which, upon expiry of the period of stay, are not shown by the beneficiary to have been re-exported or assigned to any of the other legally authorized forms of treatment shall be deemed definitively imported into the customs territory and shall consequently be subject to the applicable duties and taxes and the fulfilment of non-tax customs liabilities.

CHAPTER X

BONDED WAREHOUSING REGIME

SECTION I

GENERAL PROVISIONS

Article 482. Declaration. The assignment of goods to the bonded warehousing regime shall require the electronic transmission of the respective goods declaration, which must contain, as applicable, the information referred to in Article 320 of these Regulations.

Article 483. Documents supporting the declaration. As appropriate, the declaration must be supported by the documents indicated in Article 321 of these Regulations.

The licenses, permits, certificates or other documents regarding compliance with non-tariff restrictions and regulations applicable to the goods as well as other authorizations shall be required at the time of their entry into the customs territory or their assignment to a regime other than the bonded warehousing regime, in accordance with the relevant laws.

Article 484. Enquiry regarding participation of customs officer in unloading or reception. In cases where the Customs Service has no customs post at the bonded warehouse, when informing the relevant customs department of the reception of vehicles and transport units, the warehouse operator shall enquire whether a customs officer will be involved in the unloading of the packages.

Once the enquiry has been made, Customs Authority concerned shall inform the warehouse operator of the conditions under which the unloading will take place, based on the use of risk criteria.

Article 485. Unloading with the involvement of a customs officer. When the Customs Service does not have a post at the bonded warehouse, the officer appointed shall be required, within a maximum of two hours as from the relevant notification, to go to the bonded warehouse where the means of transport and goods are located in order to inspect the unloading. Nevertheless if the auxiliary agent's facilities are located beyond a perimeter of 25 kilometres from the customs department concerned, the time-limit shall be three hours. If the indicated time-limit elapses and the officer has not shown up at the location, the bonded warehouse operator shall proceed with the unloading and shall record the fact in the relevant warehouse entry document.

The corresponding Customs Authority shall ensure compliance with the given time-limit and shall take the relevant steps to determine the responsibilities of the customs officer and of the auxiliary agent.

Article 486. Unloading without the involvement of a customs officer. When the packages are to be unloaded without the involvement of a customs officer, the warehouse operator shall proceed with the unloading and shall record the fact in the warehouse entry document. The unloading must be completed at the latest by the end of the following working day, counted from the date and time indicated for the start of the process.

Article 487. Time-limit for completing the unloading of the transport unit. When a customs officer has been appointed to inspect the unloading and but fails to show up at the location, the unloading must be completed within the following working day, counted as from the expiry of the time-frame envisioned in Article 485 of these Regulations.

In cases where the intervention of the officer is not required, the time-limit shall run as from the time of the relevant communication from of the Customs Authority concerned.

Article 488. Reception of goods. Before the packages are received, it must be ascertained that the safety device placed on the means of transport shows no signs of tampering. If the safety device or the means of transport have been tampered with, the provisions of the relevant laws shall apply.

The receipt of packages will be based on the information contained in the goods declaration or in the respective document. The bonded warehouse operator, the customs carrier and the customs officer, if involved, shall record their actions and make their entries in the computer system, in the goods declaration or in the respective document, including the time and date of such actions, which for all legal purposes shall be considered as the starting date of the bonded warehousing regime.

Without prejudice to any sanctions that may prove appropriate and when the Customs Service so decides, should any discrepancies be found, the carrier, the consignee or his representative, as the case may be, shall be responsible for justifying it to the relevant Customs Authority.

Article 489. Unloading report. After the unloading of the goods from the transport unit, the bonded warehouse operator shall place them in his facilities and, within a maximum of three hours, shall electronically communicate the outcome of that operation to the customs office concerned. The report must contain at least the following information:

- (a) The identity of the consignee;
- (b) the declaration or entry document number;
- (c) the transport document number;
- (d) the quantity of packages received and gross weight in kg or volume;
- (e) marks on the packages if any;
- (f) a description of the goods;
- (g) details of any damage;
- (h) details of missing or surplus goods if any; and
- (i) the date and time of entry into the warehouse.

Article 490. Discrepancies at the time of arrival. If at the time of receiving the packages discrepancies are found between the amount declared and that received, a report shall be drawn up mentioning the fact, and Article 261 and other relevant provisions of these Regulations shall apply, unless there is a well-founded presumption of a criminal offence with respect to the surplus goods.

Article 491. Notification of the entry and exit of the goods at the warehouse. The bonded warehouse operator shall record and inform the Customs Service of the entry and exit of goods at the warehouse, in accordance with procedures laid down for that purpose.

At the time of entry of the goods into the bonded warehouse, the customs officer shall be required to transmit a report electronically to the relevant Customs Authority on the quantities of packages, marks, damage, missing or surplus amounts and any other information indicated in these Regulations.

Article 492. Length of stay of goods. Goods shall be permitted to remain in the bonded warehouse for a non-renewable period of one year, counted as from the date of receipt of the goods by the bonded warehouse operator. Upon the expiry of that period the goods shall be deemed surrendered.

Article 493. Withdrawal of goods from the bonded warehouse. The withdrawal of goods from bonded warehouses shall require the authorization of the relevant Customs Authority, in keeping with Article 115(e) of these Regulations. Goods may be withdrawn totally or partially, in accordance with the provisions of these Regulations governing each regime or customs operation.

Article 494. Termination of the regime. The bonded warehousing regime may be terminated for the following reasons:

- (a) The assignment of goods to another authorized customs regime, within the warehousing time-frame;
- (b) the destruction of goods with the authorization of the Customs Service or owing to unforeseen circumstances or *force majeure*, proven to satisfaction of the said Service; and
- (c) the surrender of the goods.

In the case of destruction of goods present in a bonded warehouse whether by authorization of the Customs Service or owing to unforeseen circumstances or *force majeure* duly proven to the satisfaction of the said Service, the legal representative of the warehouse shall accordingly notify the customs office in whose territorial district it is located, within 24 hours of the event. In such cases, the goods shall not be subject to the payment of taxes.

In the case of surrendered goods, the bonded warehouse operator shall notify the relevant Customs Authority so that the auctioning process may begin, pursuant to the stipulations of these Regulations.

Article 495. Goods transfers between bonded warehouses. The authorization of the Customs Service shall be required for transfers between customs storage facilities of goods remaining under the bonded warehousing regime. At all events the permitted length of stay of goods shall be counted as from the date on which they entered the first bonded warehouse.

Article 496. Ex officio transfer to a warehouse. For reasons of supervision or fiscal security, the Customs Authority may order, ex officio, that goods be transferred to a particular bonded warehouse. To that end, the customs department concerned, in coordination with the bonded warehouse operators, shall formulate a plan for distribution among the various bonded warehouses on a rotating and percentage basis bearing in mind the type of warehouse and the characteristics of the goods; the costs shall be borne by the owner of the goods or the party that demonstrates a superior claim.

Article 497. Limits for the storage of goods. For goods which at the time of arrival or while in storage at a bonded warehouse are by nature perishable or represent a danger to other goods in storage or to the facilities, the warehouse operator shall, at the time of their arrival or upon the discovery of the situation, immediately notify the consignee and the Customs Authority concerned. As of that time, the Customs Authority shall grant a period of five days for them to be withdrawn or for their subsequent destination to be decided on.

Should the transfer not take place in that period, the goods shall be deemed surrendered and shall be transferred or destroyed at the expense of the consignee or warehouse operator.

Article 498. Damaged or destroyed goods. Damaged or destroyed goods that retain some economic value may be imported definitively in their current state upon payment of the corresponding taxes.

Article 499. Bonded warehouse business hours. Bonded warehouse operators shall be required to provide their services during the hours below:

- (a) Receiving vehicles and transport units, 24 hours a day, 365 days a year; and
- (b) the bonded warehouse service, at least during the normal business hours of the customs department concerned.

In the case of the subparagraph (b) above, permission must be sought for any extension of business hours. Exceptional extensions are not permanent but are made for a specific operation and permission must be requested at least two hours before the close of business of the customs office.

Article 500. Retaining goods in the transport unit. Exceptionally, the bonded warehouse operator may request the Customs Authority's permission not to unload from the transport unit goods admitted to the bonded warehouse which owing to their characteristics are difficult to move and store, in accordance with the guidelines established by the Customs Service for that purpose.

For the case referred to in the fourth paragraph of Article 234 of these Regulations, permission shall be granted not to unload goods that pose a danger to health and the environment.

SECTION II

ACTIVITIES PERMITTED IN CUSTOMS BONDED WAREHOUSES

Article 501. Independence of activities. The activities permitted in bonded warehouses under Article 116 of these Regulations are independent of activities proper and inherent to bonded warehouses, and in consequence, goods controls by the customs must be separate from those undertaken internally by the auxiliary agent.

Article 502. Request for authorization of permitted activities. The request to carry out activities permitted in the bonded warehouses must be submitted by the consignee or his representative to the relevant Customs Authority via electronic transmission or other channels established by the said authority.

Article 503. Verification of the process and exit. The Customs Authority shall undertake the relevant verifications of the process executed and the intended purpose of the goods.

Waste and scrap generated from foreign goods as a result of the permitted activity shall be re-exported, destroyed or definitively imported in accordance with the provisions of these Regulations.

Article 504. Entry of goods in free circulation. A report must be made on the entry of materials and goods in free circulation that are used in activities permitted in bonded warehouses, in the form and manner stipulated by the Customs Service.

Article 505. Procedural manual. The Customs Service shall elaborate and publish the manual of compulsory procedures for the arranging, executing and supervising the permitted activities to which the goods shall be subject within bonded warehouses, in accordance with Article 116 of these Regulations.

CHAPTER XI

FREE ZONES

Article 506. Goods declaration. The goods declaration for the free zone regime shall contain, where relevant, the information prescribed in Article 320 of these Regulations.

Article 507. Documents supporting the declaration. The goods declaration must be supported, as applicable, by the documents mentioned in Article 321 of these Regulations.

Article 508. Monitoring. The Customs Service or the entity designated in the specific regulations shall be responsible for monitoring the use and destination of the goods admitted to this regime. In exercising that monitoring function, it shall, *inter alia*:

- (a) Monitor the zone and its access and exit routes;
- (b) review or audit the production coefficient or the method of determining it and the production processes involved in the operations covered by the regime;
- (c) monitor the entry and exit of persons, goods, means of transportation; and

- (d) monitor the transfer of the goods, any losses and waste, and defective subproducts or compensating products.

Article 509. Obligations. The beneficiaries of the regime shall have, *inter alia*, the following obligations *vis-à-vis* the Customs Service:

- (a) Possess the equipment needed for the electronic transmission of records, the handling of enquiries and for providing any other information required by the Customs Service;
- (b) have sufficient means to ensure the custody and preservation of goods admitted under this regime;
- (c) inform the Customs Authority of goods damaged, lost or destroyed and of any other irregularities occurring while they are deposited in the free zone;
- (d) be directly liable to the Customs Service for goods received at their premises from the time they are received and for the payment of customs tax obligations in connection with damaged, lost or destroyed goods, unless these events are the result of unforeseen circumstances or *force majeure*;
- (e) computerize the records of their customs operations as well as the inventory control of goods subject to the regime, according to the requirements determined by the Customs Service;
- (f) provide the information needed to determine the goods that are required for the production or assembly of compensating products, and to determine the waste, subproducts or scrap resulting from production process;
- (g) allow and facilitate the inspections and checks made by the Customs Service; and
- (h) provide any other relevant information that facilitates the necessary audits or checks carried out by the Customs Service.

Article 510. Termination of the regime. The free zone regime shall be terminated for the following reasons:

- (a) When goods and compensating products are sent out of the customs territory;
- (b) when goods and compensating products are assigned to another authorized regime;
- (c) the total destruction of goods with the authorization of the Customs Service or owing to unforeseen circumstances or *force majeure* proven to satisfaction of the said Service; and
- (d) where goods are voluntarily surrendered to the tax authorities.

