

**CONSOLIDATED TO 30 JUNE 2014**

**LAWS OF SEYCHELLES**

**CUSTOMS MANAGEMENT ACT**

*[2nd July, 2012]*

Act 22 of 2011  
S.I. 43 of 2012

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**CUSTOMS MANAGEMENT ACT**

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Citation and commencement

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Citation and commencement

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Subsidiary Legislation: Customs Management (Levy on Importation of  
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Citation and commencement

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Citation  
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FIRST SCHEDULE

SECOND SCHEDULE

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## PART I – PRELIMINARY

### Short title and commencement

1. This Act may be cited as the Customs Management Act.

Note: This Act was brought into force by SI 43 of 2012 Customs Management Act, 2011 (Commencement) Notice, 2012

### Interpretation

2. In this Act unless the context otherwise requires —

“aircraft” means power-driven aircraft, helicopters, non-power driven aircraft, balloons and gliders, but excludes hovercraft;

“appeal” means the act by which a person who is directly affected by a decision or omission of the Customs and is aggrieved thereby seeks redress by means of the Customs appeal procedure in place;

“assessment of duties, taxes or levies” means the determination of the duties, taxes or levies payable;

“Assistant Commissioner of Customs” means the Assistant Commissioner of Customs appointed under section 3;

“audit-based control” means measures by which the Customs satisfy themselves as to the accuracy and authenticity of declarations through the examination of the relevant books, records, business systems and commercial data held by the persons concerned;

“bond” means an undertaking, in legal form, by which a person binds himself or herself to Customs to do or not to do some specified act;

“cargo” means all goods, including prohibited or restricted goods, imported or exported in an aircraft or vessel other than goods which are required as stores for consumption or use by or for that aircraft or vessel, its crew and passengers, and the personal baggage of crew and passengers;

“cargo declaration” means information submitted prior to or on arrival or departure of a means of transport, furnishing the particulars required by the Customs relating to cargo brought to or removed from Seychelles thereon;.

“cargo manifest” means a listing of the goods comprising the cargo or freight carried in a means of transport or in a transport-unit;

“certificate of origin” means a specific form identifying the goods, in which the authority or body empowered to issue it certifies expressly that the goods to which the certificate relates originate in a specific country;

“clearance or release for home use” means the Customs procedure which provides that imported goods enter into free circulation in Seychelles upon the payment of any import duties, taxes or levies chargeable and the completion of the Customs formalities;

“commander”, in relation to an aircraft, includes any person having or taking the charge or command of an aircraft;

“compensating products” means products —

(a) obtained within a country resulting from the manufacturing, processing or repair of the goods for which the use of the inward processing procedures is authorised; or

(b) obtained abroad and resulting from the manufacturing, processing or repair of goods for which the use of the outward processing procedure is authorised;

“computer documents and records” includes the following definitions —

(a) “data” means information in a form in which it can be processed;

(b) “data equipment” means any electronic, photographic, magnetic, optical or other equipment for processing data;

“container” includes the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. but does not include vehicles, accessories or spare parts of vehicles, or packaging or pallets;

“country of exportation” in relation to imported goods, means the country from which such goods are exported in to Seychelles, but does not include any country through which such goods are in transit;

“country of origin” means the country in which the goods have been produced or manufactured, according to the criteria laid down for the purposes of application of the Customs tariff, of quantitative restrictions or of any other measure related to trade;

“Customs” means the Government Service which is responsible for the administration of customs and laws related thereto;

“Customs Agent” means a person registered as a Customs Agent under the Revenue Administration Act, 2009;

“Customs-approved procedure or use” means, among other things, any of the procedures under which goods may be placed in accordance with this Act;

“Customs debt” means the obligation of a person to pay the amount of the import duties, taxes or levies or export duties, taxes or levies which apply to specific goods under the provisions in force;

“Customs declaration” means any statement or action, in any form prescribed or accepted by the Customs, giving information or particulars required by the Customs;

“Customs duties” means the duties laid down in the Customs tariff in force, to which goods are liable on entering or leaving the Customs territory;

“Customs formalities” means all the operations which must be carried out by the persons concerned and by the Customs in order to comply with the Customs law and any other regulatory provisions in force;

“Customs warehouse” means any place approved by and under the supervision of Customs where goods may be stored under the conditions laid down by the Assistant Commissioner of Customs in terms of this Act;

“Customs warehousing procedure” means the Customs procedure under which imported goods are stored under Customs control in a Customs warehouse without payment of import duties, taxes or levies;

“debtor” means any person liable for payment of a Customs debt;

“depositor” means the person bound by the declaration placing the goods under the Customs warehousing procedure or to whom the rights and obligations of such a person have been transferred; “declarant” means any person who makes a Customs declaration or in whose name such a declaration is made;

“document” means any physical or electronic medium designed to carry and actually carrying a record of data entries, including —

(i) any form of writing on material;

(ii) information recorded, transmitted or stored by means of a tape recorder, computer or other device, and material subsequently derived from information so recorded, transmitted or stored;

(iii) any label, marking, or other form of writing that identifies anything of which it forms part or to which it is attached by any means;

(iv) any book, map, plan, graph or drawing;

(v) any photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable of being reproduced;

“drawback” means the amount of import duties, taxes or levies repaid under the drawback procedure;



“drawback procedure” means the Customs procedure when goods are exported, provides for a repayment ,total or partial, to be made in respect of the import duties, taxes or levies charged on the goods, on materials contained in them or consumed in their production;

“dutiable goods”, means goods of a class or description subject to any duties, taxes or levies of Customs or excise, whether or not the goods are chargeable with any duties, taxes or levies paid;

“duties, taxes or levies” means import duties, taxes or levies or export duties, taxes or levies;

“duty-free shop” means premises situated at a port, airport or any other location authorised by the Assistant Commissioner of Customs for the purpose of depositing dutiable and taxable goods on which duties, taxes or levies have not been paid;

“equivalent compensation” means a system allowing, under certain Customs procedures, the exportation or importation of goods identical in type, description, quality and technical characteristics of goods previously imported or exported;

“equivalent goods” means goods identical in description, quality and technical characteristics to those imported or exported for inward or outward processing;

“export duties, taxes or levies” means Customs duties and all other duties, taxes or charges which are collected on or in connection with the exportation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by Customs on behalf of another national authority;

“goods declaration” means a statement made in the form prescribed by Customs, by which the persons concerned indicate the Customs procedure to be applied to the goods and furnish the particulars which the Customs require for its application;

“import duties, taxes or levies” means Customs duty and all other duties, taxes or charges collected in connection with the importation of goods, but not including any charges which are limited in amount to the approximate cost of services rendered or collected by the Customs on behalf of another national authority;

“importation” in relation to any goods, means the arrival of the goods in Seychelles in any manner, whether lawfully or unlawfully, from a place outside Seychelles, and includes the act of bringing or causing any goods to be brought into Seychelles;

“importer” means a person by or for whom goods are imported, including a owner of a pipeline, a consignee of goods or a person who is or becomes the owner of, or entitled to the possession of, or beneficially interested in any goods on or at any time after their importation before the goods ceased to be subject to the control of Customs;

“in transit” means goods taken out or sent from any country and brought into Seychelles by sea or air for the sole purpose of being carried to another country either by the same or another conveyance;

“internal waters” means the internal waters of Seychelles as defined in the Maritime Zones Act, 1999;

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

“landing” in relation to goods, includes the discharging of goods from a pipeline;

“loading”, in relation to goods, includes the pumping or insertion of goods into a pipeline;

“Minister” means the Minister responsible for Finance and trade;

“master”, in relation to a vessel, includes any person having or taking charge or command of the vessel;

“officer” means an officer appointed by the Revenue Commissioner in terms of section 8.

“operator” in relation to a pipeline, includes any person responsible for the management, pumping or insertion of goods into, or the discharge of goods from, the pipeline;

“outward processing” means the Customs procedure under which certain goods which are in free circulation in Seychelles may be temporarily exported for manufacturing, processing or repair abroad and then re-imported with total or partial exemption from import duties, taxes or levies;

“person” means —

- (a) a natural person;
- (b) a legal person; and
- (c) an association of persons whether incorporated or not;

“person established in Seychelles” means —

- (a) for a natural person, any person who has his or her habitual residence in Seychelles;
- (b) for a legal person or an association of persons, any such person having its registered office, central headquarters or a permanent business establishment in Seychelles;

“personal effects” means all articles which a passenger may reasonably require for personal use during a journey to Seychelles, but excludes any goods imported or exported for commercial purposes;

“private warehouse” means a warehouse reserved solely for the warehousing of goods by a warehouse keeper;

“processing operations” means any of the following —

- (a) processing of goods;
- (b) destruction of goods;

(c) repair of goods, including restoring them and putting them in order;

(d) use of goods which are not to be found in the processed products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process;

“public warehouse” means a warehouse available for use by any person for the warehousing of goods;

“rate of yield” means the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods;

“records, books or other documents” includes –

(a) any records maintained, whether —

(i) in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards; or

(ii) kept in microfilm, magnetic tape or in any non-legible form which is capable of being reproduced in a legible form;

(b) an electronic or other automatic means, by which any non-legible form is capable of being reproduced; or

(c) documents in manuscript, typed, printed, stencilled or created by any other mechanical means or partly mechanical process produced by any photographic or photostatic process;

“Revenue Commissioner” means the Seychelles Revenue Commissioner appointed under the Seychelles Revenue Commission Act 2010;

“re-importation in the same condition” means the Customs procedure under which exported goods may be taken into home use free of import duties, taxes or levies which have not undergone any manufacturing, processing or repairs outside Seychelles;

“re-exportation” means exportation from Seychelles of goods previously imported into Seychelles;

“release or clearance of goods” means the act whereby the Customs make goods available for the purposes stipulated by the Customs procedure under which they are placed;

“Revenue Tribunal” means the Revenue Tribunal established under the Revenue Administration Act, 2009;

“rules of origin” means principles established bilaterally and multilaterally by Seychelles or under international agreements to determine the origin of goods;

“seizure” means taking possession by legal means of goods, documents, information technology

hardware, software or storage media and means of transport that are liable in law to forfeiture;

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

(a) goods wholly obtained in Seychelles and not incorporating goods imported from countries or territories outside Seychelles; and

(b) goods imported from countries or territories outside the Seychelles and released or cleared for home use or for free circulation in Seychelles;

“stores ” means —

(a) goods intended for consumption by the passengers and the crew on board vessels or aircraft, whether or not sold; and

(b) goods necessary for the operation and maintenance of vessels or aircraft including fuel and lubricants but excluding spare parts and equipment;

(c) goods for sale to the passengers and the crew of vessels or aircraft;

“summary declaration” means a declaration to be made before goods arrive into or depart from Seychelles;

“tariff classification of goods” means the determination of the tariff in a tariff nomenclature under which particular goods are classified;

“temporary admission” means a Customs procedure under which certain goods brought into Seychelles on total or partial payment of import duties, taxes or levies is imported for a specific purpose and is intended for re-exportation within a specified period without having undergone any change except normal depreciation due to the bona fide use made of them;

“temporary export goods” mean goods placed under the outwards processing procedure;

“temporary storage” means the storing of goods in premises enclosed or unenclosed specified by Customs pending assignment of goods to another Customs-approved procedure or use;

“territorial waters” means the territorial waters of Seychelles defined under the Maritime Zones Act, 1999;

“transshipment” means a Customs procedure under which goods are transferred under Customs control from the importing means of transport to the exporting means of transport within the area of one Customs office which is the office of both importation and exportation;

“trade zone” means a zone under the International Trade Zone Act, 1995;

“uncustomed goods” means goods where duties, taxes or levies due and payable have not been paid;

“vessel” means —

- (a) any conveyance of transport by water for persons or goods;
- (b) a ship, hovercraft, boat or any other vessel used in navigation; or
- (c) personal watercraft;

“warehouse keeper” means the person authorised to operate a customs warehouse;

## **PART II – ADMINISTRATION**

### **I. Appointment, Functions and Powers of the Assistant Commissioner of Customs**

#### **Appointment of Assistant Commissioner of Customs**

3. There shall be an Assistant Commissioner of Customs appointed by the Revenue Commissioner.

#### **Delegation of powers by Assistant Commissioner of Customs**

4. (1) The Assistant Commissioner of Customs may delegate his or her powers under this Act.
- (2) Any delegation of the powers of the Assistant Commissioner of Customs may be revoked.

#### **Power to issue rules guidance and rules**

5. The Assistant Commissioner of Customs may, under the general supervision of the Revenue Commissioner issue, for the guidance and direction of officers, policies, procedures, instructions or rules which shall be binding on the officers.