Article 511. Other applicable provisions. Also applicable to this regime, where relevant, are the provisions of the inward processing regime and of the bonded warehousing regime regulated in Articles 466, 472, 474, 475, 478, 488, 489, 490, 491, 493 and 499 of these Regulations.

CHAPTER XII

TEMPORARY EXPORT AND RE-IMPORTATION IN THE SAME STATE

Article 512. Goods declaration. The goods declaration for the regime involving temporary export and re-importation in the same state shall contain, as applicable, the information shown in the goods declaration for the definitive export regime.

Article 513. Documents supporting the goods declaration. The goods declaration must be supported by the documents indicated in Article 321 of these Regulations, except for the documents referred to in subparagraphs (a), (c) and (d) of that Article.

Should the transport document not be available at the time of exportation, the respective shipment order shall be accepted.

Article 514. Verifications during clearance. The following verifications shall be made during clearance:

- (a) That the goods declaration has been transmitted and validated by the Customs Service for acceptance purposes; the regime shall be authorized on condition of immediate verification; and
- (b) that the goods declaration complies with the documentary requirements set out in Article 513 of these Regulations.

If the Customs Authority detects irregularities in the course of the immediate verification, it shall proceed in accordance with these Regulations.

Article 515. Length of stay. The time during which goods may remain under the regime allowing temporary export and re-exportation in the same state shall be up to six months, counted as from the date of acceptance of the declaration.

Article 516. Re-import. The goods declaration for the re-importation of goods exported under the regime covering temporary export and re-importation in the same state, submitted within the time-frame set under that regime for goods to remain abroad, must be supported, as appropriate, by the documents indicated in Article 321, subparagraphs (b) and (e) of these Regulations, and must be accompanied by a certified copy of the goods declaration for temporary export, or must indicate the declaration number. In this case the goods will not be subject to the payment of taxes.

Temporarily exported goods may be re-imported partially or totally and shall not require prior authorization; the Customs Authority shall ascertain that they are the same goods that left the customs territory under the temporary export regime.

In all cases, the goods shall undergo physical inspection by the Customs Authority.

Article 517. Procedure in the event of discrepancies. Should the immediate verification reveal that the goods being re-imported have not returned in the same state, the difference corresponding to the added value incorporated into the goods must be paid and the relevant adjustments made via the charges that must be notified to the exporter so that he may make the relevant rectification and pay the adjusted amount or, if applicable, provide a guarantee as foreseen in Article 52 of the Code.

Should the immediate verification reveal that the goods being re-imported do not match the goods that were temporarily exported or that a greater quantity is being re-imported, the appropriate legal actions will be set in motion.

Article 518. Eligibility requirements for exemptions. To be eligible for the benefits of this regime when re-importing goods, the declarant shall fulfil the following requirements:

- (a) The goods declaration for re-importation must be duly submitted and accepted within the permitted period of temporary export;
- (b) the goods must not have been processed in any way;
- (c) the identity of the goods must be fully established; and
- (d) the party re-importing the goods must be the same person that exported them.

Article 519. Re-import of goods outside the time-limit. The re-importation of goods exported under the regime for temporary export with re-importation in the same state taking place after the expiry of the period of stay abroad permitted under that regime shall give rise to the payment of the taxes and compliance of the non-tariff obligations associated with the definitive import regime, as though the goods in question were being imported for the first time into the customs territory.

Article 520. Termination of the regime. The regime shall be terminated for the following reasons:

- (a) Re-importation within the prescribed time-frame.
- (b) change to the definitive export or outward processing regimes within the stipulated time-frame.
- (c) loss or destruction of goods by reason of unforeseen circumstances or *force majeure*, duly proven to the satisfaction of the Customs Service.

In the cases of subparagraphs (a) and (b), all the requirements and formalities corresponding to the regime being requested must be complied with.

Article 521. Supplementary provisions. The rules on temporary importation and re-exportation in the same state shall govern this regime wherever applicable.

CHAPTER XIII

TEMPORARY EXPORT FOR OUTWARD PROCESSING

Article 522. Goods declaration. The goods declaration for the regime involving temporary export for outward processing shall contain, as applicable, the information shown in the goods declaration for the definitive export regime.

Article 523. Documents supporting the declaration. The goods declaration must be supported by the documents indicated in Article 321 of these Regulations, except for the documents referred to in subparagraphs (a), (c) and (d) of that article. A copy of the performance warranty must also be attached in the case envisaged in Article 526(a) of these Regulations.

Should the transport document not be available at the time of exportation, the respective shipment order shall be accepted.

Article 524. Length of stay. The time during which goods may remain under the regime involving temporary export for outward processing shall be six months, counted as from the acceptance of the goods declaration.

Article 525. Re-import. The goods declaration for the re-importation of goods exported under the regime covering temporary export for outward processing, submitted within the time-frame set under that regime for goods to remain abroad, must be supported, as appropriate, by the documents indicated in subparagraphs (b) and (e) of Article 321 of these Regulations, and must be accompanied by a certified copy of the goods declaration for temporary export, or must indicate the declaration number.

In cases of re-importation of goods after processing and repair, except when the repair is done within the period covered by the performance warranty, it will be necessary to attach the commercial invoice showing the added value that has been incorporated, which includes the cost of the repair, if applicable. The same shall apply in the case of the re-importation of substitute goods of a value greater than those temporarily exported.

The re-import of temporarily exported goods may be partial or total and shall not require prior authorization.

In all cases, the goods shall undergo physical inspection by the Customs Authority.

Article 526. Eligibility requirements for exemption. To be eligible for the benefits of this regime when re-importing goods, the declarant shall fulfil the following requirements:

(a) In the case of goods that are replaced or repaired at no cost within the period covered by the performance warranty:

- i. The goods declaration for the re-importation must be duly submitted and accepted within the permitted period of temporary export, and must be accompanied by a copy of the performance warranty or equivalent document;
- ii. the identity of the goods must be fully established if they have been repaired. Where they are replaced by other identical or similar goods, the provisions of the third paragraph of Article 104 of the Code shall apply.

(b) In the other cases of outward processing:

- i. The goods declaration for re-importation must be duly submitted and accepted within the permitted period of temporary export;
- ii. the identity of the goods must be fully established or it must be possible to determine the incorporation of temporarily exported goods into the compensating products being re-imported.

The re-importation of the goods referred to in subparagraph (a) of this Article, shall be fully exempt from duties, except:

- i. In the case of substitution, where the substitute goods have a higher value, in which case the duties shall be payable only on the resulting difference;
- ii. in the event that recognition of the performance warranty is not verified, in which case the duties corresponding to the value added to the goods and the costs incurred as a result of the re-importation must be paid.

In the cases provided for in subparagraph (b) of this Article, the corresponding taxes shall be payable only on the value added to the exported goods and the costs incurred as a result of re-importation.

If the outward processing was carried out in the customs territory of any of the States Parties and if the added elements, parts or components originated in those States Parties, the re-importation shall not be subject to the payment of customs duties.

Article 527. Re-import of goods outside the time-limit. If the goods declaration for re-importation is submitted outside the time-limit referred to in subparagraphs (a)(i) and (b)(i) of Article 526 of these Regulations, this shall give rise to the payment of the taxes and compliance with the non-tariff obligations associated with the definitive import regime, as though the goods were being imported into the customs territory for the first time; if their return within the original time-limit is prevented by unforeseen circumstances or *force majeure* duly proven to the satisfaction of the Customs Service, the re-importation of the goods shall be permitted in accordance with the rules set down in Article 526 of these Regulations.

Article 528. Compensating products. For the purposes of this regime, compensating products are goods obtained abroad from goods that have been temporarily exported for outward processing.

Article 529. Tax base for repaired goods. Where goods are repaired outside the warranty period, the tax obligation shall be assessed according to the value of the compensating products, plus the services supplied abroad for the repair, freight, insurance and other costs, in conformity with the rate applicable under the tariff classification of those products.

Article 530. Termination of the regime. The regime shall be terminated for the following reasons:

- (a) Re-importation or change to the definitive export regime within the prescribed period.
- (b) loss or destruction of goods by reason of unforeseen circumstances or *force majeure*, duly proven to the satisfaction of the Customs Service.

Article 531. Supplementary provisions. The rules on temporary admission for inward processing shall govern this regime wherever applicable.

CHAPTER XIV

RE-IMPORTATION

Article 532. Goods declaration. The goods declaration for the re-import regime shall contain, as applicable, the information shown in the goods declaration for the definitive import regime. It shall also contain the number of the goods declaration for definitive export from which it is derived.

Article 533. Condition of the goods. The re-imported goods must be in the same state in which they were exported, except for normal wear and tear resulting from the use to which they were put, or measures taken to preserve them, provided that such measures do not increase the value of the goods as at the time they were exported.

Article 534. Documents supporting the goods declaration. The goods declaration for the re-import of definitively exported goods referred to in Article 105 of the Code must be supported by the documents mentioned in Article 321 of these Regulations, except for the documents referred to in subparagraphs (a), (c) and (d) of that Article.

Article 535. Customs procedure. In addition to complying with the formalities prescribed in Article 106 of the Code, the exporter shall be required to submit an application to the Customs Service giving the reasons for the return of the goods. Once authorized, the re-imported goods shall be cleared in accordance with the procedures stipulated for the definitive import regime. The goods shall nevertheless be subject to physical inspection in all the cases.

Article 536. Re-import of goods outside the time-limit. When goods return to the customs territory outside the time-limit specified in Article 106(a) of the Code, they shall be considered for all purposes as foreign goods and as such shall be subject to the payment of taxes and to other non-tariff restrictions and regulations.

CHAPTER XV

RE-EXPORT

Article 537. Goods declaration. The goods declaration for the re-export regime shall contain, as applicable, the information shown in the goods declaration for the definitive export regime and shall also identify the goods. It must show the number of the document or the goods declaration that covered the importation of the goods into the customs territory, if applicable.

The goods declaration for re-exportation shall be subject to immediate verification. The Customs Authority that verifies declarations for goods being re-exported shall ascertain compliance with the requirements established for suspended-duty customs regimes and with the relevant stipulations of Articles 538 and 539 of these Regulations.

No declaration shall be required for the re-export of vehicles covered by the temporary import regime for tourists, which will be terminated with the handing in of the permit at the time of leaving the customs territory, pursuant to Article 447(c) of these Regulations.

The declaration for re-exportation of goods may be submitted cumulatively in the cases and under the conditions determined for that purpose by the Customs Service.

Barring any statutory provisions to the contrary, the Customs Service shall issue administrative regulations allowing the intervention of the customs agent to be optional under the re-export regime.

Article 538. Documents supporting the declaration. The declaration referred to in Article 537 of these Regulations must be supported by the documents mentioned in Article 321 of these Regulations, except for the documents referred to in subparagraphs (c), (d) and (e) of that article.

Article 539. Goods subject to the regime. This regime shall cover goods that have not been imported and which have been made subject to any customs regime involving the suspension of duties.

Goods in temporary storage may also be re-exported provided that they were not unloaded by mistake, have not been surrendered and that there is no well-founded presumption of any infringement or criminal customs offence with respect to them, in which case the Customs Authority is empowered to authorize the regime without requiring the presentation of the respective goods declaration.

In the case of goods which, in order to enter the country of destination different from that of arrival, must fulfil a non-tariff requirement or require a special permit and this cannot be granted, the Customs Authority concerned shall authorize the re-export pursuant to the procedure laid out in the preceding paragraph, provided that the application is submitted within the three months following the date of arrival of the goods at the port of entry.

CHAPTER XVI

SPECIAL DEFINITIVE IMPORT AND EXPORT MODALITIES

SECTION I

POSTAL CONSIGNMENTS

Article 540. Liability of the postal authorities. The postal authorities shall be responsible for receiving, conveying and storing postal consignments and for presenting them to the Customs Service; they may not be delivered to their addressees without the prior authorization of the Customs Service.