#### **Powers to conclude administrative agreements**

6. The Assistant Commissioner of Customs with the approval of the Revenue Commissioner and in consultation with the Minister may conclude administrative agreements in the national interest and for Customs control purposes with —

- (a) other Customs administrations;
- (b) regional and international organisations; or
- (c) other government agencies.

#### **Administration of oath and affidavits**

7. The Assistant Commissioner of Customs or any officer designated by the Assistant Commissioner of Customs shall be entitled to administer any oath or attest an affidavit required by law in any matter relating to Customs.

### **Appointment of officer of Customs**

8. Any person appointed by the Revenue Commissioner to be an officer of Customs shall have all the powers in relation to the act or duty performed or to be performed by that person as provided for in this Act or any other law relating to customs.

### **Holding of inquiries**

9. (1) The Assistant Commissioner of Customs may hold an inquiry, or may direct an inquiry to be held —

- (a) into any matter under his or her management;
- (b) into the conduct of any person employed in Customs;
- (c) where he has reasons to believe that an offence under this Act has been committed;
- (d) wherever it is necessary or appropriate to do so for the purpose of this Act.

(2) The Assistant Commissioner of Customs may by written notice, require any person to attend as a witness and give evidence, or to produce any document in that person's possession or power which relates to any matter relevant to the inquiry.

### **Powers vested in the Assistant Commissioner of Customs and officer**

10. The Assistant Commissioner of Customs or an officer may —

- (a) examine goods imported, exported, in transit and for transhipment;
- (b) access premises, vehicles, vessels or aircraft of persons involved in any capacity in international trade transactions;
- (c) access all records of the goods, relating to international trade transactions;
- (d) take representative samples of goods at importation, post- importation and at export;
- (e) detain goods imported or intended for export to establish their compliance with this Act; or
- (f) conduct a retrospective audit of the business records, including bank records and computer systems of any person involved in an international trade transaction;

## **II. Administrative matters**

### **Officers to observe secrecy**

11. (1) An officer shall not breach official secrecy of information acquired by the officer in the performance of his or her functions while being, or after ceasing to be an officer and shall not make a record of, divulge or communicate to any person, except in the performance of the officer's functions

under this Act.

(2) An officer shall not produce in court any return, assessment or notice of assessment, document or information obtained or acquired by the officer in the performance of functions under this Act, except on a court order.

(3) Nothing in this Act shall prevent —

(a) any officer from revealing any document or information relating to the revenue of any person or any confidential instructions in respect of the administration of this Act to any other officer, where it is needed for the performance of that officer's functions under this Act;

(b) any officer from revealing any document or information to the Auditor General or any other person in the service of the Government or a person authorised by the Revenue Commissioner or the Assistant Commissioner of Customs, where the document or information is needed for the performance of their official functions.

(4) Any person to whom a document or information is revealed under subsection (3), and any person under that person's control, shall in respect of that document or information be subject to the same rights, privileges, obligations and liabilities under subsection (1) or subsection (2) as if that person were an officer.

(5) An officer shall, if and when required by the Revenue Commissioner or the Assistant Commissioner of Customs make an oath, in the manner and form provided, to maintain secrecy in accordance with this section.

### **Specific services**

12. The Minister may by regulations provide for specific services and fees to be charged by Customs.

### **Customs seal**

13. Customs shall have a seal, called the Customs Seal, the design of which shall be determined by the Assistant Commissioner of Customs and it shall be used as provided for by this Act.

### **Customs stamp**

14. Customs shall have a stamp, called the Customs Stamp, the design of which shall be determined by the Assistant Commissioner of Customs and it shall be used as provided for by this Act.

### **Protection of action taken in good faith**

15. (1) An officer shall not be liable for any civil proceedings for any act done in good faith in the performance of the officer's duties.

(2) The Assistant Commissioner of Customs shall take the necessary precautions not to endanger the safety of life at sea, the security of any vessel and cargo and not to unduly influence any commercial or legal interest, and take into account —

- (a) the dangers involved in boarding a vessel at sea;
- (b) the need to respect the legitimate commercial activities of a vessel; and
- (c) the need to avoid unduly detaining or delaying a vessel.

### **Designated certain areas**

16. (1) There shall be a designated port or airport approved for customs purposes for —
- (a) customs to perform their functions and responsibilities;
  - (b) clearance of inwards and outwards goods and passengers;
  - (c) temporary storage of goods.

(2) All previously designated port or airport approved for customs purposes for examination and temporary storage facilities in use at the commencement of this Act shall be deemed to have been established and continued under this Act.

### **Procedure of goods to Customs**

17. The shipping, unshipping, carrying and landing of all goods, including passengers' baggage, and the bringing of goods to the place of examination, the measuring, weighing, counting, unpacking and repacking, the opening and closing of the packages for examination and accounting purposes shall be performed by and at the expense and risk of the importer, exporter or authorised agent as the case may be.

### **Control or supervision by Customs**

18. Goods subject to the control or supervision of the Customs shall not be moved, altered or interfered with except by authorisation of the Assistant Commissioner of Customs and where necessary upon consultation with the relevant competent authorities.

### **Liability for loss, damage under Customs control**

19. Customs shall not be liable for any loss or damage to any goods subject to the control of Customs, except where the loss or damage are by the neglect or default of an officer or a person employed by Customs.

### **Failure to account for goods**

20. Where a person who has possession, custody or control of dutiable and taxable goods which are subject to Customs control or supervision —
- (a) fails to keep those goods safely; or
  - (b) when so requested by the Assistant Commissioner of Customs, does not account for those goods to the satisfaction of the Assistant Commissioner of Customs,



that person shall, on demand by the Assistant Commissioner of Customs, pay to the Government an amount equal to the duties, taxes or levies and any other charges properly payable on the goods entered for home use on the day on which the demand was made.

#### **Evidence of authority**

21. An officer shall, if required, produce evidence of the officer's authority.

### **III. Importation and exportation**

#### **Time for importation and exportation**

22. (1) The time of importation of any goods into Seychelles shall be —

(a) in the case of importation by sea, the time at which the vessel importing such goods comes within 12 nautical miles of any island coast of Seychelles or the designated port to which the goods are consigned.

(b) in the case of importation by air when the aircraft lands at a designated airport or the time when the goods are unloaded in Seychelles.

(2) The time of exportation of any goods from Seychelles shall be —

(a) in the case of exportation by sea, when the goods are shipped on board the vessel by which they are to be exported;

(b) in the case of exportation by air, when the aircraft leaves an airport;

(c) in the case of goods of a class or description with respect to the exportation of which any prohibition or restriction is for the time being in force under any law the time of exportation shall be deemed to be the time when the exporting vessel or aircraft departs from the last port or airport at which it is cleared before departing for a destination outside Seychelles.

#### **Importation or exportation by pipeline**

23. (1) In this Act "shipping" and "loading" where used in relation to importation or exportation, include, in relation to importation or exportation by means of a pipeline, the conveyance of goods by means of the pipeline and the charging and discharging of goods into and from the pipeline, but subject to any necessary modifications.

(2) Goods imported by means of a pipeline shall be treated as imported at the time when they are brought within the limits of a port.

(3) Goods exported by means of a pipeline shall be treated as exported at the time when they are charged into that pipeline for exportation.

(4) The nature and quantities of goods imported or exported through a pipeline shall be recorded and reported by the operator of the pipeline in the manner directed by the Assistant Commissioner of

Customs.

(5) The record and report shall be made by an equipment authorised by customs at the operator's own expense .

(6) The authorisation shall be subject to conditions.

### **PART III –RIGHTS OF REPRESENTATIVES**

#### **I. Declarant and third party representation**

##### **Obligation of declarant**

24. (1) The importer and exporter shall be the declarant for importation and exportation of goods , except where the importer or exporter is represented by —

(a) a customs agent;

(b) a person authorised to act on behalf of the importer or exporter.

(2) The declarant shall be responsible for the accuracy of the information given in the declaration, the authenticity of the documents accompanying the declaration and compliance with all the obligations relating to the declaration of the goods in question under the relevant procedure.

##### **Authorisation of representative**

25. A person shall be duly authorised to represent an importer or an exporter when —

(a) in the case of a customs agent, such person is authorised, in accordance with the provisions of the Revenue Administration Act; or

(b) in the case of any other person, such person is authorised in writing by the importer or exporter.

##### **Joint liability**

26. (1) A customs agent or an authorised representative shall be jointly and severally liable with the persons they represent for any duties, taxes or levies incurred.

(2) Where a customs agent or an authorised representative fails to state that he or she is acting for and on behalf of another person, he or she is deemed to be acting in his or her own name and shall be liable for all duties, taxes or levies payable.

(3) Notwithstanding the customs agent's or authorised representative's primary liability, the importer or exporter shall remain jointly and severally liable for all duties, taxes or levies payable.

##### **Liability of principal**

27. A person who appoints a customs agent or an authorised representative to act on that person's

behalf shall be responsible for the acts or omissions of the customs agent or authorised representative while acting on that person's behalf.

### **Agent's bond**

28. A customs agent transacting customs business shall, when required by the Assistant Commissioner of Customs, execute a bond or provide security to the satisfaction of the Assistant Commissioner of Customs in accordance with this Act.

## **II. General information, decisions and binding decisions given by Customs**

### **Request for Customs information**

29. (1) A person may request from customs information concerning the application of this Act.

(2) The information shall be supplied to the person free of charge except where special costs are incurred by Customs, as a result of analyses or expert reports on goods, or the return of the goods and the person may be charged the cost of the services rendered.

### **Requests for binding tariff and origin information**

30. (1) A person may request from the Assistant Commissioner of Customs the binding tariff information or binding origin information to determine import or export duties, taxes or levies.

(2) Binding tariff information or binding origin information shall be binding on Customs only in respect of the tariff classification or determination of the origin of goods.

(3) Binding tariff information or binding origin information shall be binding on Customs only in respect of goods on which Customs formalities are completed after the date on which the information was supplied.

(4) Customs formalities in relation to origin of goods shall be prescribed by regulations.

(5) Where a person is providing information, the onus is on the person to prove that —

(a) for tariff purposes, the goods declared correspond in every respect to those described in the information;

(b) for origin purposes, the goods concerned and the circumstances determining the acquisition of origin correspond in every respect to the goods and the circumstances described in the information.

(6) Binding information shall be valid for a period of 1 year in the case of tariffs and 3 years in the case of origin from the date of issue. It shall be annulled if based on inaccurate or incomplete information provided by the applicant.

(7) Binding tariff information and binding origin information shall cease to be valid —

(a) where a regulation is adopted and the information no longer conforms to the law laid

down thereby;

(b) where it is no longer compatible with the legal interpretative rules for tariff classification of goods set out in the regulations;

(c) where it is revoked or amended provided that the revocation or amendment is notified by regulations;

### **III. Decisions relating to the application of Customs law**

#### **Responsibility of person lodging information**

31. (1) Any person who lodged a summary declaration, ships report, a Customs entry, a simplified declaration, notification or the submission of an application for an authorisation or any other decision shall be responsible —

(a) for the accuracy of the information given;

(b) the authenticity of any documents lodged or made available; and

(c) for placing the goods in question under the relevant procedure or the authorised operations, where applicable.

(2) Where the declaration or notification is lodged or the application is submitted or requested information is provided by a representative of the person concerned, the representative shall also be bound by the obligations set out in subsection (1).

#### **Appeal against administrative decisions**

32. (1) A person dissatisfied with the decision of the Assistant Commissioner of Customs may request that the Revenue Commissioner makes a decision relating to the provision of the customs law and shall furnish all the information and documents required for the purpose of making the decision.

(2) The manner and form in which the request may be made shall be prescribed by regulations.

(3) A person dissatisfied with the decision of the Revenue Commissioner may appeal against such decision under the procedure set out under the Revenue Administration Act, 2009.

#### **Grounds for annulment of decisions**

33. (1) Decisions made by the Assistant Commissioner of Customs shall be immediately enforceable except where a decision is in the Appeal process.

(2) The Assistant Commissioner of Customs may annul, amend or revoke a “non-binding” decision issued under the provisions of sections 34 not inconsistent with this Act.

(3) A decision favourable to the person concerned shall be annulled if it was issued on the basis of incorrect or incomplete information where —

(a) the applicant knew or ought reasonably to have known that the information was incorrect or incomplete; and

(b) such decision could not have been taken on the basis of correct or complete information.

(4) The persons to whom the decision was addressed shall be notified of its annulment which shall be effective from the date on which the decision was annulled, unless otherwise specified.