The postal authorities shall be responsible for any charges incurred as a result of any damage, loss or theft of the content of consignments where such situations are attributable to them, except where unforeseen circumstances or *force majeure* are duly proven to the satisfaction of the Customs Authority.

Article 541. Controls. The Customs Authority shall select the postal consignments that must undergo physical inspection at post offices, or shall forward them for further customs processing to the authorized places designated by the Customs Service for that purpose.

Article 542. Notification. At the request of the Customs Service, the postal authorities shall send a notice to the addressees of postal consignments which by law are subject to the payment of duties so that their clearance through customs may proceed.

Once the interested party has been notified of the consignment, he shall be required to go to the customs to identify the goods and state his decision to clear them for consumption or to return them. In the first case, the customs department shall proceed to process the declaration ex officio, and shall determine the tax payable.

The merchandise will be inspected in the presence of its addressee or his duly accredited representative at the customs facility or the post offices concerned and with the relevant notification to hand.

The outcome of the inspection shall be communicated immediately to the consignee so that he may state his wish to assign them to a customs regime, re-export or intentionally surrender them to be returned to the sender.

If he decides to assign them to a customs regime, he must comply with the requirements and formalities relating to the regime in question.

Article 543. Prohibited goods. When the postal service is used to introduce into or send out of the customs territory goods subject to import or export prohibitions, the post office shall report this situation to the relevant Customs Authority so that it may take action in accordance with the applicable legal provisions.

Article 544. Import of commercial postal consignments. Persons whose activity involves effecting commercial imports by post shall, in addition to complying with the prescribed customs obligations, submit a declaration through a customs agent or a special customs attorney.

The Customs Authority may not carry out a physical inspection of postal consignments unless the addressee or his representative is present.

Article 545. Non-commercial postal consignments. Non-commercial postal consignments are deemed to be goods that are sent for the addressee's personal or family use or consumption and which will not be used for profit-making purposes.

Article 546. Clearance procedure for non-commercial postal consignments. The documents referred to in Article 321 of these Regulations shall not be required for the clearance of non-commercial postal consignments; the postal transport document and the corresponding notice must be produced, and the customs obligations required for the authorization of the regime, where appropriate, must be complied with.

The goods declaration for the clearance of non-commercial postal consignments shall be drawn up ex officio by the appointed customs officer, and must be signed during clearance by the addressee acknowledging the satisfactory receipt of the content; the addressee may otherwise lodge any complaints with the competent authority.

Upon fulfilment of the specified requirements, the goods shall then be verified. The outcome of the verification shall include notification of the customs tax obligation assessed, so that the addressee may proceed to pay the taxes. Upon confirmation of payment, the customs officer shall authorize the release of the goods, which shall be delivered by the postal authority.

The post office official may be present during the physical inspection where this is warranted under the criteria established by customs.

Article 547. Export of postal consignments. Postal consignments being exported need not be presented to the Customs Service for control purposes, except where they contain:

- (a) Goods whose export requires special authorization by the competent authority;
- (b) goods subject to export restrictions or prohibitions or the payment of export duties, where applicable; and
- (c) goods whose value exceeds the value foreseen in the relevant legislation.

Article 548. Postal consignments in transit. The customs formalities will be kept to the minimum necessary to facilitate the entry and exit of goods contained in postal consignments.

Article 549. Return of commercial and non-commercial postal consignments. If after six months counted as from the date of receipt of the notice by the addressee the latter fails to come forward to request the clearance of the postal consignments, the Customs Authority shall authorize the post office to return them to the sender.

Postal consignments that not are collected within the time-frame indicated in the preceding paragraph shall not be deemed surrendered, but shall be subject to the procedure envisaged in that paragraph.

In the cases of items being returned abroad, the post office shall forward the details of such return operations to the Customs Authority via magnetic or electronic media, in accordance with the conditions prescribed by the Customs Service.

Article 550. Return of goods exported by post. Exported postal packages and consignments that are returned to the customs territory by foreign post offices shall be presented by the post offices to the customs authorities for identification and subsequent delivery to the senders, provided that they are confirmed to be the same goods that were originally exported.

Article 551. Transfer of goods. Transfers of postal consignments from the customs of entry to bonded warehouses owing to their consolidation with non-postal goods shall be done under customs supervision, using the corresponding goods declaration.

The transportation of postal consignments from the customs of entry and bonded warehouses to post offices or between them shall be done under customs supervision by the postal authority and in accordance with the prescribed formats.

Article 552. Small non-commercial consignments imported by post. Small non-commercial consignments sent by post shall be cleared as stipulated in these Regulations.

Article 553. Simplified procedures. States Parties may establish simplified procedures for the clearance of commercial and non-commercial postal consignments, preferably by electronic means. This simplified procedure shall be governed by the regulations issued for the purpose by the Customs Service jointly with the postal authorities.

SECTION II

URGENT CONSIGNMENTS

Article 554. Classification. For the purposes of Article 110 of Code, urgent consignments shall be:

- (a) Relief consignments;
- (b) consignments that by their nature require urgent clearance; and
- (c) goods imported via the express delivery or courier system.

Article 555. Relief consignments. The following, *inter alia*, shall be deemed relief consignments: goods, including vehicles and other means of transportation, food, medicines, clothing, blankets, tents, prefabricated houses, articles for water purification and storage, or other staples sent as aid for people affected by disasters. Also included are equipment, vehicles and other means of transportation, specially trained animals, provisions, supplies, personal effects and other goods meant for disaster relief personnel that enable them to discharge their functions and help them to live and work in the disaster zone for the duration of their mission.

Article 556. Clearance procedure. The goods listed in the preceding Article shall be cleared by means of simplified, fast-track procedures, in coordination with the competent authorities. The release of such goods shall be authorized with no requirements other than the appointed customs officer's approval of the lists of goods, which must have been processed by or through official agencies set up by States Parties for disaster relief or national emergencies. The clearance of relief consignments must be approved irrespective of the country of origin, provenance or destination of the goods.

Relief consignments for export, transit, temporary admission and import shall be processed on a priority basis. The authorities responsible for regulating foreign trade shall coordinate the exercise of their functions with the Customs Authority such that the release of these goods is not delayed.

When incoming relief shipments are consigned to social welfare or charitable agencies, non-governmental organizations, associations or foundations serving the public interest, the admission of the goods shall be authorized provided that the transport documents are endorsed to the Government entity responsible for channelling the aid.

At the latest within the 20 days following authorization of the release of the goods, all the relevant information and documentation must be made available and submitted to the Customs Authority concerned so that the corresponding ex officio declaration can be prepared; the information and documentation shall be the following:

- (a) The bill of lading or contract of carriage concerned;
- (b) the document from the competent body authorizing treatment as relief consignments in keeping with this Section and exemption from duties, or the declaration of emergency made by the competent bodies and which determines exemption from the applicable taxes; and
- (c) a detailed list of the relief consignments issued by the requesting authority or by the customs authorities of the country of export.

Article 557. Permits. The corresponding import permits for relief consignments may be submitted after the entry of the goods. However, in the case of foodstuffs or medicines and all goods subject to sanitary requirements, the competent authorities may conduct an inspection before authorizing the release of the goods.

Article 558. Customs control. The Customs Service shall ensure compliance with the customs requirements relating to the entry, transit and outward movement of goods, with a view to preventing the use of this modality to evade customs and foreign trade controls.

Article 559. Consignments which by their nature require urgent clearance. Consignments which by their nature require urgent clearance shall refer, *inter alia*, to the following: vaccines and drugs; prostheses; human organs, blood and plasma; medical and clinical devices; radioactive material and perishable materials for immediate use or indispensable for a person or hospital.

Article 560. Simplified procedure. In the case of the goods covered by the preceding article, the Customs Service shall hold the processing of the goods declaration to the minimum necessary to safeguard the fiscal interest.

Article 561. Ex officio processing by customs of consignments classified as urgent by reason of their nature or in response to a duly substantiated need. The definitive import of goods under the modality of consignments classified as urgent by reason of their nature or in response to a duly substantiated need may be requested verbally by the consignee, who shall provide and present to Customs all necessary information and documents so that the latter may, ex officio, prepare the goods declaration, assess the customs obligation and process the goods declaration form. The clearance of the goods shall be considered to have been formally requested when proof of payment of the duty or the corresponding document of exemption has been submitted to the customs, as appropriate, and the requisite information and documents have been provided.

Article 562. Advance declaration. An advance application may be submitted for the clearance of goods which by reason of their nature require urgent handling, provided that the advance application is accompanied by a medical opinion or that of the competent authority showing that the goods must be used immediately or are indispensable in nature.

SECTION III

EXPRESS DELIVERY OR COURIER SERVICES

Article 563. Unloading of packages. The air carrier shall be required to:

- (a) Separate out packages for express delivery, which must be properly identified as indicated in Article 567 of these Regulations; and
- (b) move the packages for express delivery to the approved facilities for sorting and hand them over to the express delivery company. Packages that are not properly identified must be placed in the bonded warehouse as general cargo.

The role of the Customs Authority in the reception of vehicles, in unloading and loading at the customs port or the bonded warehouse shall be governed by these Regulations and be based on the application of risk criteria.

Article 564. Transport of express delivery goods in owned aircraft. Express delivery or courier service companies that transport express delivery consignments as well as general cargo in their own aircraft must, given their dual function, submit the cargo manifest in addition to the express delivery manifest.

Article 565. Sorting and release of express delivery goods. The Customs Authority shall authorize express delivery companies to undertake the sorting and release of consignments in areas located in zones under customs supervision, for which purpose they must have computer equipment with the necessary interconnections with Customs Service IT system.

On the basis of risk criteria, the Customs Authority may permanently assign customs officers or visit these locations when necessary.

Article 566. Goods covered by express or courier delivery. Goods covered by express or courier delivery must be classified by the express delivery or courier services company into any of the following categories:

(a) Correspondence and documents. This category includes any message, information or data transmitted in the form of papers, letters, photographs or by means of magnetic or electromagnetic media relating to banking, commercial and judicial matters, insurance or press material and catalogues, *inter alia*, not including software, which are of no commercial value and are not subject to taxes, restrictions or prohibitions.

(b) Taxable consignments. This category covers consignments with a customs value equal to or less than one thousand Central American pesos and those that fulfil the requirements of current regulations for classification as samples, and where the goods are not subject to non-tariff restrictions and regulations.

(c) Consignments not subject to the simplified procedure. Other consignments not included in the foregoing categories shall fall under the general clearance procedure. This category includes goods subject to non-tariff restrictions and regulations, goods intended for a regime other than definitive import or export, and goods imported under the modality of small consignments of a non-commercial nature, as regulated by Article 116 of the Code and Article 595 of these Regulations.

Article 567. Labelling and identification of packages containing express delivery goods. Packages containing express delivery goods that enter or leave the customs territory must be clearly identified by means of special distinguishing marks for documents and other express delivery consignments and must be presented separately from general cargo.

Each consignment must be sealed and shall also contain a label or other medium that shows at least the following information:

- (a) Identification of the exporter or shipper;
- (b) name and address of the consignor;
- (c) identification of the express delivery company;
- (d) name and address of the consignee;
- (e) description and quantity of goods or documents it contains;
- (f) gross weight of the package in kg; and
- (g) customs value of the goods.

Article 568. Transmission of the express delivery manifest. The express delivery or courier services company shall electronically transmit the express delivery manifest before the arrival of the goods, once the general cargo manifest has been transmitted containing the consolidated or master airway bill consigned to the company.

If upon completion of the process of classification or separation of consignments discrepancies are detected with the information declared in the express delivery manifest, the express delivery or courier services company shall be required, within a maximum period of five hours, to transmit the relevant corrections and provide the appropriate explanations. When the discrepancies found concern the weight, quantity of packages or description of the goods, the corrections must be made subsequent to authorization by the Customs Authority.

Article 569. Information on the express waybill. Each express waybill covering a consignment must contain the information provided by the sender with respect to the name of the consignee, the description of the goods, the price according to the invoice and the freight rate.

Article 570. Information to be shown in the express delivery manifest. In addition to the information indicated in Article 243 of these Regulations, the express delivery manifest shall contain the following information:

- (a) A categorization of the consignments;
- (b) the declared f.o.b. value;
- (c) the cost of freight and insurance; and
- (d) any other information that the Customs Service may require.

Article 571. In-transit consignments. The Customs Authority may authorize the classification, redistribution and transshipment of express delivery consignments in international or domestic transit at locations designated for that purpose and under customs supervision, though these operations must always take place in approved zones within the airport.

Article 572. Clearance of correspondence and documents. The clearance of consignments in the category described in Article 566(a) of these Regulations shall be done on the basis of the information given in the express delivery manifest once it has been separated out and risk criteria applied.

For the category (a) consignments mentioned in the preceding paragraph, in transmitting the express delivery manifest, the express delivery company may include a single master waybill covering all the consignments, indicating the quantity of packages and gross weight in kilogrammes.

Article 573. Simplified declaration. For the clearance of goods in the category described in Article 566(b) of these Regulations, once the general cargo manifest and express delivery manifest have been transmitted, the express delivery or courier services company shall submit the simplified goods declaration, which may cover one or several waybills pertaining to different consignees, provided that the customs value of the goods contained in each consignment is one thousand Central American pesos or less and that they are not subject to non-tariff restrictions and regulations.

The express delivery manifest may become a simplified goods declaration when the Customs Service so decides.

The simplified goods declaration may not include the goods in the category shown in Article 566(c) of these Regulations, goods identified as small family consignments of a non-commercial nature and goods subject to non-tax restrictions and regulations, such as permits, certificates, authorizations, exemptions or the like, or to non-tariff restrictions and regulations such as the application, *inter alia*, of preferential treatment, quotas, safeguards or countervailing duties.

The consignee of the shipments included in the category described in Article 566(b) of these Regulations may also clear them by means of a non-self-assessed goods declaration or an ex officio procedure, as decided by the Customs Service.

Article 574. Time-frame for clearing taxable consignments. The express delivery or courier services company shall have a period of six hours following the reception of the transport unit at the approved facilities in which to separate the consignments and submit the simplified goods declaration. If the said declaration is not submitted within the aforementioned time-frame, the express delivery or courier services company shall be required to move the goods into temporary storage or place them under the bonded warehousing regime.

In the case of the category described in Article 566(c) of these Regulations, goods classified as small family consignments of a non-commercial nature and goods subject to non-tax restrictions and regulations must be delivered to the bonded warehouse operator or temporary storage facility immediately upon completion of the separation process.

In cases where the goods are not delivered to the bonded or temporary warehouse operator, the express delivery company shall be liable for the relevant tax obligations and penalties.

Article 575. Mandatory documents. The commercial invoice and the individual air waybill must be submitted for the clearance of consignments in the category described in Article 566(b) of these Regulations.

Article 576. Clearance of consignments not subject to the simplified procedure. The consignments not included in the categories described in subparagraphs (a) and (b) of Article 566 of these Regulations shall be released immediately if they have been cleared by means of the general procedures under the regime in question or shall be moved to bonded warehouses.

Article 577. Application of risk criteria. Following a risk-based approach, the Customs Authority may conduct documentary or physical and documentary inspections, whether generally or individually, of the consignments declared in the express delivery manifest and of the simplified goods declaration.

When goods are to be inspected by other competent authorities, they must coordinate the manner and timing of such inspection with the Customs Authority.

SECTION IV

TRAVELLERS' LUGGAGE

Article 578. Definition of travellers' luggage. Travellers' luggage means goods for personal use or for the practice of their profession or trade in the course of their journey, provided that they are not for commercial purposes and consist of:

- (a) Clothing;
- (b) articles for personal use and other items in amounts proportional to the situation of the traveller, such as jewellery, handbags and toiletries;
- (c) medicaments, food, instruments, medical equipment and disposable items used with them, in quantities commensurate with the circumstances and needs of the traveller. The instruments must be portable. The traveller's wheelchair if he or she is disabled. The perambulator and toys of children who are travelling;
- (d) articles for recreation or sport, such as muscle tension equipment, treadmills and bikes, both stationary and portable, surfboards, sports bats, bags, clothes, shoes and gloves, protective gear for baseball, football, basketball, tennis or other sports;

- (e) an image recording device, a camera, a movie camera, a sound recording and reproducing device, and their accessories; up to six rolls of film or magnetic tape for each; a radio receiver; a television receiver; binoculars or telescope, and a cell phone, all portable;
- (f) a personal computer; a calculator; a PDA; all portable;
- (g) tools, supplies, and manual implements for the traveller's trade or profession, provided they do not constitute complete equipment for workshops, offices, laboratories, or the like;
- (h) portable musical instruments and their accessories;
- (i) books, manuscripts, records, tapes and media for recording sound or making similar recordings. Non-commercial prints, photographs and photo engravings;
- (j) five hundred grammes of manufactured tobacco in any form of presentation, five litres of wine, spirits or liqueur per adult traveller and up to two kilogrammes of sweets;
- (k) hunting and sporting weapons, 500 rounds of ammunition, a tent and other equipment needed for camping, provided it can be demonstrated that the traveller is tourist. The admission of those weapons and ammunition shall be subject to the regulations of each State Party on the matter; and
- (l) others established by each State Party.

Article 579. Special declaration. All travellers arriving in the customs territory by any authorized route must make a declaration using the form issued by the Customs Service for that purpose.

Airlines and in general enterprises engaged in international passenger transport are required to cooperate with the Customs Service for the purposes of monitoring the entry of passengers and their luggage, including by making the declaration form available.

A single declaration shall be made in the case of a family group.

Article 580. Content of the declaration form. The form to be used for the declaration shall at the least contain information regarding:

- (a) The identity of the traveller;
- (b) the travel document;
- (c) the purpose of the trip;
- (d) status;
- (e) type and company of transportation;
- (f) total value of accompanying goods;
- (g) countries of provenance and destination;

- (h) goods subject to import restrictions;
- (i) description of the goods;
- (j) unaccompanied luggage; and
- (k) the amount of money or monetary values being brought in when they exceed the value permitted by each State Party.

Article 581. Categories of luggage. Luggage may be:

Accompanied: when it enters together with the traveller; and

Unaccompanied: When it enters within the three months preceding or following the traveller's date of arrival in the customs territory, provided it is proven that the goods come from the traveller's country of residence or from one of the countries the traveller has visited, even in the case where it enters via a route other than that by which the traveller arrived.

Accompanied or unaccompanied luggage introduced by travellers into the customs territory shall be accorded extension the exemption from taxes on luggage envisaged in Article 113 of the Code, provided that its component goods are among those mentioned in Article 578 of these Regulations.

For the withdrawal of goods other than luggage entering with the traveller and which are eligible for the exemption referred to in Article 114 of the Code, the customs officer shall, ex officio, accord the exemption by making the corresponding entry in the Customs Service IT system. Should the value of the goods exceed the amount envisioned in the aforementioned Article, the customs officer shall make up the goods declaration ex officio, so that the resulting taxes can be paid.

In the case of unaccompanied luggage entering together with goods other than luggage, the traveller shall submit an application to the Customs Authority for their withdrawal, attaching the list of goods other than luggage and the original of the transport document. If the conditions stipulated in these Regulations are met, the corresponding exemption shall be granted, provided there is entitlement. Should the value of the goods exceed the amount envisioned in Article 114 of the Code, the customs officer shall make up the goods declaration ex officio so that the resulting taxes can be paid.

Article 582. Conditions for entitlement to exemption. To be eligible for the benefit referred to in Article 114 of the Code, the traveller shall meet the following conditions:

- (a) The goods being imported, considering the quantity and kind, shall not be used for commercial purposes;
- (b) the goods are not subject to import prohibition;
- (c) the traveller has remained outside the customs territory for a minimum of 72 hours; and
- (d) any others prescribed by the national laws of States Parties.

States Parties may decide that this benefit can be accorded once every six months. The benefit is personal and non-transferable, it is not cumulative and shall be deemed fully used up regardless of the quantity to which it is applied in a single journey.

Captains, pilots, drivers and crew members of means of transport used for international goods transport shall be entitled to exemption from the payment of duties only on the clothing and personal effects that they bring with them from abroad or take from the customs territory.

Article 583. Inspection procedure. The inspection of goods that constitute luggage shall be risk-based. It shall nevertheless be mandatory in the following cases:

- (a) Unaccompanied luggage;
- (b) when the traveller has not completed and submitted the declaration referred to in Article 579 of these Regulations; or
- (c) when a complaint is filed giving rise to well-founded suspicion that the traveller is bringing in goods whose import is prohibited or there is the presumption of a smuggling offence or customs fraud.

When a physical inspection of goods is to take place, the Customs Authority shall, *inter alia*, be required to:

- (a) Check the traveller's passport or identity and ascertain provenance, time spent outside the customs territory and date of the last occasion on which the traveller benefited from tax exemption, if applicable. Moreover, the passport data may be compared with the declaration and other migration-related information;
- (b) check the goods declared against those presented, determine their nature, and quantities. If undeclared goods are detected, they shall be confiscated and the appropriate procedure followed; and
- (c) verify that goods subject to import restrictions come with the relevant permits and fulfil the other conditions described in this Section.

SECTION V

HOUSEHOLD EFFECTS

Article 584. Declaration and facilities. The goods declaration for the import and export of household effects shall be made using simplified procedures based on the detailed list of goods constituting those effects prepared by the declarant and stating the estimated value of the goods, and on the transport document. Commercial invoices shall not be required in the case of used goods.

To the extent possible, the Customs Service shall grant preferential treatment to the clearance of household effects, without prejudice to the applicable control measures.

Article 585. Exclusion. In no case shall vehicles be considered part of household effects, nor shall machinery, equipment, tools, or accessories for offices, laboratories, clinics, factories, workshops or similar establishments.

Article 586. Household effects, luggage and goods other than luggage in the same shipment. The following procedure shall be followed when luggage, goods other than luggage and household effects arrive in the same shipment:

(a) To withdraw unaccompanied luggage or goods other than luggage and to obtain the exemption referred to Articles 113 and 114 of the Code, an application must be submitted to the Customs Authority concerned, to which must be attached the list of unaccompanied luggage or of the goods other than luggage, as the case may be, a copy of the transport document and a photocopy of the passport.

(b) For other goods considered as household effects, the corresponding goods declaration shall be transmitted electronically, together with the transport document and the detailed list of goods, which must show the quantity and unit values of used goods and the relevant invoices for new items, amongst other things.

(c) The Customs Authority concerned or some other competent authority of the State Party shall grant the exemption mentioned in the subparagraph cited, after verification of the requirement referred to in Article 21(a) of the Convention on the Central American Tariff and Customs Regime and based on the assessment of the customs tax obligation.

SECTION VI

IN-WORKS CLEARANCE

Article 587. Industrial process. For the purposes of Article 123 of these Regulations, the term industrial process means the transformation of the direct and indirect materials that are incorporated into a production process to create a product from those materials.

Direct materials are raw materials or materials in primary forms, including mixtures (prepared or semi-manufactured) that form part of the finished product.

Indirect materials are goods used in the production process, but which by their nature are not incorporated into the finished product, such as fuels, greases, lubricants, alcohols, cleaning liquids and materials.

Article 588. Reception at approved facilities. Companies authorized to undertake in-works clearance must receive vehicles and transport units containing goods consigned to them at their facilities approved by the Customs Service.