### **Revocation or amendment of decision**

34. (1) A decision favourable to a person shall be revoked or amended where, in cases other than those referred to in section 33 if one or more of the conditions laid down for its issue were not fulfilled.

(2) A decision favourable to a person may be revoked where the person to whom it is addressed fails to fulfil an obligation imposed on the person under that decision.

(3) The person to whom the decision is addressed shall be notified of its revocation or amendment, and the revocation or amendment of the decision shall take effect from the date on which it is received or is deemed to have been received:

Provided where the legitimate interests of the person to whom the decision is addressed so require, the Assistant Commissioner of Customs may defer the date on which the revocation or amendment takes effect.

## **IV. Provision and preservation of information**

### **Provision and preservation of information**

35. (1) A person who is engaged, in the importation or exportation of goods shall keep records, books, documents or data as the Assistant Commissioner of Customs may require.

(2) Any records, books, documents or data shall be preserved for seven years.

(3) The period stated in subsection (2) shall run from the time the goods are —

(a) released for home use in circumstances other than those referred to in subsection (3) or goods declared for export, the declarations for release for home use or export are accepted;

(b) released for home use duty or tax-free or at a reduced rate of import duty or tax on account of their end-use, cease to be subject to Customs control or supervision;

(c) placed under another Customs procedure.

(4) Where a Customs control is carried out by the Assistant Commissioner of Customs in respect of a Customs debt, and an entry in the accounts requires to be corrected and the person concerned has been notified, the documents shall be preserved for seven years beyond the time limit provided for in subsection (2).

(5) Where an appeal has been lodged the documents shall be preserved until the decision of the appeal.

### **Furnishing information to officer**

36. (1) A person who is engaged in the importation or exportation of goods shall provide information or documents relating to the goods or to their importation, exportation, transshipment or transit within such time and in such form to the Assistant Commissioner of Customs, require.

(2) Notwithstanding subsection (1) where a person has a lien on any document produced, the production of the document shall not affect the lien.

(3) An officer may make copies of, or take extracts from, any document produced under subsection (1).

(4) Where necessary, an officer may for a reasonable period, remove any document produced under subsection (1) and shall provide a receipt for any document so removed.

(5) Where a document removed by an officer is required for the proper conduct of a business, the officer shall as soon as practicable, provide a copy of the document to the person by whom it was produced or caused to be produced.

(6) Where any documents removed are lost or damaged, the Assistant Commissioner of Customs shall be liable to compensate the owner for any expenses reasonably incurred by the owner in replacing the documents.

### **Data protection and client confidentiality**

37. (1) All information acquired by the Assistant Commissioner of Customs in the course of performing his or her duties which is by its nature confidential or which is provided on a confidential basis, shall be treated as confidential.

(2) The Assistant Commissioner of Customs shall not disclose confidential information without the express permission of the person who provided it, except for the purposes of Customs controls.

(3) Any communication of confidential data to the Customs administrations and authorities outside Seychelles shall be permitted only in terms of an international agreement ensuring an equivalent level of data protection.

(4) The disclosure or communication of information shall take place in full compliance with data protection provisions in force.

### **Adherence to time limits**

38. Where a period, date or time limit is laid down pursuant to this Act, such period shall not be extended and such date or time limit shall not be deferred unless such extension or deferment is specially allowed under this Act.

## **V. Scope and use of information technology**

### **Use of information technology**

39. The Assistant Commissioner of Customs shall make use of information and communication technology in support of Customs procedures with a view to achieving —

- (a) effective Customs controls;
- (b) effective Customs clearance;
- (c) trade facilitation;
- (d) efficient revenue collection;
- (e) effective data analysis;
- (f) efficient production of external trade statistics; and
- (g) improved quality of data

## **PART IV - APPLICATION OF IMPORT OR EXPORT DUTIES, TAXES OR LEVIES AND OTHER MEASURES IN RESPECT OF TRADE IN GOODS**

### **Classification of goods**

40. Goods that are imported or exported shall be classified in accordance with the tariff nomenclature prescribed in the regulations for the purposes of determining the applicable duties, taxes or levies payable.

### **Origin and valuation of goods**

41. The origin and valuation of goods for customs purposes shall be prescribed by regulations.

## **PART V - OFFICERS' POWERS, OBLIGATIONS OF PERSONS RELATING TO PORTS AND AIRPORTS, SEA AND AIR TRANSPORT**

### **I. Officers' Powers**

#### **Power to examine and take account of goods**

42. (1) An officer may examine and take account of any goods —
- (a) imported, including goods released for home use;
  - (b) in a public or private warehouse;

- (c) being transhipped;
- (d) in a free zone;
- (e) under a Customs-approved procedure or use;
- (f) originated in Seychelles;
- (g) have been loaded into any vessel or aircraft at any place in Seychelles;
- (h) declared and entered at any approved premises or place for exportation or for use as stores;
- (i) brought to any place in Seychelles for exportation or for shipment for exportation or use as stores;
- (j) where any claim for drawback, allowance, rebate, remission or repayment of duty or tax is made;
- (k) remain on board a calling vessel or aircraft;
- (l) require any container to be opened or unpacked and the goods produced to such officer.

(2) Any examination of goods by an officer shall be made at such places approved by the Assistant Commissioner of Customs.

(3) The Assistant Commissioner of Customs may direct that the goods are skipped on the quay or bulked, sorted, packed, or repacked before account is taken.

(4) Any opening, unpacking, weighing, measuring, repacking, bulking, sorting, marking, numbering, loading, unloading, carrying or landing of goods or their containers for

examination by an officer, and any assistance required for any examination shall be provided, by or at the expense of the owner of the goods.

(5) Where an account is required to be taken of any goods for any purpose by an officer, the Assistant Commissioner of Customs may, with the consent of the proprietor of the goods, appoint another person to draw up the account.

### **Requirement to take samples**

43. (1) An officer may at any time take samples of any goods —

- (a) the officer is empowered by this Act to examine;
- (b) on the premises where goods manufactured, prepared or subjected to any process are chargeable with any duties, taxes or levies; or



(c) being dutiable and taxable goods are held by a person as stock for that person's business or as materials for manufacturing or processing.

(2) Any sample taken shall be disposed of and accounted for in such manner as the Assistant Commissioner of Customs may direct.

(3) Where any sample is taken from any goods chargeable with duty or tax or levy shall be retained after the duties, taxes or levies has been paid, other than —

(a) a sample taken from goods declared for a Customs procedure on importation; or

(b) a sample taken from goods in respect of which a claim for drawback, rebate, remission or repayment of that duties, taxes or levies is being made,

the officer taking it shall pay for the sample on behalf of the Assistant Commissioner of Customs such sum as reasonably reflects the wholesale value thereof.

### **Power to search persons**

44. (1) An officer who has reasonable cause to suspect that a person at or in the vicinity of any port or airport or elsewhere is in possession of a dutiable, prohibited or restricted good which was imported or to be exported may without warrant —

(a) search the person;

(b) ensure that the person understands the reason for the search;

(2) Where the person detained to be searched is a female, the search shall be done by a female officer.

(3) Where an officer decides to search a person, the officer may require the person to accompany the officer to a Customs Office or to such other place as may be specified by the officer for the purpose of the search.

### **Power to search vehicle entering or leaving Trade Zone**

45. (1) Any person entering or leaving a trade zone shall answer such questions as an officer may ask with respect to any goods in the person's control or possession and shall, if required by the officer, produce those goods for examination at such place as the Assistant Commissioner of Customs may direct.

(2) An officer may search a vehicle entering or leaving a trade zone.

(3) An officer may detain or seize any dutiable and taxable, prohibited or restricted goods discovered in the course of any such inquiries, searches or examinations.

### **Power to arrest without warrant**

46. (1) An officer or police officer may without warrant arrest any person who the officer has reasonable grounds to believe is concerned in the commission or attempted commission of any of the

following offences —

- (a) unlawful importation or exportation of goods chargeable with any import or export duties, taxes or levies;
- (b) importation of any prohibited or restricted goods;
- (c) exporting or attempting to export any prohibited or restricted goods;
- (d) unlawfully conveying or having in the person's possession any prohibited or restricted goods;
- (e) having in possession any smuggled, prohibited or restricted goods; or
- (f) smuggling.

(2) A person shall not resist, obstruct or prevent the arrest in pursuance of this section.

#### **Requirement to answer questions**

47. (1) A person in charge of an aircraft or vessel within the internal waters of Seychelles or the territorial waters of Seychelles shall —

- (a) answer any question asked by an officer relating to the aircraft or vessel, its voyage and any persons or goods that are or have been carried by the aircraft or vessel; and
- (b) without delay at the request of an officer produce any documents or records within that person's possession or control relating to the aircraft, vessel, its cargo and stores.

(2) A person boarding or landing from an aircraft or vessel may be questioned by an officer as to whether he has any dutiable and taxable goods or any prohibited goods or restricted goods, in the person's possession, control or custody.

#### **Power to search aircraft, vehicle or vessel**

48.(1) An officer when conducting a search, shall have free access to any part of the ship, aircraft or vehicle and may —

- (a) cause any goods to be marked before they are unloaded from an aircraft, vessel or vehicle;
- (b) lock up, seal, mark or otherwise secure any goods carried in the aircraft, vessel or vehicle or container in which they are so carried;
- (c) break open any container which is locked;
- (d) examine in any manner, using even mechanical means, goods or container in which they are carried.

(2) The following goods and documents found on board a ship, aircraft or vehicle shall be seized and liable to forfeiture —

- (a) chargeable with any duties or taxes which have not been paid or secured;
- (b) uncustomed goods;
- (c) prohibited goods;
- (d) restricted goods not covered by a requisite licence, permit or authorisation; or
- (e) documentary evidence relating to uncustomed, prohibited or restricted goods.

(3) This section shall not apply in respect of aircraft which is airborne.

(4) An officer or police officer may, upon reasonable suspicion stop and search vehicles for purposes ascertaining whether any dutiable goods or any prohibited or imports or exports as prescribed by regulations.

#### **Power to stop, divert and detain vessels in territorial and inland waters**

49. An officer may with the assistance of the police —

- (a) stop and board any vessel found within the territorial waters or internal waters, of Seychelles, which the officer has reasonable grounds to suspect of having on board prohibited or restricted goods;
- (b) establish effective control of the vessel, its cargo and over any person thereon;
- (c) require the master of the vessel to take the ship to the nearest port for the purpose of carrying out further investigations;
- (d) search the vessel, any person and any goods on board the vessel;
- (e) open or require the opening of any containers, and test or take samples of the goods on the vessel;
- (f) require the master to give information concerning the person or any goods on the vessel or the voyage of the vessel;
- (g) require the production of documents, books or records relating to the vessel or any persons or goods, take photographs of any goods or make copies of any documents the production of which is required by Customs;
- (h) seize and secure goods found on the vessel.

#### **Power to enter and search premises under a warrant**

50. (1) Where a judicial officer is satisfied any information given upon oath by an officer, that there

are reasonable grounds to suspect that any goods liable to forfeiture under this Act is kept or concealed in any building or place, the judicial officer may issue a warrant authorising an officer, and a police officer to enter and search the building or place named in the warrant —

(a) where necessary for the purpose of entry, search and seizure, to break open any door, window or container remove any other impediment or obstruction.

(b) anything searched along with any, records, documents, and other storage device containing information shall be seized, as the officer or police officer sees fit.

(2) Where any person in or about the building or place being searched, is reasonably suspected of concealing on the person's body any goods for which the search is being made, that person may be searched.

(3) Where there are reasonable grounds to believe that the goods are being concealed at another place, the officer may search that other place.

### **Power to detain aircraft or vessel**

51. (1) Where a report has been made by an aircraft or vessel under section 57 and goods are still on board that vessel or aircraft after the expiration of the relevant period, an officer of Customs may in consultation with the port authority or the airport authority, detain that vessel or aircraft until —

(a) any expenses properly incurred in watching and guarding the goods beyond the relevant period, except in the case of a vessel or aircraft, in respect of the day of clearance inwards;

(b) any expenses of the removal of the goods by virtue of any provision of this Act from a vessel or aircraft to a public warehouse, have been paid to the Assistant Commissioner of Customs.

(2) In subsection (1), “the relevant period” means —

(a) in the case of a vessel 21 clear days from the date of making due report of the vessel or such longer period as the Assistant Commissioner of Customs may determine;

(b) in the case of an aircraft, 7 clear days from the date of making due report of the aircraft or such longer period as the Assistant Commissioner of Customs may determine.