Article 589. Financially linked groups of companies. In-works clearance may be authorized for companies that make up business groups with sufficient financial links, which means that the direct or indirect stake held by one company in another of the group must be at least 25 per cent of the equity capital, provided that they also comply with the following requirements:

(a) Indicate the names of the companies comprising the financially linked group and any changes in the membership of the group; and

(b) indicate the total imports by the companies, which taken together must cover the parameters and conditions set for the individual companies.

Article 590. Exceptions. The Customs Service may waive the application of this procedure to a given category of goods.

It may also waive this procedure at one or several customs posts owing to the insufficiency of infrastructure or human resources or the lack of adequate materials for performing customs controls.

It may also suspend or cancel the application of this procedure to a consignee who fails to meet the statutory and regulatory requirements, without prejudice to the penalties that may apply.

Article 591. Acceptance and verification of the declaration. Once the goods declaration is accepted and payment of customs tax verified, the Customs Service shall indicate whether verification by physical examination of the goods should be ordered on the basis of the established risk criteria, once confirmation is received that the means of transport carrying the goods has arrived at the facilities of the authorized companies.

Article 592. Clearance of merchandise without physical inspection. When a physical inspection is not deemed necessary, the declarant shall be notified of the authorization for the release of the merchandise. The declarant shall be responsible for immediately informing the Customs Authority of any discrepancies with the information transmitted to Customs Service.

Article 593. Performance of the physical inspection. If the physical inspection of the merchandise is ordered, the Customs Authority shall notify the enterprise immediately to that effect, and shall designate the official responsible for carrying out the inspection. If the result of the physical inspection tallies with the information declared to Customs, the official shall immediately authorize the release of the merchandise.

If differences are detected between what was declared and the information that should have been declared, the procedure set out in Article 349 of these Regulations shall be followed.

Article 594. Consolidated goods. In-works clearance shall not be permitted for the goods sent under the system of consolidated transportation.

SECTION VII

SMALL FAMILY CONSIGNMENTS OF A NON-COMMERCIAL NATURE

Article 595. Clearance procedure. For the clearance of small non-commercial consignments, the goods declaration shall be made up ex officio by the Customs Authority, which shall grant the exemption referred to in Article 116 of the Code, provided that the person to whom goods are consigned proves his right to withdraw them by presenting the shipping document made out in his name and signing the ex officio customs declaration. The presentation of the commercial invoice shall not be required in such cases.

If at the time of assessing the customs tax liability it is found that the customs value exceeds the equivalent in local currency of five hundred Central American pesos, the Customs Authority shall determine the taxes ex officio, and may require the importer to present the commercial invoice or any other element that serves to establish the true value.

If the requisite documents are not submitted, the Customs Authority concerned shall proceed, ex officio, to determine the value of the goods in accordance with the applicable valuation system and to request payment of the taxes.

Article 596. Conditions. For the exemption referred to in Article 116 of the Code to be granted, the following conditions must be fulfilled:

- (a) The consignee has not benefited from this modality during the six months preceding the arrival of the goods;

- (b) the quantity of goods to be imported under this modality does not lend itself to commercial uses;
- (c) the consignee of the goods is a natural person; and
- (d) the Customs Authority is shown proof, if appropriate, of compliance with the non-tariff regulations and restrictions.

The benefit shall not be cumulative and may be utilized once every six months, irrespective of the quantity that has been exempted, provided that it does not exceed the amount set in Article 116 of the Code. If the consignment does not qualify for this modality, the clearance should proceed as for non-commercial imports or some other appropriate kind.

If a single cargo manifest shows merchandise consigned repeatedly to the same person and concerns two or more shipments from one or more consignors, the merchandise shall be consolidated in a single declaration in order to establish a single value. The same action shall be taken with regard to parts or spare parts that make up a single unit or components of a single item or set of items.

When the goods must comply with non-tariff regulations and restrictions, these must be met before their release.

For the purposes of this modality, each State Party shall decide on the scope of the term "family."

The Customs Service shall maintain a current database of the names and identification numbers of any persons who have made use of this modality.

SECTION VIII

SAMPLES OF NO COMMERCIAL VALUE

Article 597. Samples of no commercial value. These are goods sent at no cost to the consignee in order to demonstrate their properties and which, as samples, are devoid of any commercial value and are labelled to identify them as such, or which have been rendered useless in some way so that they cannot be marketed locally.

Samples of no commercial value are therefore deemed to be any goods or products imported or exported on that condition and intended for demonstration purposes and which lack any commercial value, whether owing to their quantity, weight, volume or other aspects of their presentation, or because that value has been removed from them by physically making them unusable, so as to rule out any possibility of marketing them.

Also considered as samples of no commercial value are goods whose use as samples entails their destruction by tasting, testing or analysis, such as food, beverages, perfumes, chemicals and pharmaceuticals and other similar products, provided that the state and quantity, weight, volume or other aspects of their presentation unequivocally demonstrate their status as samples devoid of commercial value.

Article 598. Clearance. If upon entry the goods are presented for clearance as samples of no commercial value, the Customs Authority shall determine whether they should be considered as such and if appropriate shall process the goods declaration ex officio.

When the customs decides that goods presented for clearance do not constitute samples of no commercial value, it shall place them under its supervision and notify the interested party so that a request can be made within the legal time-limits for the goods to be destined for another purpose.

Article 599. Documents to be presented for clearance. The consignee shall submit the following documents for the clearance of samples of no commercial value:

- (a) The shipment document pertaining to the samples;
- (b) transport document, if applicable; and
- (c) the import license or permit issued by the competent authorities, where appropriate.

Article 600. Transport document. When a single transport document covers both samples of no commercial value and other commercial goods, the importer may separate out the samples of no commercial value for the clearance process referred to in this Section.

SECTION IX

ENTRY AND EXIT OF DECEASED PERSONS

Article 601. Responsibility for the entry and exit of deceased persons. The conveyance of human remains into or out of the customs territory shall be under the responsibility of the carrier and must be done in properly sealed coffins and funeral urns or in other compartments that meet the conditions prescribed by the public health authorities or some other competent authority.

Article 602. Documents for the entry of deceased persons. For the entry of human remains, the carrier must submit the following documents:

- (a) Cargo manifest and individual transport document stating that the consignment consists of human remains;
- (b) death certificate;
- (c) certificate of embalmment; and
- (d) Those required by decision of the competent authorities.

Article 603. Priority processing. After verification of the documentation provided by the carrier and authorization by public health authorities or another competent authority, the Customs Authority, shall authorize the handover of the human remains, without further procedure.

TITLE VII
SURRENDER, AUCTION AND OTHER FORMS OF DISPOSAL
CHAPTER I
SURRENDER

Article 604. Tacit surrender. Tacit surrender occurs when goods are in any of the following situations:

- (a) If they are present in a port area or stored in temporary bonded warehouses and no application is filed for their assignment to a customs regime within the time-limit set in Article 283 of these Regulations;
- (b) when goods remain in a port area or bonded warehouse for longer than one month as from the date on which the definitive amount of the customs tax obligation is assessed and duly notified, and the tax has not been paid;
- (c) when the requested customs regime has been authorized and the goods have not been recovered from the warehouse, whether or not managed by the Customs Service, within the 30 days following the authorization of their release;
- (d) unaccompanied luggage not collected within a period of three months as from the date of its entry into the customs territory;
- (e) if a period of one month elapses as from the time the interested party is notified that the goods taken as samples are at his disposal and they have not been collected;
- (f) if they are being stored under the bonded warehouse regime or in temporary bonded warehouses and no application is filed for their assignment to a customs regime within the time-limit set in Article 492 of these Regulations;
- (g) they have been unloaded by mistake and have not been reshipped within the time-frame prescribed in Article 281 of these Regulations;
- (h) when 30 days have elapsed as from the time of the final ruling establishing a customs lien on the goods;
- (i) if after 15 days as from the date on which an enterprise under the duty-free zone or inward processing regime, as applicable, has ceased its operations and the Customs Service has been duly informed, its goods have not been re-exported or imported definitively;
- (j) if after one month as from the date on which the lawful owner is notified of the judicial ruling placing goods not subject to seizure in the custody of the customs authorities, the said owner has not requested their assignment to a regime;
- (k) when goods under the temporary import regime for which no guarantee has been provided are not re-exported or imported within the time-limits authorized in these Regulations, except in the case of tourist vehicles referred to in Article 448 of these Regulations; or
- (l) in other cases foreseen in these Regulations.

In the case of goods declared as being in international transit and destined for another State Party, the time-frame for surrender shall be three months counted as from the date of completion of their unloading or, in the case of land traffic, as from the arrival of the means of transport at the customs office concerned.

Article 605. Retrieval of the goods. For the purposes of Article 121 of the Code, the import goods declaration shall be presented to the relevant customs office, together with the information and documents, as applicable, referred to in Articles 320 and 321 of these Regulations, as well as proof of payment of the amounts owed in virtue of Article 46(2) of the Code and if applicable, any non-tax obligations applying to the goods being retrieved must be met.

On the basis of Article 121 of the Code, the Customs Authority concerned is empowered to authorize the clearance of the goods, provided that the requirements outlined in the preceding paragraph are met, without need of issuing a prior ruling on the retrieval.

CHAPTER II

AUCTIONS AND OTHER FORMS OF DISPOSAL OF GOODS

Article 606. Determining the starting price. The starting price of the goods to be auctioned shall comprise:

- (a) The amount of the customs tax obligation on the date of surrender of the goods; and
- (b) fees for Customs Services and other costs arising from the organization and holding of the auction.

Article 607. Itemization of goods to be auctioned and notice to the public. The Customs Service or the Customs Authority authorized by it shall itemize the goods to be auctioned and shall indicate the date, time and place of the auction.

Thereafter, it shall publish a single notice of the auction in the official journal or a widely circulated newspaper at least ten days before its scheduled date. It shall also display the notice visibly at the customs office and at the bonded warehouse or premises authorized for holding the public sale, and may publish it on the website of the Customs Service.

Article 608. Information to be included in the notice of auction. The notice of auction must contain, *inter alia*, the following information:

- (a) A general description of the goods to be auctioned, as well as an indication of the permits required for their importation, where appropriate;
- (b) the date, time and place of the auction;
- (c) the starting price of the lots or goods to be auctioned, determined in keeping with these Regulations;
- (d) the place and time-frame for exhibiting the goods prior to auction;
- (e) notice to the public that participation in the auction will require the deposit of an amount equal to 25 per cent of the starting price of the lots or goods on which they wish to bid;

- (f) any difference between the amount of the winning bid and the amount of the deposit shall be paid immediately or on the day following the date on which the goods are auctioned;
- (g) bidding shall be open to everyone except for officers or employees of the Customs Service, who may not participate directly or indirectly as bidders;
- (h) an indication as to whether the goods will be auctioned individually or as part of a lot; and
- (i) once the goods or lots have been sold and paid for, they must be collected no later than three days after the payment of the respective amount.

Article 609. Exhibition of the goods. Persons interested in participating in the auction may view the goods physically or on the website of the Customs Service in the three days before the auction. The goods shall be auctioned as they are on the date of the auction and the successful bidder may not make any subsequent claims against the Customs Service.

Article 610. Measures to ensure free bidding. The Customs Authority appointed to hold the auction shall take the necessary measures to ensure that it is run in an orderly manner.

Participants in the auction shall comply with measures regarding order and respect as prescribed by the competent official to ensure that the bidding takes place freely. Otherwise, the official may order the withdrawal from the auction venue of anyone failing to comply or suspend the auction outright if it cannot be run normally. The official shall also refuse to admit anyone whose conduct impairs free bidding or who is barred from participating in the event.

Officers or employees of the Customs Service may not participate directly or indirectly as bidders.

Article 611. Procedure to be followed by the official during the auction. The auction shall follow the procedure hereunder:

- (a) Before calling for bids, the appointed official shall offer the goods in the order specified in the auction notice, stating the batch or lot number assigned to them, as well as their starting price;
- (b) the official shall invite offers for the goods and there shall be no limit to the number of offers. If no one wishes to improve on the best offer after the official has asked three times, the official shall award the goods to the highest bidder;
- (c) the successful bidder shall pay in cash or by certified cheque, immediately or at the latest on the day following the date of the auction, the total amount or, where appropriate, the difference between the latter and the amount of the deposit, using the relevant form; and
- (d) a detailed record of the auction shall be drawn up, as prescribed by the Customs Service, showing at least the name of the appointed official, the quantity and category of goods sold, the name, business name or company name of the buyers and the price at which the goods were sold.

If buyers fail to pay in accordance with subparagraph (c) of this Article, the award shall be deemed not to have been made and the goods considered unsold. The buyers shall forfeit their deposits, which shall go into the special fund mentioned in the fifth paragraph of Article 120 of the Code.

If the auction cannot be concluded on the day indicated, it shall continue in the first business hour of the following day.

Article 612. Auction of restricted goods. In the case of goods that require a special import licence, only to persons legally entitled to make such imports may participate in auction, for which purpose they shall submit the requisite documents, permits, licences, or authorizations from the competent authorities before withdrawing the goods.

Article 613. Withdrawal of goods sold. Having paid for the goods obtained at auction, the successful bidder shall withdraw them from the premises where they are being kept, and shall comply with the non-tax obligations connected with their importation, defraying the costs arising from storage.

The goods shall be delivered to the owner based on the voucher issued by the Customs Authority for that purpose.

Article 614. Direct sale. Perishable, quickly or easily decomposable goods and goods costly to preserve shall be sold directly by the Customs Service at their base price, subject to fulfilment of the non-tax obligations.

In such cases, the publication stipulated in Article 607 of these Regulations may be dispensed with, but the Customs Service shall provide the publicity permitted by the circumstances.

Article 615. Unsold goods. The higher authority of the Customs Service shall treat any unsold goods as follows:

- (a) Donate them free of taxes to State or philanthropic institutions that can make use of them; or
- (b) destroy them.

The foregoing shall be subject to the provisions of special laws in States Parties.

Article 616. Treatment of goods from shipwrecks, capsized vessels or accidents. Goods from shipwrecks, capsized vessels, accidents or those found with no known owner must be placed immediately under customs supervision.

The Customs Authority shall publish a notice on the above circumstances in the official journal, itemizing the goods so that any persons able to prove their entitlement to them may come forward to claim them. If no one has come forward after one month as from the publication, the goods shall be treated as surrendered and shall be sold in accordance with the procedures set out in these Regulations.

Any person who delivers goods to the Customs Authority in the circumstances outlined in this article shall be entitled to reimbursement of the transport costs as set by expert estimate. If the owner of the goods undertook the recovery of the goods, the owner shall bear those costs. If the sale of the goods by public auction is ordered, the proceeds thereof shall be allocated, respectively, for the payment of the recovery and transport costs, taxes, and any other charges payable.

Article 617. Goods that are in poor condition, useless, or prohibited. Should the Customs Authority's inspection of the surrendered goods to determine their starting price reveal that they are in poor condition or useless, devoid of commercial value or subject to an import ban, an order

shall be given for them to be destroyed or turned over to the competent authority and the corresponding report drawn up.

The destruction shall take place in the presence of the Customs Authority and of the person designated by the bonded warehouse operator.

When flammable, toxic, corrosive or similar substances are to be destroyed, it shall be done in a manner that it is not harmful to nature or the environment and at locations authorized for the technical handling of such goods, in coordination with the responsible governmental bodies.

CHAPTER III

AUCTIONS VIA ELECTRONIC SYSTEMS OR MEDIA

Article 618. Participation. Participation by the general public in auctions by electronic systems or media over the Internet shall be subject to the rules laid down in the Code and these Regulations for the conduct of auctions, as well as the terms and conditions posted on the Customs Service's online auction site.

Article 619. Procedure preparatory to the auction. The itemization of the lot or goods to be auctioned, the notice, place and time-frame, as well as the exhibition of the goods and other procedures preparatory to the auction shall conform to the provisions of Articles 606, 607, 608, 609, 610 and 611 of these Regulations.

Article 620. Conduct of the auction. To auction goods by electronic means, the Customs Service shall proceed as follows:

- (a) Those wishing to participate must access the Customs Service's online auction site and register as users by entering, *inter alia*, the following information:
 - i. Identity document number;
 - ii. name and other personal identification particulars; and
 - iii. the number of the bank account or credit card to be used.
- (b) the information entered at the time of the above-mentioned registration shall be valid for all legal purposes, and therefore any records, notifications, issuance of vouchers, as well as the verification of identities at the time of delivering lots or goods obtained at auction shall be based on that information;
- (c) after registering, the user will receive an e-mail confirming the registration and assigning him a user code and personal password, which will validate the registration;
- (d) with the user code and password, interested parties shall enter their bids on the goods according to the instructions, terms and conditions published on the Customs Service's online auction site;
- (e) when a user signals his intention to place a bid, it must apply to a lot or goods that are of interest to him. On that basis the total amount of the participation fee shall be determined and deducted from the designated bank account or credit card, and shall be equivalent to 25 per cent of the sum of the starting prices of the lot(s) or goods concerned; the Customs Service shall then process the information and publish it on the auction site, at which point the bid shall be deemed valid;

(f) the Customs Service shall set the date and cut-off time for the receipt of bids, not exceeding five days, as well as the other conditions, and shall update the online record of bids received. The user shall be required to log on to the auction site in order to place the relevant bids; and

(g) once the bidding period has expired, the Customs Service shall automatically block the receipt of bids and award the lot or goods to the highest bidder, and shall debit the designated bank account or credit card accordingly. It shall also cancel the transactions of unsuccessful bidders pertaining to the deposit and bids placed.

Article 621. Report on results. A full report on the progress and results of the electronic auction shall be drawn up showing the name, business or company name of the successful bidders, the quantity and kind of goods sold and the auction price. The report shall be published on the Customs Service's online auction site.

Article 622. Special forms of auction. The higher authority of the Customs Service may contract specialized firms to conduct the auctions in accordance with the provisions of these Regulations.

The higher authority of the Customs Service may also develop other auction procedures.

TITLE VIII

APPEALS AGAINST RULINGS AND DECISIONS OF THE CUSTOMS SERVICE

CHAPTER I

APPEALS

Article 623. Appeal for review. Consignees or persons to whom final rulings or decisions of the Customs Authority on taxes or penalties are addressed may file appeals for revision with the higher authority of the Customs Service within the ten days following the notification of the ruling being contested.

The appeal must be filed with the authority that issued the decision or with to the higher authority of the Customs Service, and in both cases the dossier that gave rise to the decision shall be forwarded to the higher authority within the five days following the date of receipt of the appeal.

The higher authority of the Customs Service shall resolve the matter within 20 days of the receipt of the administrative dossier.

Article 624. Contesting the decisions of the higher authority of the Customs Service. Appeals may be filed against final rulings or decisions of the higher authority of the Customs Service assessing taxes or penalties, or which prejudice the party to whom they are addressed, in relation to the regimes, formalities, operations and procedures regulated by the Code and these Regulations, or which fully or partially deny the appeal for review; such appeals must be lodged within a period of ten days following notification of the ruling or decision in question.

Article 625. Appeals. Appeals must be lodged with the higher authority of the Customs Service, which shall forward the documents to the decision-making body referred to in Article 128 of the Code within the three days following to the lodging of the appeal.

Once the appeal has been lodged, the competent body shall take a decision within 30 days as from the day following that on which the appeal was received. The decision-making body shall declare administrative channels to be exhausted.

Article 626. Measures to enhance decision making. When the authority hearing a appeal orders ex officio or at the request of the interested party that measures be taken to obtain elements that will contribute to resolving the matter before it, the time-frame for delivering a final ruling shall be suspended pending the completion of such measures.

At all events, the period allowed for the measures envisaged in the preceding paragraph shall be ten days, which, at the request of the appellant, may be extended once for an equal period in cases duly justified by the appellant. The judicial decision ordering the measures to enhance decision making may not be challenged.

Article 627. Formalities for the filing of appeals. Appeals shall be filed on plain paper and shall contain at least the following:

- (a) The name of the authority, officer or department being addressed;
- (b) the names, surnames, particulars of the appellant, who when not acting on his own behalf must also appoint his representative;

- (c) address or channels for the receipt of notifications;
- (d) identification of the ruling or decision being challenged and the grounds for dissatisfaction with it, as well as a detailed account of the facts and legal provisions on which the appeal is based;
- (e) the petition that is being made; and
- (f) date and signature.

Article 628. Admission of the appeal. Once the appeal has been lodged and the stipulated formalities complied with, the body responsible for resolving it shall continue the process as appropriate or shall request the rectification of any errors or omissions in relation to any of the requirements enunciated in Article 627 of these Regulations, within the three days following the filing. In this case, the corresponding prevention notice shall be issued and the appellant accordingly notified and given five days as from the day following the notification to rectify the errors or omissions. Should this not be done in the required form and within the aforementioned time-limit, the appeal shall be declared inadmissible.

The admission of the appeals set out in this Chapter shall suspend the execution of the decision being challenged. No guarantee or payment shall be required for appeals to be admitted.

Article 629. Notification of rulings. The appellant must be notified of any ruling issued in the appeals procedure governed by this Chapter and this may be done by electronic means.

In addition to personal notification, other means shall be allowed when the Customs Service so decides, such as pigeonholes and notice boards located on the premises of the Customs Service, registered letter or fax if requested by the interested party, or by publication in the official journal when it is not possible by any other means. When the notice is served by means of a pigeonhole, notice board or by fax, it shall take effect three days after being served.

CHAPTER II

CUSTOMS COURT

Article 630. Composition. The customs court shall be composed of five members. Three of them shall be lawyers specializing in customs matters with a minimum of five years provable experience; the remaining two persons shall, as a minimum, hold a degree and have at least five years' verifiable experience in matters such as tariff classification, customs valuation, origin of goods and other foreign trade regulations.

The customs court shall have a president, who must be a lawyer, as well as administrative and ancillary staff to provide the support necessary for the discharge of its functions.

Article 631. Requirements. To be a member of the Customs Court, in addition to the requirements laid out in the preceding article, a candidate must comply with the following:

- (a) Be a national of the State Party in which the member will work;
- (b) be in full possession of his civil rights;
- (c) be of acknowledged repute;

- (d) not have been convicted by a final judgment for tax, customs or common crimes; and
- (e) not be a spouse of or linked to any member of the higher authorities of the Customs Service by family ties up to the fourth degree of consanguinity or second degree of affinity.

Article 632. Appointment. Members shall be appointed by the Minister of Finance or by the competent authority, following a public competition.

Alternates shall be appointed in the same way and shall fulfil the same requirements as regular members and shall act in the event that those members are absent, prevented by circumstances from attending, are challenged or submit apologies, or when no decision is reached by simple majority; the alternates must appear on a list of eligible candidates. The grounds and procedures for removal or suspension from the position, as well as remuneration shall be those established under applicable laws.

The incorporation of alternatives into the court shall be done in strictly rotating order based on the list of eligible candidates. The inability or refusal of an alternate to accept the position and the reasons for such a situation must be set down in writing.

Article 633. Rules of procedure. The customs court shall act in accordance with the procedure and the operating rules laid down in the Code, these Regulations and any other applicable regulations.

The reasons for impediment, apologies or challenges shall be those stipulated in the procedural laws of each State Party.

Article 634. Quorum. All regular members must be present for the court to be able to sit in session, failing which the court shall be constituted with the relevant alternate members.

Article 635. Decisions. Each member of the customs court shall have speaking and voting rights in the taking of decisions. The customs court shall take decisions by simple majority.