(3) Where any derelict or other vessel or aircraft coming to Seychelles under legal process due to stress of weather or safety, an officer may board the vessel or aircraft to verify the goods on board.

### **Power to board and inspect aircraft, airports, records etc.**

52. (1) An officer may board an aircraft and inspect —

(a) the aircraft and any goods loaded or carried therein;

(b) all documents relating to the aircraft or goods or persons carried therein, and

shall have the right of access to any part of the aircraft for the purposes of any such inspection.

### **Power to haul up vessels**

53. The person in command of any vessel which is engaged in the prevention of smuggling may —

- (a) haul up and leave that vessel on any part of the coast; and
- (b) moor that vessel at any place below the high water mark on any part of the coast or of any shore.

### **Power to patrol coast and land adjoining airports**

54. Any person acting in aid of an officer may, patrol upon and pass freely along and over any part of the coast or of the shore or of any airport or land adjoining any airport.

### **Power to inspect books, documents or computer records, etc.**

55. (1) Any provision under this Act, which requires a person —

- (a) to produce, furnish or deliver any book, record or document, or cause any book record or document to be produced, furnished or delivered to Customs; or
- (b) to permit the Assistant Commissioner of Customs or a person authorised by the Assistant Commissioner of Customs, to inspect any book, record or document or to make or take extracts or copies of or remove any book, record or document,

shall have effect as if any reference in that provision to a book, record or document were a reference to anything in which information of any description is recorded and any reference to a copy of a book, record or document were a reference to any information recorded in the book, record or document has been copied, by whatever means and whether directly or indirectly.

(2) A person authorised by the Assistant Commissioner of Customs to exercise the powers conferred by these provisions —

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and associated apparatus or material which is or has been in use in connection with any book, record or document within the meaning given by the above provisions, which, a person is or may be, required under any law to produce, furnish or deliver, or cause to be produced, furnished or delivered or to inspect, make or take extracts from or copies of or remove; and
- (b) may require the person on whose behalf the computer is or has been so used or any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford that person such reasonable assistance as the Assistant Commissioner of Customs may require for the purposes of subsection (a).

## **II. Arrival and boarding of aircraft and vessel**

### **Master to report on arrivals**

56. The commander of an aircraft or a master of a vessel arriving in the Seychelles shall not land or dock at any place other than an airport or port unless forced to do as a result of force majeure.

### **Delivery of inward report**

57. (1) The commander of an aircraft or a master of a vessel upon arrival, shall —

(a) within three hours after landing or within twenty four hours of docking the and before any goods are discharged, deliver to the proper officer an inward report in the prescribed form, with as many copies together with such other documents or information as may be required;

(b) answer any questions asked by an officer with regard to the aircraft or vessel, its cargo, crew, passengers flight or voyage.

(2) A person other than the port pilot, health officer or any other person authorised by the health officer or Assistant Commissioner of Customs shall not enter or leave the aircraft or ship, unload any cargo until an inward report has been made and any other inspection or examination of the aircraft or vessel, its passengers or cargo have been completed.

(3) The commander of an aircraft or master of a vessel shall provide an explanation to the satisfaction of the Assistant Commissioner of Customs where —

(a) the bulk of the cargo is broken;

(b) any alteration is made in the stowage of any goods carried ;or

(c) any part of the goods is staved, destroyed or thrown overboard or any container is opened.

### **Bringing-to of ship**

58. (1) A master of a vessel arriving within the territorial waters of Seychelles or a commander of an aircraft landing at an airport in Seychelles, shall —

(a) bring the ship or aircraft for boarding by an officer or other authorised persons; and

(b) ensure that the ship or aircraft remains stopped until an officer directs that the ship may proceed.

(2) The ship or aircraft carrying officers or other authorised persons shall identify itself as being a ship or aircraft in the service of the Government of Seychelles.

(3) The master of the ship shall by all reasonable means facilitate the boarding of the ship by officers or authorised persons.

(4) The master of the ship shall for reasonable cause, if so directed by the officer, cause the ship to ship to leave the territorial waters of Seychelles immediately.

(5) An officer who gives a direction under subsection (4) shall first consult the Assistant Commissioner of Customs or a person authorised by the Assistant Commissioner of Customs prior to giving such direction.

### **Missing goods subject to duties, taxes or levies**

59. Where goods claimed to have been imported are not in accordance with the vessel's or aircraft's inward manifest, the missing goods shall be subject to duty, tax or levy unless the missing goods are accounted to the satisfaction of the Assistant Commissioner of Customs.

### **Liability of derelict goods etc.**

60. (1) A person in possession of any derelict goods, flotsam, jetsam, lagan or wreck shall deliver the same to the Customs without delay.

(2) A person shall not, except with the authority of an officer, move, alter or interfere with any derelict goods, flotsam, jetsam, lagan or wreck.

(3) All derelict goods, flotsam, jetsam or lagan saved or coming ashore from any wreck shall be subject to the same duty or tax as goods of the like kind on importation into Seychelles.

## ***III. Clearance of Passengers***

### **Clearance of passengers**

61. (1) A person arriving or leaving Seychelles shall —

(a) produce for examination any baggage and all goods in his possession or control to the proper officer and shall answer questions as the proper officer of Customs may put to him;

(b) produce any requested book, record or document in his possession or control and answer fully and truthfully any questions put to him or her by the proper officer;

(c) not dispose of any goods in his possession or control until the proper officer has released such goods from Customs control and all formalities in relation to the goods have been complied with.

(2) Goods conditionally relieved from duties, taxes or levies shall not be disposed of until the relieving conditions are satisfied.

(3) (a) Where unaccompanied baggage of a person arrives after the person arrives, the unaccompanied baggage shall be cleared in the manner prescribed in sub-section (1) and (2).

(b) Where such baggage is not cleared within six months from the date of its delivery to Customs the uncleared baggage shall be dealt as prescribed by regulations.

(4) A person who fails to declare goods as required by this Act shall be liable on conviction to a fine of three times the value of the goods not declared or a fine of SCR25,000 whichever is the greater, and the goods shall be seized and be liable for forfeiture.

(5) The baggage of a person may be examined and delivered in such manner as a proper officer of Customs may direct, and it shall be the duty of the person in charge of the baggage to produce, open, unpack and repack the baggage.

(6) Any person or class of persons may be exempted from the provision of this section if they fall with the category prescribed by regulations.

### **Passengers in transit**

62. (1) A person in transit who does not leave the transit area shall not be required to pass any Customs control.

(2) The Assistant Commissioner of Customs shall be allowed to maintain general surveillance of transit areas and take necessary action where a custom offence is suspected of either having been committed, is being committed or where the passenger is suspected of being in possession or control of any prohibited or restricted goods.

## **PART VI – ENTRY OF GOODS**

### **I. Prohibited or restricted imports**

#### **Prohibited or restricted imports**

63. (1) It is unlawful to import into Seychelles any of the goods prescribed in the regulations.

(2) The Minister may by regulations, prohibit the importation into Seychelles of —

(a) any specified goods; or

(b) goods of a specified class or classes.

(3) Dutiable or taxable good shall not be exempt from duties, taxes or levies due to their importation being unlawful.

(4) All prohibitions and restrictions in force at the commencement of this Act prohibiting or restricting the importation of goods into Seychelles shall continue in force until they are amended or repealed under this Act.

### **II. Entry of goods into Seychelles**

#### **Summary declaration**

64. (1) Any goods brought into Seychelles shall be covered by a summary declaration, both in electronic form and hard copy or in any other manner acceptable to the Assistant Commissioner of Customs, except for goods carried by means of transport on innocent passage through the territorial



waters or airspace of Seychelles.

(2) The summary declaration shall be made available to the proper officer of Customs —

(a) in the case of goods arriving by vessel, within 24 hours before arrival, excluding weekends and public holidays;

(b) in the case of goods arriving by aircraft, immediately following the departure of the aircraft from the country of departure.

(3) The Assistant Commissioner of Customs may require the lodgement of a notification and the manifest data prior to the lodgement of the summary declaration and the summary declaration shall be lodged at the Customs office before the goods are brought into Seychelles.

(4) The Assistant Commissioner of Customs may require a certified copy of the export manifest or passenger list from the country of exportation to be presented in support of the summary declaration.

(5) The export manifest shall be certified by the Customs officer responsible for the clearance of the goods and passengers on their outward voyage from Seychelles.

#### **Lodgement of summary declaration**

65. The summary declaration shall be lodged by —

(a) the person who brings the goods or who assumes responsibility for the transportation of the goods in Seychelles;

(b) the importer or consignee or other person on whose behalf the goods are imported;

(c) any person who present the goods or to have them presented at Customs; or

(d) a representative of one of the persons referred to in paragraphs (a) or (b).

#### **Amendment of summary declaration**

66. The Assistant Commissioner of Customs may allow the summary declaration to be amended after it has been lodged, provided that such amendment is made before the Assistant Commissioner of Customs has —

(a) informed the person who lodged the summary declaration that the proper officer intends to examine the goods; or

(b) established that the particulars of the summary declaration are incorrect; or

(c) allowed the removal of the goods.

#### **Waiver of summary declaration**

67. An officer may waive the lodging of a summary declaration or allow the master to present a

notification instead before the expiry of the time limit referred to in section 64(2).

### **Reporting lost or wrecked aircrafts and vessels**

68. When any aircraft or vessel is lost or wrecked at any place within the territorial waters of Seychelles, the commander or master, or the authorised agent of the aircraft or vessel shall, without any unnecessary delay, lodge a report of the aircraft or vessel and of the goods to the Assistant Commissioner of Customs, as far as it may be possible to do so.

### **Customs control and supervision**

69. (1) All goods brought into Seychelles shall from the time of their entry be subject to —

(a) Customs control or supervision; and

(b) be subject to prohibitions and restrictions, justified on grounds of public morality, public security, the protection of the health and life of humans, animals or plants, the environment, the national treasures, relics, the implementation of fishery conservation or the protection of industrial or commercial property including any prohibited goods.

(2) All imported goods shall remain under the control of Customs for as long as necessary to determine their customs status.

### **Obligation on the person conveying the goods**

70. (1) A person who brings goods into Seychelles shall convey them without delay to the Customs office or to any other place approved by the Assistant Commissioner of Customs.

(2) Any person who assumes responsibility for the carriage of goods after they have been brought into Seychelles shall become responsible for compliance with the obligation laid down in subsection (1).

(3) The person presenting the goods shall make a reference to the summary declaration lodged in respect of the goods.

(4) Goods once presented to Customs and with the permission of an officer, may be examined or samples of the goods may be taken, in order that the goods are assigned an approved customs procedure.

### **Cargo manifest**

71. (1) Goods presented to the Customs in terms of section 70 shall be covered by a cargo manifest.

(2) The Assistant Commissioner of Customs may permit the use of a prescribed commercial or an official document which contains the particulars necessary for identification of the goods.

### **Lodgement of a cargo manifest**

72. (1) The cargo manifest shall be lodged by the person referred to under section 70.

(2) The cargo manifest shall be lodged when the goods have been presented to Customs or prior to the arrival of the goods under declaration.

(3) The Assistant Commissioner of Customs may —

(a) allow a period for lodging a cargo manifest which shall not extend beyond the first working day following the day on which the goods are presented to Customs;

(b) waive the lodging of a cargo manifest provided that it does not affect customs supervision or the customs procedure for clearance of the goods.

(4) The forms and procedures relating to cargo manifest shall be prescribed by regulations.

### **Tariff classification**

73. Any person with a beneficial interest in goods under Customs supervision and control may, with the permission of the Assistant Commissioner of Customs, at any time examine the goods or take samples, in order to determine their tariff classification, Customs value or Customs status.

### **Release of goods**

74. Goods shall not be removed from Customs supervision or control until release is granted or the goods are cleared by an officer of Customs or as otherwise provided for by this Act.

### **Force majeure**

75. Where by reason of force majeure, the obligation laid down in section 67 cannot be complied with, the person bound by that obligation or any other person acting on that person's behalf shall without delay inform an officer of the situation. Where the force majeure do not result in total loss of the goods the officer shall be informed of their precise location.

### **Trade samples**

76. (1) Where dutiable goods are declared at the time of their importation to be trade samples, the Assistant Commissioner of Customs may allow such goods to be exempted from duty, tax or levy, if —

(a) the importation is in compliance with restricted and prohibited imports regulations;

(b) such goods are prominently and indelibly marked “Sample”, “Tester” or “Not for Sale”, as is the acceptable business norm;

(2) In this section, “trade samples” means articles which are imported solely —

(a) for the purpose of being shown, used as testers, or demonstrated in Seychelles for the soliciting of sales or orders for goods to be supplied from abroad; or

(b) by a manufacturer for the purposes of copying, testing or experimenting before the manufacturer produces those articles in Seychelles,

and are not put to commercial use.

### **III. Stores**

#### **Stores**

77. Stores which are carried in a vessel or aircraft arriving in the Seychelles shall be exempt from import duties, taxes or levies provided that they remain on board.

#### **Stores required for consumption**

78. Stores on board of vessels or aircraft which are required for consumption in the operation and maintenance of vessels and aircraft shall be exempted from import duties, taxes or levies provided that they remain on board.

#### **Declaration of stores**

79. (1) When a declaration concerning stores on board vessels or aircraft arriving in Seychelles is required by the Assistant Commissioner of Customs, the information shall be kept to minimum in the declaration for the purposes of Customs control.

(2) The Assistant Commissioner of Customs shall allow the issue of stores for consumption on board during the stay of a vessel in Seychelles in such quantities as deemed necessary having regard to the number of the persons on board and the length of the stay of the vessel in Seychelles.

(3) The Assistant Commissioner of Customs may waive the requirement of a separate declaration of goods remaining in stores on board an aircraft or vessel.

#### **Removal of stores**

80. The Assistant Commissioner of Customs shall when necessary require the removal of stores from the vessel or aircraft for storage elsewhere during their stay in Seychelles.

#### **Forfeiture of stores**

81. Stores shipped other than in accordance with the conditions laid down under this Act shall be liable to forfeiture and may be seized.

#### **Sealing of stores**

82. All stores taken on board any aircraft or vessel free of import duties, taxes or levies shall be placed under a seal by a proper officer of Customs and shall remain under such seal until the departure of the aircraft or vessel from Seychelles.

#### **Supply and granting of stores**

83. The procedures and conditions relating to the supply and granting of stores to an aircraft or vessel shall be prescribed by regulations.

### **Duty free shop**

84. The provisions of sections 136 to 156 relating to Customs warehouses apply with the necessary changes to duty or tax-free shops within Seychelles. A Customs warehouse to which this section applies shall be known as a “duty or tax-free shop”.

### **Removal of goods from Duty free shop**

85. (1) Duty or tax-free goods shall not be removed from a duty or tax-free shop, by an authorised warehouse keeper without prior permission from an officer of Customs to any other approved Customs warehouse.

(2) The Assistant Commissioner of Customs may, subject to such conditions and restrictions permit an authorised warehouse keeper to remove duty or tax-free goods from the duty or tax free shop to any other Customs-approved procedure or use.

### **Purchase of goods from Duty free shop**

86. (1) Subject to passenger and crew allowances as prescribed by regulations, persons on inward journeys to Seychelles or outward journeys from Seychelles to destinations outside Seychelles may purchase goods duty or tax-free in the duty or tax-free shop.

(2) The sale of alcoholic beverages and tobacco are restricted to persons of or above 18 years.

## **PART VII - TRANSHIPMENT, TRANSIT AND CONTROL OF UNCLEARED GOODS**

### **I. Transshipment**

#### **Procedures for transshipment**

87. (1) Goods admitted to transshipment procedure shall not be subject to the payment of duties, taxes or levies provided the conditions laid down by the Assistant Commissioner of Customs are complied with.

(2) A transshipment entry shall be as follows —

(a) a single goods declaration may be provided to cover both the arrival and removal of goods; or

(b) a commercial or transport document setting out the particulars of the goods may be accepted by the Assistant Commissioner of customs as if the document was a single goods declaration.

(3) The forms and procedures for transshipment entry may be prescribed by regulation.

(4) Customs shall record the goods which arrive for transshipment, keeping a list of goods in transshipment, and removing goods from the list when they leave on their onward journey.

(5) The Assistant Commissioner of Customs may take action at the time of importation to ensure

- 
- (a) that the goods to be transhipped will be identifiable at the time of exportation;
  - (b) that unauthorised interference is easily detectable by sealing the goods container on arrival and examining the seal on departure;
  - (c) a time limit is fixed or to be approved for the exportation of goods

(6) The proper officer of Customs shall overlook the loading of the goods for transhipment onto the exporting vessel or aircraft and certify the transhipment and reexportation.

(7) At the request of the person concerned the Assistant Commissioner of Customs may specify, conditions to facilitate the exportation of goods in transhipment.

(8) Transhipment of goods shall not be refused solely on the grounds of the country of origin of the goods, the country of consignment or the country of destination, except in the case of prohibitions or restrictions applying to the goods or their destination.

#### **Declarant of goods in transhipment**

88. (1) The declarant for goods in transhipment may be a person other than the owner of the goods, a carrier, forwarding agent, the consignee or an agent approved by Customs.

(2) The declarant shall be responsible to Customs for compliance with the obligations and conditions laid down for the transhipment procedure.

#### **Security for transhipment**

89. (1) The Assistant commissioner of Customs shall determine the type, level and amount of security required to commensurate with the revenue risk involved in the transhipment.

(2) Any security given shall be discharged without delay where it has been established to the satisfaction of the proper officer of Customs that the declarant has fulfilled the obligations and complied with any conditions laid down for the transhipment and re-exportation.

#### **Examination of goods in transhipment**

90. (1) Goods declared for transhipment may be examined by the proper officer of Customs at any time and such examination may be conducted on board of an aircraft or vessel or while the goods are unshipped under Customs supervision or control.

(2) Goods declared for transhipment but not reported as such by the aircraft or vessel shall be examined to confirm if they are goods for transhipment.

#### **Transhipment of goods in force majeure**

91. The Assistant Commissioner of Customs may allow transhipment of goods to be assigned another Customs-approved procedure or use in the case of force majeure.

### **Forfeiture of transshipment of goods**

92. The unauthorised diversion of transshipment goods to home use shall render the goods liable for forfeiture.

### **Unauthorised transshipment**

93. Any person without the prior authorisation from the Assistant Commissioner of Customs, transships any goods, or attempts to remove any goods from any aircraft or vessel to another aircraft or vessel, commits an offence, and the goods shall be liable for forfeiture.

## **II. Transit Procedure**

### **Removal of goods in transit under Customs control**

94. (1) The Assistant Commissioner of Customs may allow imported goods declared for transit to be removed under customs control without payment of import duties, taxes or levies subject to such conditions, restrictions or time limits determine by the Assistant Commissioner of Customs.

(2) The Assistant Commissioner of Customs shall allow goods to be in transit in Seychelles from an office of entry to an office of exit;

(3) Where goods are declared to be in transit, the Assistant Commissioner of Customs may request the person responsible of the goods to lodge security in the form and in an amount prescribed by regulations.

### **Prohibition and restriction**

95. The Assistant Commissioner of Customs may, under the provision for prohibited and restricted imports, restrict or otherwise control the entry of certain goods from entering Seychelles.

### **Transit procedures**

96. The customs transit procedures shall be discharged by the presentation of the goods and the supporting documents at the designated office, prescribed by regulations provided the —

- (a) goods have not been interfered with in any way;
- (b) goods have not been used;
- (c) proper office of customs certifies the discharge of the transit procedure.

### **Breach of transit procedure**

97. Where there has been a breach of transit procedures that has resulted in a customs debt, the debt incurred shall be determined in accordance with section 214 as appropriate.

### **III. Control of uncleared goods**

#### **Movement of uncleared goods**

98. (1) The Minister may prescribe regulations for —

(a) the movement of imported goods between the place of importation and a place for the clearance or release of such goods, a trade zone, a Customs warehouse or the place of exportation of such goods;

(b) the movement of goods between —

(i) a trade zone and a place approved by the Assistant Commissioner of Customs for the clearance or release of such goods;

(ii) a trade zone to another trade zone;

(iii) an authorised Customs warehouse to another, or for re-exportation;

(c) the movement of goods for export between a place approved by the Assistant Commissioner of Customs for the examination of such goods and the place of exportation;

(d) the goods to be moved within a period and by such route;

(e) goods to be carried in a vehicle or container complying to requirements as specified;

(f) prohibition of loading or unloading of the vehicle or container or any interference with the security of the vehicle or container;

(g) appropriate security to cover any duties, taxes or levies chargeable on the goods.

(2) Any documents required to be produced as a result of the conditions laid down under subsection (1) shall be produced in such form and manner and contain particulars as the Assistant Commissioner of Customs may direct.

(3) Any person who contravenes or fails to comply with any condition or restriction imposed commit an offence and is liable on conviction to a fine of SCR 50,000 and any goods in respect of which the offence was committed shall be liable to forfeiture.

### **PART VIII - CUSTOMS PROCEDURES**

#### **I. Declaration**

##### **Declaration of goods**

99. (1) All goods brought into Seychelles except where otherwise provided, shall be placed under a customs procedure and be covered by an appropriate customs declaration irrespective of their nature, quantity, their country of origin, consignment or destination.



(2) Goods manufactured in Seychelles declared for a customs procedure shall be subject to customs supervision and control from the time of acceptance of the declaration until they leave Seychelles, abandoned or the Customs declaration is invalidated.

### **Types of Customs declaration**

100. (1) A Customs declaration shall be —

- (a) in writing or in an electronic format provided for by this Act;
- (b) by means of an oral declaration in the case of goods of a non-commercial nature contained in a person's baggage;
- (c) by electing and proceeding through a green “nothing to declare” channel or a red “goods to declare” channel for the clearance of a person and their baggage where appropriate; or
- (d) by the importer or exporter informing customs to place the goods under an approved Customs procedure;

(2) Any other customs procedure may be prescribed by regulations.

### **Declaration of consignment**

101. The Assistant Commissioner of Customs may, at the request of the declarant agree that a single or aggregate tariff declaration be made to a whole consignment, provided that —

- (a) the consignment is non-commercial;
- (b) the consignment contains goods falling under different tariff classifications;
- (c) any duties, taxes or levies payable, shall not be less than the amount payable if all of the items had been classified individually.

### **Acceptance of provisional or incomplete declarations**

102. Where the declarant is unable to provide all the information required to make a complete declaration the Assistant Commissioner of Customs may accept a provisional or incomplete declaration for a specified period as prescribed by regulations.

### **Lodgement of declaration**

103. (1) The Assistant Commissioner of Customs may impose conditions for —

- (a) the prior lodgement, acceptance and checking of declaration before the goods arrives in Seychelles; and
- (b) the pre-clearance of goods before the goods arrive in Seychelles.

(2) Any person who without reasonable excuse contravenes any condition imposed by the Assistant Commissioner of Customs, commits an offence and liable on conviction to a fine of not more than 50% of the tax liability.

(3) The date of acceptance of the declaration shall be the date determining the rate of duties, taxes or levies chargeable on the goods.

(4) In the event that forestalling is established, the newly imposed higher rate of duties, taxes or levies or other charges and measures shall apply.

### **Amendment of declaration**

104. (1) The declarant shall, be allowed to amend the particulars of the goods declared after it has been accepted by customs where the amendments apply to the goods originally covered.

(2) Amendments shall not be permitted where the proper officer of customs has —

- (a) informed the declarant that the goods are to be examined;
- (b) established that the particulars in the declaration are incorrect;
- (c) released or cleared the goods.

(3) Notwithstanding subsection (2) the Assistant Commissioner of Customs may allow amendments where, after the examination of the goods or after an investigation he or she is satisfied that no fraud or other irregularity was involved in the declaration.

### **Invalidation of declaration**

105. (1) The Assistant Commissioner of Customs shall, at the request of the declarant, invalidate a declaration already accepted, where —

- (a) the goods are immediately to be placed under another customs procedure or use;
- (b) as a result of special circumstances, the placing of the goods under the Customs procedure or use for which they were declared is no longer justified; or
- (c) the declarant provides proof that goods declared in error for the Customs procedure covered by that declaration.

(2) Where the proper officer of Customs has informed the declarant of his intention to examine the goods, a request for invalidation of the declaration shall not be accepted before the examination has taken place.

(3) The declaration shall not be invalidated after the goods have been released or cleared from customs custody.

## **Forestalling**

106. In the absence of forestalling, the date to be used for the purposes of all the provisions governing the approved Customs procedure for which the goods are declared, shall be the date of acceptance of the declaration by the Customs.

## **Examination of goods**

107. (1) The declarant shall be responsible for the transportation of the goods to the place where they are to be examined and the cost involved in the examination of the goods.

(2) The declarant shall have the right to be present when the goods are examined and when samples are taken.

## **Further examination of goods**

108. (1) (a) Where only part of the goods covered by a declaration is examined or samples are taken the results of the partial examination or analysis shall apply to all the goods covered by the declaration.