Members shall ensure efficiency and decorum in exercising the functions entrusted to them under the Code and these Regulations.

Article 636. Functions of the president of the court. The president of the court shall have the following functions:

- (a) Leading the sessions of the court;
- (b) issuing warnings and admonishing members by means of the administrative disciplinary process;
- (c) jointly with the other members, signing the rulings adopted;
- (d) through the competent organ, coordinating administrative matters for the effective functioning of the customs court, as well as the appointment of alternates; and
- (e) assigning to each of the members on a rotating basis the cases being heard by the court.

TITLE IX

FINAL AND TRANSITIONAL PROVISIONS

Article 637. Headings. The headings that precede the articles in these Regulations serve an exclusively indicative purpose and therefore do not affect their interpretation.

Article 638. Supplementary provisions. Matters not covered in these Regulations shall be resolved by each State Party in accordance with its legal system.

Article 639. Administrative provisions. The Customs Service, through its higher authority, shall issue the administrative provisions necessary to facilitate the implementation of the matters covered in these Regulations.

Article 640. Interpretative provision. When the expression "*inter alia*" is used in the context of these Regulations, it shall be understood to include provisions that are in force and any others that may be established by internal regulations.

Article 641. Technical cooperation. The Customs Services of the States Parties may establish mutual cooperation mechanisms for the execution of specific projects or activities designed to bring about the modernization of their services, and for the facilitation and supervision of customs operations and foreign trade in general.

Article 642. Suspension of time-frames. In the event of unforeseen circumstances or *force majeure*, the time-periods prescribed in these Regulations shall be interrupted and shall recommence and run until the original cause of the interruption ceases to exist.

The competent Customs Authority shall state the reasons for the interruption. The suspension shall last for as long as the situation persists.

Article 643. Transitional provision (appeals). Appeals must be lodged with the competent authority of each State Party within the period stated in the second paragraph of Transitional Article II of the Code.

Article 644. Transitional provision (establishment of the Central American Commission on Digital or Electronic Certification). While the Commission referred to in Article 180 of these Regulations is being set up, States Parties shall apply the provisions issued by the Customs Service in that connection.

Article 645. Transitional provision (customs court). Where States Parties have set up the customs court, it may continue to be governed by the rules under which it was created.

In States Parties where the Customs Service is supervised by a collegial body, the latter may be considered as the customs court, provided that its composition meets the requirements prescribed in Article 630 of these Regulations.

Article 646. Amendments. Amendments to these Regulations shall be approved by the Council of Ministers for Economic Integration.

ANNEX

DECLARATION OF THE CUSTOMS VALUE OF THE IMPORTED GOODS

| I. GENERAL INFORMATION | | | | | | | | | | | |
|---|---|--|---|----------------------|-------------------------|---|------|------------------------|--------------------------|---------------------------|--------------------------|
| A. CUSTOMS | CUSTOMS | | | | GOODS DECLARATION | | | | | | |
| | 1 | Of entry: | 2 | Of clearance: | 3 | Number: | 3.1 | | Date of acceptance: | | |
| B. THE IMPORTER | 4 | Name or business name: | | | 5 | Tax Identification No.: | | | 6 | Importer Registration No. | |
| | 7 | Address: | | City: | Country: | Telephone: | Fax: | E-mail: | | | |
| C. THE SUPPLIER | 8 | Type of commercial activity: other (specify) | | | | | | | | | |
| | 9 | Name or business name: | | | | | | | | | |
| D. THE INTERMEDIARY | 10 | Address: | | City: | Country: | Telephone: | Fax: | E-mail: | | | |
| | 11 | Commercial status: other (specify) | | | | | | | | | |
| E. CHARACTERISTICS OF THE TRANSACTION | 12 | Name or business name: | | | | | | | | | |
| | 13 | Address: | | City: | Country: | Telephone: | Fax: | E-mail: | | | |
| | 14 | Type: other (specify) | | | | | | | | | |
| | 15 | Place of delivery: | | Country: | 15.1 | Incoterms: | | | | | |
| | 16 | Invoice(s) No.: | | Date: | 17 | Contract No.: | | | 17.1 | Date: | |
| | 18 | Shipping method: other (specify) | | | | | | | | | |
| | 19 | Form of payment: other (specify) | | | | | | | | | |
| | 20 | Place of shipment: | | Country of shipment: | Country of exportation: | Date of exportation: | | | | | |
| 22 | Currency in which the transaction took place: | | | | 23 | Exchange rate of foreign currency to USD: | | | | | |
| II. CONDITIONS OF THE TRANSACTION | | | | | | | | | | | |
| 24 | Are there restrictions as to the disposition or use of the goods by the buyer other than the exceptions envisioned in Article 1.1(a) of the Agreement? | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 24.1 | State the nature of the restriction(s), if any | | | | | | | | | | |
| 25 | Is the sale or price subject to some condition or consideration with respect to the goods being valued? | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 25.1 | If yes, state what the condition or consideration consists of, and if it is measurable, give the amount in Box 42.1. | | | | | | | | | | |
| 26 | Is the sale contingent upon the direct or indirect accrual to the seller of any part of the proceeds of the subsequent resale, disposal or use of the goods by the buyer? If so, state the amount of the accrual in Box No. | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 27 | Are the seller and buyer related? | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 27.1 | If yes, state the kind of relationship: | | | | | | | | | | |
| 27.2 | State whether the relationship has influenced in the price: | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 28 | Are there any indirect payments and/or retroactive discounts? | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 28.1 | If yes, state what for and declare the amount in Box 40 | | | | | | | | | | |
| 29 | Are there any royalties or licence fees to be paid by the importer either directly or indirectly? | | | | | | | YES | <input type="checkbox"/> | NO | <input type="checkbox"/> |
| 29.1 | If yes, indicate their nature and declare the amount in Box 42.9 | | | | | | | | | | |
| III. DESCRIPTION OF GOODS (Complete the annex) | | | | | | | | | | | |
| IV. DETERMINATION OF CUSTOMS VALUE, IN CENTRAL AMERICAN PESOS | | | | | | | | | | | |
| BASIS FOR CALCULATION | | | | | | | | VALUE C.A. PESO (US\$) | | | |
| 39 | Price according to the invoice | | | | | | | | | | |
| 40 | Indirect payments and/or retroactive discounts | | | | | | | | | | |
| 41 | Price actually paid or payable for the imported goods (39 + 40) | | | | | | | | | | |
| 42 | ADDITIONS TO THE PRICE ACTUALLY PAID OR PAYABLE FOR THE IMPORTED GOODS | | | | | | | | | | |
| 42.1 | Amount of the condition or consideration referred to in Box 25.1 | | | | | | | | | | |
| 42.2 | Amount of the accrual referred to in Box 26 | | | | | | | | | | |
| 42.3 | Cost of commissions and brokerage, except buying commissions | | | | | | | | | | |
| 42.4 | Container and packing costs | | | | | | | | | | |
| 42.5 | Value of materials, components, parts and similar items incorporated in the imported goods | | | | | | | | | | |
| 42.6 | Value of tools, dies, moulds and similar items used in the production of the imported goods | | | | | | | | | | |
| 42.7 | Value of materials consumed in the production of the imported goods | | | | | | | | | | |
| 42.8 | Value of engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods: | | | | | | | | | | |
| 42.9 | Value of the royalties and licence fees referred to in Box 29.1 | | | | | | | | | | |
| 42.10 | Cost of transporting the imported goods to the port or place of importation | | | | | | | | | | |
| 42.11 | Loading, unloading and handling charges incurred for the transport of the imported goods to the port or place of importation | | | | | | | | | | |
| 42.12 | Cost of insurance | | | | | | | | | | |
| 43 | Total adjustments to the price actually paid or payable (sum of 42.1 to 42.12) | | | | | | | | | | |
| 44 | DEDUCTIONS FROM THE PRICE ACTUALLY PAID OR PAYABLE FOR THE IMPORTED GOODS | | | | | | | | | | |
| 44.1 | Charges for post-importation construction, assembly, erection, maintenance or technical assistance relating to the imported goods | | | | | | | | | | |
| 44.2 | Cost of transport after arrival at the port or place of importation | | | | | | | | | | |
| 44.3 | Duties and taxes of the country of importation | | | | | | | | | | |
| 44.4 | Interest charges | | | | | | | | | | |
| 44.5 | Other legally applicable deductions | | | | | | | | | | |
| 45 | Total deductions from the price actually paid or payable for the imported goods | | | | | | | | | | |
| 46 | CUSTOMS VALUE (41+ 43 -45) | | | | | | | | | | |

When any of the adjustments in Boxes 42.1 to 42.12 are declared on the basis of an administrative decision or ruling, indicate its number and date, as well as the number of the Box(es) to which it corresponds.

I declare under oath that the information provided in this Declaration is true and accurate, and that the documents on which it is based are authentic, and understand that I shall remain liable to the penalties prescribed in the relevant regulations.

Place and date

Name of the Importer or Legal representative of the Enterprise

Signature of the Importer or Legal Representative of the Enterprise

ANNEX TO THE CUSTOMS VALUE DECLARATION

| | |
|-----------|----|
| SHEET NO. | DE |
|-----------|----|

[illegible]

INSTRUCTIONS FOR FILLING OUT THE DECLARATION OF THE CUSTOMS VALUE OF IMPORTED GOODS

PRESENTATION

These instructions are intended to guide the importer or declarant as to the information to be provided in each box of the Declaration of the Customs Value of Imported Goods regarding the facts pertaining to the transaction and the supporting documentation, for the purposes of determining the customs value of imported goods.

INSTRUCTIONS

1. A value declaration must be made for each commercial invoice, except in the case of commercial invoices from the same supplier, corresponding to the same transaction and provided that the goods are covered by a single transport document.
2. In cases where the space available in the box(es) is not enough, the information must be supplied separately in the media determined by the Customs Service, citing the number of the box(es) to which the information belongs.
3. The information requested in the value declaration must be furnished as stipulated in it and in these instructions and consequently no boxes should be left without an answer except for Nos. 12, 13, 14, 17 and 23, which must be filled in only when applicable. For Boxes 3 and 6, the information must be supplied in the manner requested by the Customs Service.
4. In the case of Boxes 39 to 46, state the amount corresponding to them, with a maximum of two decimal places; when there is no amount to be declared, zeros must be entered.
5. The information required in the boxes in the Declaration must be entered in accordance with the DVAVIII 2005 System Manual (*Manual del Sistema DVAVIII 2005*).
6. Dates must be stated using the following format: dd/mm/yy (day/month/year).

I. GENERAL INFORMATION

A. Customs office

Box No.1 Customs office of entry. Enter the code of the customs office where the goods arrived in the customs territory.

Box No. 2 Customs of clearance. Indicate the code of the customs office where the goods declaration is submitted and accepted.

Box No.3 Goods declaration number. Indicate the sequential number assigned by the Customs Service computer system.

Box No. 3.1 Date of acceptance of the goods declaration. Give the date on which the relevant customs office accepts the goods declaration.

B. The importer

Box No. 4 Name or business name of the importer. In the case of natural persons enter the full name, in the case of legal persons, give the name or business name of the entity as it appears in the articles of incorporation.

Box No. 5 The importer's tax identification number. Give the tax identification or registration number previously assigned by the competent authority to the importer and which identifies him as a taxpayer.

Box No. 6 The importer's registration number. Give the registration number previously assigned by the Customs Service to the importer.

Box No. 7 Address or domicile of the importer. Enter the importer's full and exact address, including the avenue or street number, and the house, premises or building number; area, district, name of the city, country, telephone number, fax, e-mail and any other information that accurately identifies the importer's address.

Box No. 8 Type of commercial activity of the importer. State the type of commercial activity according to the following classification: wholesaler, retailer or other (specify).

C. The supplier

Box No. 9 The supplier's name or business name. In the case of natural persons, enter the full name, in the case of legal persons, give the entity's name or business name.

Box No. 10 The supplier's address or domicile. Enter the supplier's full and exact address, including: the avenue or street number; the house, premises or building number; area, district, name of the city, country; telephone number, fax, e-mail and any other information that accurately identifies the supplier's address.

Box No. 11 The supplier's commercial status. State whether the supplier is a manufacturer or producer, reseller, distributor or other (specify).

D. The intermediaries

Box No. 12 Name or business name of the intermediaries in the transaction. Give the name of the natural or legal person(s) involved in the transaction as intermediaries.

Box No. 13 Address or domicile of the intermediary or intermediaries in the transaction. Give the exact address the intermediary or intermediaries, including the street or avenue number, the house, premises or building number; area, city, country, telephone number, fax, e-mail and any other information that makes it possible to locate the intermediary or intermediaries.

Box No. 14 Type of intermediary. Indicate whether the intermediary is a sales commission agent or a purchase commission agent, broker, dealer, or other (specify).

E. Characteristics of the transaction

Box No. 15 Place and country of delivery of the goods. Give the names of the place and country where the goods are being delivered.

Box No. 15.1 Incoterms used for the transaction. The incoterms version valid on the date of the transaction must be taken into account.

Box No. 16 Invoice number(s). Enter the commercial invoice number(s) or the number of the document that substitutes it.

Box No. 16.1 Date of the invoice(s). Date of issue, or of the document covering the commercial transaction.

Box No. 17 Contract number. When there is a contract, state the number.

Box No. 17.1 Date of the contract. Date on which the contract was signed by the buyer and seller or their representatives.

Box No. 18 Shipping method. State whether the consignment is total, partial or of another type (specify).

Box No. 19 Form of payment. State whether the payment has already been made or is pending, as well as the form of payment, such as letter of credit, bank draft, bank transfer, cash, credit card or other (specify).

Box No. 20 Place and country of shipment of the goods. Give the names of the place and country where the goods were shipped.

Box No. 21 Country and date of exportation. Give the name of the country and the date of exportation of the goods. If the exact date of exportation is not known, give the date of shipment that appears on the goods transport document, and if this document is not available, the date appearing on another document must be taken into account.

Box No. 22 Currency in which the transaction took place. State the name of the legal tender used for the transaction and the country to which it belongs.

Box No. 23 Exchange rate of foreign currency to United States dollars. State the exchange rate used to convert the foreign currency to United States dollars valid on the date of acceptance of the goods declaration.

II. CONDITIONS OF THE TRANSACTION

Box No. 24 Are there restrictions as to the disposition or use of the goods by the buyer other than the exceptions envisioned in Article 1.1(a), of the Agreement? State whether the transaction effected is subject to any restriction preventing you from freely deciding on the use or disposition of the goods, except those imposed or required by the law or the authorities of the country of importation, those limiting the geographical territory where the goods may be resold; or not substantially affecting the value of the goods.

Box No. 24.1 State the nature of the restriction(s), if any.

Box No. 25 Is the sale or price subject to some condition or consideration with respect to the goods being valued? State whether the sale or price is subject to some condition or consideration with respect to the goods being valued.

Box No. 25.1 If the sale or the price of the goods depends on some condition or consideration, state what it consists of, and if it is quantifiable, enter the amount in Box 42.1.

Box No. 26 Is the sale contingent upon the direct or indirect accrual to the seller of any part of the proceeds of the subsequent resale, disposal or use of the goods by the buyer? State whether, on the instructions of the supplier, the importer must transfer to the supplier or to a third party, in addition to the transaction value of the goods, any part of the proceeds from the resale or from any disposition or use of the goods. If so, declare the amount of the accrual in Box 42.2.

Box No. 27 Are the seller and buyer related? State whether there is a relationship between the supplier and the importer; Article 15(4) of the Valuation Agreement shall be used to determine whether there is a relationship.

Box No. 27.1 If there is a relationship, describe the type of relationship.

Box No. 27.2 State whether the relationship has influenced the setting of the transaction price of the imported goods.

Box No. 28 Are there any indirect payments and/or retroactive discounts? State whether the transaction is subject to indirect payments, retroactive discounts or to both simultaneously. Indirect payments shall mean, for example, those made by the importer to another person or persons on the instructions of the supplier or the payment of a debt owed to the importer by the supplier. Retroactive discounts must be understood as those corresponding to previous transactions but which are granted in the present transaction.

Box No. 28.1 If there are indirect payments or retroactive discounts, state the category and declare the amount in Box No. 40.

Box No. 29 Are there any royalties or licence fees to be paid by the importer either directly or indirectly? State whether in addition to price paid or payable for the goods, the importer is required to pay royalties and licence fees, either to the supplier or to a third party. Royalties and licence fees are generally understood as payments made corresponding to trademarks, copyrights, patents, licenses, etc., provided that are made as a condition of sale and pertain to the imported goods.

Box No. 29.1 If royalties and licence fees are payable, describe the rate or nature of the payment and declare the amount in Box No. 42.9. When the amount is to be determined after the goods are imported, a provisional estimate of the amount must be made and entered in the appropriate box, and the fact noted.

III. DESCRIPTION OF THE GOODS

For the purposes of filling out the boxes in this section, the Annex to the Value Declaration must be used, grouping together goods that share the same brand, model, style, origin, tariff classification, state, unit pricing and other characteristics in common.

Box No. 30 Quantity and unit of measure. Enter the total quantity of goods as well as the code of the unit of measure, which, depending on the class or type of goods, may be units, pairs, dozens, gross, yards, metres, litres, pounds, kilogrammes, tonnes, etc., in accordance with international standards and the specifications of the Customs Service.

Box No. 31 Description or commercial identification of the goods. Give accurate information regarding the description, identification or name under which the goods are usually marketed, such as: television sets, men's shirts, women's handbags, sports shoes, dog food, etc.

Box No. 32 Characteristics of the goods. State the characteristics of the goods such as dimensions, form, colour, operating mechanisms, composition, size, and other characteristics and technical specifications that allow for their correct identification.

Box No. 33 Brand. Declare the brand name of the goods, and in the case of goods that are marketed without a trade name, enter "unbranded".

Box No. 34 Model and/or style. Declare the exact model and/or style of the goods, and if given the class or range of the goods, they have no model and/or style, state that they are goods "without model and/or style."

Box No. 35 State of the goods. This refers to the state of the goods - whether they are new, used, damaged, rebuilt, incomplete, knocked down, disassembled or in some other state (specify).

Box No. 36 Origin of goods. Enter the name or code of the country of origin of goods, i.e., where are produced, manufactured, grown or extracted.

Box No. 37 Tariff Classification. Declare the full tariff position (tariff subheading level) that corresponds to the goods, in accordance with the tariff system in force.

Box No. 38 Unit value, according to the invoice, expressed in United States dollars. Declare the unit value of the imported goods in United States dollars.

IV. DETERMINATION OF CUSTOMS VALUE, IN CENTRAL AMERICAN PESOS

Box No. 39 Price according to the invoice. Declare the price paid or payable for the goods, expressed in Central American pesos, as shown on the invoice or the document covering the transaction.

Box No. 40 Indirect payments and/or retroactive discounts. In this box, declare the amount of the indirect payments and/or retroactive discounts referred to in Box 28.

Box No. 41 Price actually paid or payable for the imported goods. Enter the sum of Boxes 39 and 40.

Box No. 42 Additions to the price paid or payable for the imported goods. Boxes 42.1 to 42.12 must show the amounts to be charged to the importer and which are not included in the price actually paid or payable referred to in Box 41.

Box No. 42.1 Amount of the condition or consideration referred to in Box 25.1.

Box No. 42.2 Amount of the accrual referred to in Box 26.

Box No. 42.3 Cost of commissions or brokerage, except buying commissions. Declare all amounts that the buyer has paid or has to pay to natural or legal persons for their role as intermediaries in the goods transaction. Exceptions to this are payments made by the buyer to his purchasing agent as buying commissions, which means fees paid by the buyer to his agent for the service of representing him abroad in the purchase of the goods being valued.

Box No. 42.4 Container and packing costs. Declare the cost of the containers or packaging, which for customs purposes are considered as forming a whole with the goods being imported; the declaration must also include the packing costs, both for labour as well as the value of the materials, which the importer has paid or has to pay either to the supplier of the goods or to a third party.

Box No. 42.5 Value of materials, components, parts and similar items incorporated in the imported goods. Declare the value of the materials, components, parts and similar items that the importer has supplied to producer to be incorporated in the goods being imported. The value of these supplies also includes the costs incurred by the importer for getting them to producer. The value of the materials, components, parts and similar items must be declared even if they originate from or are imported into the country the importer.

Box No. 42.6 Value of tools, dies, moulds and similar items used in the production of the imported goods. Declare the value of the tools, dies, moulds and similar items supplied by the buyer to the producer to be used in the manufacture or production of the goods being imported. The value of these supplies also includes the costs incurred by the importer for getting them to producer. The value of the tools, dies, moulds and similar items must be declared even if they originate from or are imported into the country the importer.

Box No. 42.7 Value of materials consumed in the production of the imported goods. Enter the value of the materials or any input supplied by the importer to the producer for the manufacture of the goods being imported and which are consumed in the production process, such as fuels, catalysts and similar items. The value of these materials also includes the costs incurred by the importer for getting them to producer. The value of the materials must be declared even if they originate from or are imported into the country the importer.

Box No. 42.8 Value of engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods. Declare the value that corresponds to the above concepts, also including the costs incurred by the importer for getting them to producer. The value of engineering, development, artwork, design work, and plans and sketches must not be included when they are undertaken in the country of importation.

Box No. 42.9 Value of the royalties and licence fees referred to in Box 29.1.

Box No. 42.10 Cost of transporting the imported goods to the port or place of importation. Declare the total costs paid or payable for transportation to the port or place of importation. When the importer does not incur these costs, the amount set by the Customs Service as the usual rate must be declared.

Box No. 42.11 Loading, unloading and handling charges incurred for the transport of the imported goods to the port or place of importation. These costs include, *inter alia*, the activities of loading, unloading, handling and carriage, taking place up to the port or place of importation.

Box No. 42.12 Cost of insurance. Declare the value paid or to be paid by the importer as the insurance premium or cost. When the importer does not incur this cost, he shall declare the usual rate set by the Customs Service.

Box No. 43. Total adjustments to the price actually paid or payable. Enter the sum of Boxes 42.1 to 42.12.

Box No. 44 Deductions from the price actually paid or payable for the imported goods. Boxes 44.1 to 44.5 must show expenses or costs paid or payable by the importer, provided that they are distinguished from the price actually paid or payable for the imported goods, as they do not form part of the customs value.

Box No. 44.1 Charges for post-import construction, assembly, erection, maintenance or technical assistance relating to the imported goods.

Box No. 44.2 Cost of transport after arrival at the port or place of importation. Do not declare this cost when the transport costs entered in Box 42.10 are incurred only up to the port or place of importation.

Box No. 44.3 Duties and taxes of the country of importation.

Box No. 44.4 Interest charges. State the interest charges that the importer must pay directly or indirectly to the supplier.

Box No. 44.5 Other legally applicable deductions. Indicate the costs that by law must be deducted from the price actually paid or payable for the imported goods.

Box No. 45 Total deductions from the price actually paid or payable for the imported goods. Enter the sum of Boxes 44.1 to 44.5.

Box No. 46 Customs value. Enter the result of the following: the amount in Box 41 plus the amount in Box 43, less the amount in Box 45.

Administrative ruling: When any of the adjustments in Boxes 42.1 to 42.12 are declared on the basis of an administrative decision or ruling issued by the Customs Service or competent authority, the number and date of the ruling must be entered, as well as the number(s) of the corresponding box(es).

Signing the value declaration. Pursuant to Article 211 of the Regulations of the Central American Uniform Customs Code, the value declaration shall be signed by hand by the importer or by the importer's legal representative.