(b) Where a declaration covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

(2) A declarant may request further examination or sampling of the goods at the declarant's own cost where the declarant considers that the results of the partial examination or analysis is not valid.

(3) The request shall be granted, where the goods have not been released from customs control or, if they have been released, the declarant proves that they have not been altered.

## **Verification of the declaration**

109.(1) The proper officer of Customs may, for the purpose of verifying the accuracy of the particulars contained in a declaration request further documents from the declarant and take samples of the goods for analysis.

(2) Where an officer verify the declarations and accompanying documents or examine the goods, the officer shall indicate in the copy of the declaration retained or in a document attached the basis and results of the verification or examination and in the case of partial examination of the goods, particulars of the consignment examined.

(3) Where an officer neither verify the declaration nor examine the goods, the officer shall not endorse the declaration or any document.

(4) The results of verifying the declaration shall be used for the application of the Customs procedure under which the goods are placed.

## **Compliance with Customs procedures**

110. (1) The Assistant Commissioner of Customs shall take the necessary measures to identify the

goods where identification is required to ensure compliance with the Customs-procedure or use for which the goods have been declared.

(2) The identification affixed to the goods or transport shall be removed or destroyed only by an officer, authorised by the Assistant Commissioner of Customs, by economic operators or as a result of unforeseen circumstances or force majeure.

### **Release of goods**

111. (1) Customs shall release or clear the goods as soon as the declaration has been verified or accepted without verification where the goods are not subject to any prohibition or restriction and the formalities for placing the goods under the appropriate procedure has been completed. Where two or more items are declared under a declaration each item shall constitute a separate declaration.

(2) All goods covered by the same declaration shall be released at the same time.

(3) Where laboratory analysis of samples or expert advice relating to the goods are required by customs, the goods may be released before the results of such an examination are known, if —

(a) any security required by the Assistant Commissioner of Customs in respect of chargeable duties or taxes has been furnished; and

(b) Customs are satisfied that the goods are not subject to any prohibition or restrictions in force.

### **Goods pending decision**

112. (1) Where it is impractical to immediately ascertain the duties, taxes or levies payable in respect of any goods declared for home use or exportation, customs may allow goods to be cleared upon the declarant giving security by deposit of money or otherwise to the satisfaction of the goods.

(2) Where a declaration for home use is not complete, customs may treat such goods as declared for home use and require the declarant to provide any outstanding particulars .

(3) Where the goods are cleared for home use customs shall notify the declarant of the amount of duties, taxes or levies and other charges payable on the goods.

(4) The declarant shall pay the amount specified in the notice or the amount may be deducted from any deposit paid.

(5) The declarant may appeal to the Revenue Tribunal if there is a dispute as to the amount specified in the notice.

### **Release on payment of the Customs debt or provision of a guarantee**

113. (1) Where a Customs declaration gives rise to a Customs debt, the goods shall be released on the condition of the payment of the debt or the provision of a guarantee to cover that debt.

(2) Where a Customs-approved procedure or use requires that a guarantee is provided for the

release of the goods, the goods shall not be released until a guarantee is provided.

### **Certification of goods**

114. Goods shall not be released and will be liable for confiscation or sale, where —

- (a) it has not been possible to examine the goods within the period prescribed by regulations;
- (b) the documents which must be produced before the goods can be placed under an approved customs procedure have not been produced;
- (c) payments or security for the import or export duties or taxes have not been made within the prescribed period;
- (d) the goods are subject to a prohibition or restriction under section 63.

### **Simplified procedures**

115. The Minister may prescribe by regulations for simplified and supplementary declarations for clearance of goods.

### **Disposal of goods**

116. The Minister may prescribe by regulations for goods liable for forfeiture and seizure and procedure for dispose of goods.

### **Post clearance amendment of declaration**

117. (1) Customs may at the request of the declarant amend the declaration after release of the goods.

(2) Customs may after releasing the goods, inspect any commercial documents and data relating to the import or export of the goods or to subsequent commercial operations involving those goods.

(3) The inspections under subsection (2) may be carried out at the premises of the declarant or at any other place where the goods or documents are available.

(4) Where goods have been released on incorrect or incomplete information which reveals in the revision or posts clearance examination, customs shall take appropriate measure to recover any unpaid taxes, duty or levy and impose a fine if necessary.

## **II. Release or Clearance for Home Use and Relief from Import Duties**

### **Importation under home use procedure**

118. All imported goods to be cleared under the home use procedure shall entail the following —

- (a) collection of import duties, taxes or levies chargeable on the goods;

- (b) application of the policy measures relating to the goods;
- (c) presentation of any licences, permits, certificates relating to the importation or exportation of the goods;
- (d) completion of all formalities for the importation of the goods and their assignment to home use procedure.

### **Customs supervision of end-use goods**

119. (1) Where goods are cleared for home use at a reduced or zero rate of duty or tax, the goods shall remain under Customs supervision or control.

(2) Customs supervision or control shall end where —

- (a) the conditions laid down for granting a reduced or zero rate of duty or tax cease to apply;
- (b) the goods are exported or destroyed; or
- (c) duties, taxes or levies have been paid for a purpose other than for home use.

### **Condition for granting of relief on goods returned after export**

120. (1) Seychelles goods which are exported from Seychelles, and are returned to Seychelles within a period of three years and declared for release for home use shall, at the request of the declarant be granted relief from import duties, taxes or levies.

(2) The Assistant Commissioner of Customs may extend the three year period referred to in subsection (1) in order to take account of special circumstances.

(3) Where prior to goods being exported from Seychelles the goods had been released or cleared for home use and duty, tax-free, levy or a reduced rate is applied, any relief from duty, tax or levy under subsection (1) shall be granted only if the goods are to be released or cleared for home use and for the same end-use.

(4) Where the end-use for which the goods are to be released or cleared is no longer the same, the amount of import duties, taxes or levies shall be reduced by any amount collected on the goods when they were first released for home use.

(5) Should the latter amount exceed that levied on the release or clearance for home use of the returned goods, no repayment shall be granted.

### **Condition for not granting relief from import duties, taxes or levies**

121. The relief from import duties, taxes or levies shall not be granted for goods exported from Seychelles under the outward processing procedure unless those goods remain in the same condition in which they were exported.

## **Waiver of relief**

122. The Assistant Commissioner of Customs may waive the requirement for the relief from import duties, taxes or levies provided for in section 124 if goods are re-imported in the same condition in which they were exported.

## **PART IX - CUSTOMS PROCEDURES**

### **I. Special Procedures**

#### **Special procedures**

123. Goods may be placed under any of the following special procedures —

- (a) storage comprising of temporary storage, customs warehousing or trade zone;
- (b) specific use of temporary admission or enduse;
- (c) processing comprising of inward processing and outward processing.

#### **Application for Special procedure**

124. (1) An application for the use of the special procedures shall be made to the Assistant Commissioner of Customs, who may authorise the use of a special procedure and set out conditions.

(2) Where the Assistant Commissioner of Customs directs otherwise an authorisation for the use of special procedure shall be granted to any of the following person —

- (a) a person resident in Seychelles;
- (b) a person who provides a guarantee required under a customs procedure;
- (c) a person who uses the goods or arrange for their use or is responsible to carry out processing procedure of the goods in temporary admission or inward processing procedure,

(3) Except where the Assistant Commissioner of Customs directs otherwise an authorisation shall be granted where the following conditions are fulfilled —

- (a) Customs are able to supervise and monitor the procedure without having to introduce administrative arrangements;
- (b) any interests of Seychelles producers would not be adversely affected by an authorisation for the inward or outward processing or temporary admission procedure.

(4) The holder of the authorisation shall notify the Assistant Commissioner of Customs of any factors arising after the authorisation has been granted which may influence its continuation or content.

(5) The holder of an authorisation shall keep records in a form approved by the Assistant

Commissioner of Customs.

### **Transfer of special procedure**

125. The rights and obligations of the holder of an authorisation for a special procedure may be transferred to another person.

### **Discharge of special procedure**

126. A special procedure shall end or be discharged when the goods placed under a procedure are —

- (a) placed under another Customs-approved procedure or use;
- (b) have left Seychelles; or
- (c) are abandoned.

### **Usual forms of handling**

127. (1) Goods placed under Customs warehousing, a processing procedure or in a trade zone may undergo the usual manner of handling intended to preserve them and improve their appearance, marketable quality or prepare for distribution or resale.

(2) The Minister may prescribe the manner of handling by regulations.

(3) Where costs for usual manner of handling have been incurred, such costs or the increase in value shall not be taken into account for the calculation of the import duties, taxes or levies where satisfactory proof of these costs is provided by the declarant:

Provided that Customs value, nature and origin of import goods used in the operations shall be taken into account for the calculation of the import duties, taxes or levies.

### **Equivalent goods**

128. (1) Equivalent goods shall consist of Seychelles goods which are stored, used or processed instead of the goods placed under a special procedure.

(2) Under the outward processing procedure, equivalent goods shall consist of non-Seychelles goods which are processed instead of Seychelles goods placed under the outward processing procedure.

(3) Equivalent goods of the 8 digit harmonised system commodity code, commercial quality and technical characteristics shall be the same as the goods being replaced.

(4) The Assistant Commissioner of Customs may derogate from the aforementioned provisions of this section where it would be in the national interest to do so.

(5) The Assistant Commissioner of Customs shall authorise the proper conduct of the procedure and ensure Customs supervision and control in —



(a) the use of equivalent goods under a special procedure other than temporary admission and temporary storage procedure;

(b) the exportation of processed products obtained from equivalent goods before the importation of the goods they are replacing in inward processing procedure;

(c) the importation of processed products are obtained from equivalent goods before the exportation of the goods they are replacing in outward processing procedure.

(6) The Assistant Commissioner of Customs shall specify the conditions under which the use of equivalent goods under temporary admission may be authorised.

(7) The use of equivalent goods shall not be permitted with usual manner of handling as defined in section 127 or where it would lead to an unjustified advantage in import duties, taxes or levies.

(8) Where the processed products are liable to export duties, taxes or levies under subsection (5) (b) and not exported in the context of the inward processing procedure, the holder of the authorisation shall provide a guarantee to ensure payment of the duties or taxes should the import goods not be exported within the period stipulated.

## **II. Presentation of goods to Customs**

### **Unloading of goods**

129. (1) Goods shall not be unloaded or transhipped without the permission of an officer at the place designated by the Assistant Commissioner of Customs:

Provided the Assistant Commissioner of customs shall be informed in the event of an imminent danger necessitating the immediate unloading of all or part of the goods.

(2) An officer may at any time require goods to be unloaded and unpacked for the purpose of examining them, taking samples or examining the means of transport, carrying them.

(3) All goods presented to Customs shall not be removed from the place where they have been presented without the permission of an officer.

### **Goods under certain procedures**

130. (1) All imported goods presented to Customs shall be placed under a Customs procedure.

(2) A declarant may chooses a Customs procedure to declare the goods irrespective of their nature, quantity, country of origin, consignment or destination.

## **III. Unloading and temporary storage of goods**

### **Provisions for storage**

131. (1) For the purposes of the following sections storage shall comprise of —

- (a) temporary storage;
- (b) Customs warehouse; and
- (c) trade zone.

(2) Goods imported into Seychelles may be stored under the storage procedure without being subject to the following —

- (a) import duties, taxes or levies;
- (b) any other charges applicable to the importation of the goods;
- (c) commercial policy measures, in so far as they do not apply to the entry or exit of goods into or from Seychelles.

### **Responsibilities of the holder of the authorisation**

132. (1) The holder of the authorisation and the declarant shall be responsible to —

- (a) ensure that goods under the temporary storage, Customs warehousing or free zone procedures are not removed from Customs supervision;
- (b) fulfil the obligations arising from goods in temporary storage or Customs warehousing or trade zone procedures;

(2) The Assistant Commissioner of Customs may require the declarant to provide a guarantee to ensure payment of any Customs debt and other charges that may be incurred, where the authorisation concerns a public warehouse.

## **IV. Storage**

### **Temporary storage**

133. Goods not declared under a Customs-approved procedure or use shall be declared for the temporary storage procedure by the holder of the goods on their presentation to Customs, they are —

- (a) goods which are brought into Seychelles, other than directly into a trade zone;
- (b) goods which are brought into another part of Seychelles from a trade zone;
- (c) where import manifest and the inward reports relating to the goods have been lodged with the proper officer of Customs within the prescribed time limits;
- (d) Goods not declared for any other customs approved procedure or use; or
- (e) Goods in question have been presented to customs.

### **Removal of goods to a public warehouse**

134. (1) Procedures relating to the removal of goods to a public warehouse shall be prescribed by regulations.

(2) The Assistant Commissioner of Customs may treat the goods as having been abandoned, where they are placed in a public warehouse by an officer and are not assigned a Customs-approved procedure or use.

(3) Goods placed under temporary storage shall be declared and removed under a customs approved procedure or use within three months after being placed in a public warehouse, but goods which are naturally subject to speedy decay shall be declared and removed forthwith.

(4) The Assistant commissioner of Customs may extend the period specified in subsection (3) to clear the goods from the public warehouse.

### **Restriction on the operation of goods in temporary storage**

135. (1) Goods under the temporary storage procedure shall be stored only in approved temporary storage facilities and shall be subject only to the manner of handling designed to ensure their preservation without altering their condition.

## **V. Warehousing of Goods**

### **Definition**

136. A Customs warehouse may be a public warehouse or private warehouse available for storage of goods.

### **Approval of Public warehouse**

137. (1) The Minister may by notification in the Official Gazette approve public warehouse where dutiable goods may be deposited and kept without payment of duties, taxes or levies.

(2) A public warehouse in use at the commencement of this Act shall continue unless otherwise determined by the Minister.

(3) The Assistant Commissioner of Customs may allow subject to prohibitions and restrictions the storage in a public warehouse of all goods irrespective of the quantity, country of origin or country of destination.

(4) Goods which are hazardous and require special installations and are likely to affect other goods will be accepted by a warehouses only specially designed and authorised by Revenue Commissioner.

### **Application for private warehouse**

138 (1) A person who is established in Seychelles may apply to operate a private warehouse.

(2) An application shall be made in writing, to the Assistant Commissioner of Customs, and the

applicant shall provide information required for granting the authorisation.

(3) The Assistant Commissioner of Customs may impose conditions when granting the authorisation.

### **Warehouse bond**

139. (1) When an application is made to place certain goods in a public warehouse, the owner of the goods shall execute a bond prescribed by regulations.

(2) A bond relating to the goods or portion of goods of one conveyance only and shall be in a form prescribed by regulations.

(3) Notwithstanding subsection (2), the Assistant Commissioner of Customs may allow an importer to enter into a general bond in such amount and subject to such conditions as the Assistant Commissioner of Customs may determine.

(4) A bond executed under this section by an importer in respect of any goods shall continue in force even if the goods are transferred to another person or the removal of the goods to another public warehouse Unless the other person enters into a fresh bond in the same amount with customs.

### **Warehouse keepers**

140. (1) A warehouse keeper shall be responsible to —

(a) ensure that while the goods are in customs warehouse they are not removed from Customs supervision or control;

(b) fulfil the obligations that arise from the storage of goods covered by the warehousing procedure;

(c) comply with the particular conditions specified in the authorisation;

(d) receive and account for payment of duty, tax or levy in force on all goods in warehouse and on their removal from the warehouse;

(e) keep stock records of all the goods placed under the customs warehousing procedure in the form approved by the Assistant Commissioner of customs; and

(f) produce the goods whenever required and facilitate their examination by the proper officer.

(2) With the approval of the Assistant Commissioner of Customs, the obligations of the warehouse keeper may be transferred to another person.

(3) The warehouse keeper shall not be liable for any loss or deficiency in goods occurring in the warehouse if the Assistant Commissioner of Customs is satisfied that the loss and deficiency resulted from —

(a) the total destruction or irretrievable loss of the goods as a result of unforeseeable circumstances or force majeure; or

(b) as a consequence of an authorisation by the Assistant Commissioner of Customs.

### **Guarantee to ensure compliance with conditions**

141. The Assistant Commissioner of Customs may require that the warehouse keeper provide a guarantee in connection with the responsibilities specified in section 140 (1) (a) to (c).

### **Depositors' obligations**

142. The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the Customs warehousing procedure.

### **Authorised processing of goods in a Customs warehouse**

143. (1) The Assistant Commissioner of Customs may upon a request allow —

(a) goods to be stored on the premises of the Customs warehouse;

(b) goods to be processed subject to conditions on a Customs warehouse under the inward processing procedure or home use procedure.

(2) Goods referred to in subsection (1), shall not be subject to the Customs warehousing procedure.

(3) Goods referred to in subsection (1) shall be entered in the stock records provided for in section 140(e).

### **Operations permitted in a Customs warehouse**

144. (1) A person authorised by the Assistant Commissioner of Customs to remove the goods in a warehouse may —

(a) inspect the goods

(b) take samples against payment of import duties, taxes or levies applicable;

(c) carry out operations necessary for their preservation; and

(d) carry out other handling operations necessary to improve their packaging or marketable quality or to prepare them for shipment.

(2) The Assistant Commissioner of Customs may impose conditions in respect of subsection (1).

### **Time limits for the storage of goods in a Customs warehouse**

145. (1) Where goods admitted in a Customs warehouse are not cleared or re-warehoused within one

year from the date of first entry for warehousing. The Assistant commissioner of Customs shall give one month notice to the owner of the goods, after which the goods may be seized and disposed of in accordance with section 116.

(2) Notwithstanding the provisions of subsections (1), the Assistant Commissioner of Customs may prescribe time limit for goods stored in a private warehouse and for certain warehouse goods.

### **Temporary removal of goods from warehouse**

146. (1) Goods placed under the Customs warehousing procedure may be temporarily removed when authorised by the Assistant Commissioner of Customs, who may stipulate conditions on removal.

(2) Where the goods are outside the Customs warehouse they may undergo the handling operations referred to in section 127.

### **Transfer of goods between Customs warehouse**

147. The Assistant Commissioner of Customs may allow goods placed under the warehousing procedure to be transferred from one warehouse to another warehouse.

### **Closure of Customs warehouse**

148. Where a warehouse is to be closed, a depositor shall be given sufficient time to remove the goods to another warehouse or to place them under another approved Customs procedure.

### **Costs of warehousing**

149. (1) Where a Customs debt is incurred in respect of import goods and the Customs value of such goods is based on a price actually paid or payable which includes the cost of warehousing and of preserving goods while they remain in the warehouse, such costs need not be included in the Customs value if they are shown separately from the price actually paid or payable for the goods.

(2) Where the goods have undergone the usual manner of handling within the meaning of section 127, the nature of the goods, the Customs value and the quantity to be taken into account in determining the amount of import duties, taxes or levies shall, at the request of the declarant, be those which would be taken into account for the goods, if they had not undergone such handling.

(3) The rate of duties, taxes or levies tax shall be at the time the Assistant Commissioner of Customs assess the declaration for home use.

### **Warehouse rent**

150. Where goods are lodged in a warehouse or other place of deposit provided by Customs for the security of the duties, taxes or levies payable or until customs procedure for importation of goods have been complied with, the Assistant Commissioner of Customs may charge, a warehouse rent for such period the goods remain in the warehouse.

### **Waiver of warehouse rent**

151. (1) The Assistant Commissioner of Customs may direct the repayment or remission of whole or part of any warehousing rent paid or payable where it would be equitable to do so.

(2) Goods deposited in a place approved by Customs shall be deemed to be in a warehouse. The owner of the warehoused goods shall be responsible for any charges incurred by the Assistant Commissioner of Customs until such time as the goods are released and removed under a Customs-approved procedure or use.

(3) The Assistant Commissioner of Customs shall not be responsible for any damage which the goods may sustain.

### **Examination of goods in a warehouse**

152. (1) The proper officer may, at any time by order in writing, direct that any goods or packages lodged in any warehouse shall be opened and examined and cause the opened goods or packages to be sealed or marked in such manner as the proper officer thinks fit.

(2) Goods that have been sealed and marked after examination, shall not be opened without the permission of the proper officer.

### **Manufacture and other operations in relation to goods in a warehouse**

153. (1) The owner of any warehoused goods may by giving fifteen days prior notice in writing to the Assistant Commissioner of Customs to carry on any manufacturing process or other operations in the warehouse in relation to such goods.

(2) In the course of any operation or process under subsection (1) there is waste or refuse in whole or any part of the goods produced by such operation or process are exported, no duty shall be charged on the quantity of the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to the goods exported:

Provided that such waste or refuse is either destroyed or duty is paid on such waste or refuse as if it had been imported into Seychelles in that condition.

(3) If the whole or any part of the goods produced by such operation or process are cleared from the warehouse for home-consumption any duties, taxes or levies shall be charged on the quantity of such goods cleared for home-consumption and on the warehoused goods wasted or turned into refuse in the course of the operation or processing carried on in relation to such goods cleared for home-consumption in a manner to be prescribed by rules in the regulations.

### **Weighing and handling**

154. (1) All operations relating to weighing and handling of the goods, whether warehoused or not, shall be performed by or at the expense of the owner, importer, exporter, consignor, consignee or agent, as the case may be.

(2) Where the presence of officers is required or necessary for the proper performance of such

operations as are described in subsection (1), the owner, importer, exporter, consignor, consignee or agent, as the case may be, shall at his or her own expense provide such officers with the necessary transport between the Customs office and the place where those operations are to be performed.

### **Re-assessment of warehoused goods when damaged or deteriorated**

155. Where ad valorem duty is levied on goods damaged or deteriorated due to an unavoidable accident or cause after they have been entered for warehousing and assessed under section 209 and before they are cleared, shall, at the request of the owner be reassessed for duty, tax or levy according to the actual value and a new bond may be executed for the unexpired term of warehousing.

### **Loss or destruction of warehouse goods**

156. (1) The Assistant Commissioner of Customs shall not levy any duties, taxes or levies where goods in a public warehouse for which a bond has been given and have not been cleared are lost or destroyed by unavoidable accident or cause.

(2) Where goods are lost or destroyed in a private warehouse, the owner shall notify the Assistant Commissioner of Customs in writing within two working days after the discovery of the loss or destruction.

## **PART X – PRIVILEGED OPERATIONS**

### **I. Reliefs from Customs Duties**

#### **Provision for specific use**

157. Where goods cleared for home use or export the Assistant Commissioner of Customs may determine and grant relief from import or export duties, taxes or levies on account of special circumstances.

#### **Relief on export after repair under specific conditions**

158. Where a temporary export declaration has been lodged, and the goods are re-imported into the Seychelles within the prescribed period of their exportation, total or partial relief of import duties and taxes shall be granted, if —

(a) the re-imported goods were repaired, and such repairs could not have been undertaken in Seychelles;

(b) equipment or other goods were added to the exported goods that could not be added in Seychelles;

(c) processing or manufacturing was done on the re-imported goods and the goods exported are the product of and originated within Seychelles.

#### **Re-importation of goods and same state return**

159 (1) Goods re-imported into Seychelles in the same condition following their exportation with



notification of intended return includes —

- (a) packing, containers, pallets, and commercial road vehicles which are in use for the international transport of goods;
- (b) goods and equipment used for a display abroad at exhibitions, fairs, meetings or similar events of a commercial, technical, religious, educational, scientific, cultural or charitable nature; or
- (c) professional equipment.

(2) Goods re-imported as a result of unforeseen circumstances which arise after they are exported outright, whereby —

(a) an exporter may encounter unforeseen difficulties which may lead to the re-importation of goods which had been exported where —

- (i) they have remained unsold;
- (ii) the consignee refuses them as not conforming to contract; or
- (iii) they have been damaged during transportation;

(b) Goods may also be re-imported as a result of a new transaction for their return to Seychelles from which they were exported, or they were exported inadvertently.

### **Condition for relief on re-importation and same state return**

160. Goods that are re-imported or returned to Seychelles in the same condition shall be entitled to free import duties, taxes or levies and to repayment of any duty, tax or levy paid on exportation, as prescribed by regulations.

## **II. Inward Processing**

### **Application of inward processing**

161. (1) The inward processing procedure shall apply where —

- (a) non-Seychelles goods intended for re-export from Seychelles in the form of compensating products, without such goods being subject to import duties, taxes or levies or commercial policy measures;
- (b) goods cleared for home use with repayment or remission of the import duties, taxes or levies if they are exported from Seychelles in the form of compensating products;
- (c) goods placed under another Customs procedure where conditions for inward processing are met and the previous approved Customs procedure is properly discharged.

(2) Subject to subsection (2) the Assistant Commissioner of Customs may allow —

(a) compensating products to be obtained from equivalent goods;

(b) compensating products obtained from equivalent goods to be exported from Seychelles before importation of the import goods.

(3) The Assistant Commissioner of Customs may allow equivalent goods of the same quality and have the same characteristics as the import goods, equivalent goods to be at a more advanced stage of manufacture than the import goods, if determined in accordance with customs procedure.

(4) Customs may adopt measures to facilitate subsection (2).

(5) Where subsection (2) (b) is applied and the compensating products would be liable to export duties, taxes or levies if they are not being exported or re-exported under an inward processing operation, the holder of the authorisation shall provide a security to ensure payment of the duties should the import goods be imported within the period prescribed.

### **Authorisation for the inward processing procedure**

162. (1) The Assistant Commissioner of Customs shall authorise inward processing procedure at the request of the person who carries out the processing operations or who arranges for them to be carried out.

(2) The authorisation may be granted —

(a) to a person established in Seychelles in respect of imports of a non-commercial nature;

(b) to the use of the goods referred to in section 164 (2), the import goods can be identified in the compensating products or, where compliance with the conditions laid down in respect of equivalent goods can be verified;

(c) where the inward processing procedure can help create the most favourable conditions for the export or re-export of compensating products, provided the interest of Seychelles producers are not adversely affected.

### **Period for discharge**

163. (1) The Assistant Commissioner of Customs shall specify the period within which the compensating products shall be exported or re-exported or assigned another Customs approved procedure or use.

(2) The period specified under subsection (1) shall take into account of the time required to carry out the processing operations and dispose of the compensating products and shall run from the date on which the imported goods are placed under the inward processing procedure. The Assistant Commissioner of Customs may grant an extension of the period specified on an application made by the owner or representative.

(3) The Assistant Commissioner of Customs shall specify the period within which the imported goods must be declared for the procedure and that period shall run from the date of acceptance of the

export declaration relating to the compensating products obtained from the corresponding equivalent goods.

### **Establishment of the rate of yield**

164. (1) The Assistant Commissioner of Customs shall set the rate of yield of the operation or the method of determining such rate. The rate of yield shall be determined on the basis of the actual circumstances in which the processing operation is, or is to be, carried out.

(2) Standard rates of yield may be set in accordance with the Customs procedure on the basis of actual data previously ascertained, where the processing operation which is carried out under technical conditions involving goods of substantially uniform characteristics in the production of compensating products of uniform quality.

### **Unauthorised condition**

165. Goods in the unaltered condition or compensating products considered to have been cleared for home use may be determined in accordance with the Customs procedure.

### **Determination of debt**

166. (1) Where a Customs debt is incurred the amount of debt shall be determined on the duties, taxes or levies appropriate to the importation of the goods at the time of acceptance of the inward processing procedure.

(2) If at the time referred to in subsection (1), the import goods fulfilled the conditions to qualify for preferential tariff treatment within tariff quotas or ceilings, they shall be eligible for any preferential tariff treatment existing in respect of identical goods at the time of acceptance of the declaration for clearance for home use.

### **Duties, taxes or levies on waste and scrap**

167. Notwithstanding section 166, specific rules of assessment shall apply in the following circumstances —

(a) waste and scrap having a commercial value shall be classified and valued as waste and scrap and liable to duty or tax. The rate of duty or tax chargeable shall be that in force at the time the declaration for home use is accepted by Customs;

(b) where a Customs debt is incurred in respect of—

(i) goods in the unaltered state;

(ii) secondary compensating products; or

(iii) unaccounted-for losses or deficiencies;

the amount of those debts shall be determined at the time of acceptance of the inward processing procedure.

### **Temporary re-export for further processing**

168. (1) Subject to prior authorisation by the Assistant Commissioner of Customs, some or all of the goods placed under the inward processing procedure, may be temporarily re-exported for the purpose of further processing outside Seychelles, in accordance with the conditions laid down for the outward processing procedure.

(2) Where a Customs debt is incurred in respect of re-imported products, the following shall be charged—

(a) import duties, taxes or levies on the compensating products or goods in the unaltered state referred to in subsection (1), shall be calculated in accordance with section 166; and

(b) import duties, taxes or levies on products re-imported

after processing outside of Seychelles, shall be calculated in accordance with the provisions relating to the outward processing procedure, on the same conditions as would have applied had the products been exported under the latter procedure been cleared for home use before such export took place.

### **III. Temporary Admission**

#### **Relief on temporary admission**

169. (1) The temporary admission procedure may be prescribed by regulation.

(2) Imported goods to be placed under the temporary admission procedure, may be used in Seychelles, with total or partial relief from import duties, taxes or levies and such goods shall be subject to any prohibitions or restrictions, for the time being in force, upon their importation or exportation into or from Seychelles.

(3) The temporary admission procedure may be used under the following condition where—

(a) goods are intended for re-export;

(b) goods are not intended to undergo any change except normal depreciation due to the use made of them;

(c) goods shall be imported for a specific purpose;

(d) it is possible to ensure that the goods placed under the procedure can be identified, except where, in view of the nature of the goods or of the operations to be carried out, the absence of identification measures is not liable to give rise to any abuse of the procedure;

(e) in the case of vehicles or yachts they must not have previously been imported into Seychelles within three years of the current importation;

(f) the goods shall not be, or be offered to be, lent, sold, pledged, hired, or otherwise disposed of.

### **Period for temporary admission**

170. (1) The Assistant Commissioner of Customs shall determine the period within which goods placed under the temporary admission procedure must have been re-exported or placed under a subsequent Customs procedure.

(2) The maximum period shall be no more than twelve months. Where goods may remain under the temporary admission procedure for the same purpose and under the responsibility of the same holder of authorisation.

(3) The Assistant Commissioner of Customs may at the request of the owner or representative extend the periods in subsection (1) and (2) to twenty four months.

### **Partial or total relief on temporary admission**

171. (1) The temporary admission procedure with partial relief from import duties, taxes or levies shall be applied where goods while remaining the property of the person established outside Seychelles are not covered by the provisions of section 171 (2) or which are covered by such provisions but do not fulfil all the conditions provided for the grant of temporary admission with total relief.

(2) The circumstances and conditions under which temporary admission procedure may be used with total relief from import duties, taxes or levies shall be prescribed by regulations.

### **Amount of import duties, taxes or levies on partial relief**

172. The amount of import duties, taxes or levies in respect of goods placed under the temporary admission procedure with partial relief from import duties, taxes or levies shall be based on a percentage which shall be prescribed by regulations.

### **Determination of duties, taxes or levies**

173. (1) The circumstances, conditions and amount of import duties, taxes or levies in respect of goods placed under the temporary admission procedure with partial relief from import duties, taxes or levies may be prescribed by regulations.

(2) Transfer of the rights and obligations deriving from the temporary admission procedure pursuant to section 125 shall not mean that the same relief arrangements must be applied to each of the periods of use to be taken into consideration.

(3) Where the transfer referred to in subsection (2) is made with partial relief for both persons authorised to use the procedure during the same month, the person holding the initial authorisation shall be liable to pay the amount of import duties, taxes or levies due for the whole of that month.

### **Determination of taxation element**

174. (1) Where a customs debt is incurred in respect of import goods the amount of such debt shall be determined on the basis of the taxation elements appropriate to those goods at the time of acceptance of the declaration of placing the goods under the temporary admission procedure and the amount of debt shall be determined on the basis of taxation element appropriate to the goods in pursuant to 214.

(2) Where a customs debt is incurred in respect of goods for reasons other than the placing of goods under the temporary admission procedure with partial relief the amount of debt shall be the difference between the amount of duty calculated pursuant to subsection (1) and payable.

### **Security for temporary admission**

175. The Assistant Commissioner of Customs may require a security for the temporary admission of goods under total or partial relief of duties, taxes or levies.

### **Termination of the temporary admission procedure**

176. The temporary admission procedure may be terminated by lodging a goods declaration for re-exportation of the imported goods or by placing the imported goods under another approved Customs procedure.

## **IV. End- Use Procedure**

### **Customs control and supervision under the end-use procedure**

177. Goods placed under the end-use procedure, may be released for home use under a duty exemption or at a reduced rate and such goods shall remain under Customs supervision and control.

### **Termination of Customs control and supervision under end-use procedure**

178. Customs supervision and control under the end-use procedure shall cease in the following cases —

- (a) where the goods have been used for purposes laid down for the application of the duty exemptions or reduced rate;
- (b) where the goods are exported, destroyed or abandoned;
- (c) where the goods have been used for purposes other than those laid down for the application of the duty exemptions or reduced duty rates and the chargeable import duty have been paid.

## **V. Outward Processing**

### **Outward processing procedure**

179. (1) Under the outward processing procedure Seychelles goods may be temporarily exported from Seychelles to undergo processing operations, and the compensating products may be released for home use with total or partial relief from import duties, taxes or levies.

(2) Outward processing procedure shall not be allowed for the following Seychelles goods —

- (a) goods the export of which gives rise to repayment or remission of import duties, taxes or levies;

(b) goods which, prior to exportation, were released for home use and such use have not been fulfilled under, a duty, levy, tax exemption or at a reduced rate of duties, taxes or levies, unless these goods have to undergo repair operations.

(3) Exceptions to subsection (2) (b) may be prescribed by regulations.

### **Authorisation for using outward processing procedure**

180. (1) An authorisation to use the outward processing procedure shall be issued at the request of —

(a) a person responsible for the processing operations; or

(b) a person in respect of goods of Seychelles origin within the meaning of section 41,

where the processing operation consists in incorporating goods obtained outside Seychelles and imported as compensating products where the use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of Seychelles producers of products identical or similar to the imported compensating products.

(2) Exceptions to subsection 1 (b) shall be prescribed by regulations.

### **Grant of authorisations**

181. (1) Authorisation to use outward processing procedure shall be granted —

(a) to persons established in Seychelles;

(b) where it is possible to establish that the compensating products have resulted from processing of the temporary export goods;

(c) Where the interests of Seychelles processors or producers are not affected.

(2) Exceptions to subsection (1) may be prescribed by regulations.

### **Period for re-importation and the rate of yield**

182. (1) The Assistant Commissioner of Customs may specify the period within which the compensating products must be re-imported in Seychelles and that period may be extended.

(2) The Assistant Commissioner of Customs shall set the rate of yield of the operation or, where necessary, the method of determining that rate.

### **Conditions for grant of total or partial relief on compensating product**

183. (1) The total or partial relief from import duties, taxes or levies provided for in section 184, shall be granted for outward processing where the compensating products are declared for clearance for home use by or on behalf of —

(a) the holder of the authorisation, or

(b) a representative.

(2) The total or partial relief from import duty, tax or levy shall not be granted where a condition relating to the outward processing procedure is not fulfilled unless it is established that the failures have no significant effect on the correct operation of the said procedure.

### **Duties, taxes or levies on outward processing goods**

184. (1) The total or partial relief from import duties, taxes or levies provided in section 179 shall be effected by deducting from the amount of the import duties, taxes or levies applicable to the compensating products cleared for home use the amount of the import duties, taxes or levies that would be applicable on the same date to the temporary export goods if they were imported into Seychelles from the country in which they underwent the last processing operation.

(2) The amount to be deducted pursuant to subsection (1) shall be calculated on the basis of the quantity and nature of the goods in question on the date of acceptance of the declaration placing them under the outward processing procedure and on the basis of the other items of charge applicable to them on the date of acceptance of the declaration relating to the clearance for home use of the compensating products.

(3) The value of the temporary export goods shall be taken into account of the goods in determining the Customs value of the compensating products in accordance with of section 41 or, if the value cannot be determined in that way, the difference between the Customs value for the compensating products and the processing costs determined by reasonable means:

Provided that —

(a) certain charges determined in accordance with the Customs procedure shall not be taken into account in calculating the amount to be deducted;

(b) the temporary export goods cleared for home use at a reduced rate by virtue of their end use, as long as the conditions for granting the reduced rate continue to apply and the amount to be deducted shall be the amount of import duties, taxes or levies actually levied when the goods were cleared for home use prior to being placed under the outward processing procedure.

(4) The rate for temporary export goods qualify for home use for reduced or zero rate of duty by virtue of their end use and shall take into account where goods have undergone operations consistent with such end-use in the country where the processing operation or last such operation took place.

(5) Where compensating products qualify for a preferential tariff measure within the meaning of section 40 and the measure exists for goods falling within the same tariff classification as the temporary export goods, the rate of import duties, taxes or levies to be taken into account in establishing the amount to be deducted pursuant to subsection (1) shall be that which would apply if the temporary export goods fulfilled the conditions under which that preferential measure may be applied.

### **Total relief on duties, taxes or levies on repaired goods**

185. (1) Where the purpose of the operation is the repair of the temporary export goods and the



Assistant Commissioner of Customs is satisfied that goods have been repaired free of charge due to contractual or statutory obligation arising from a guarantee or due to a manufacturing defect, the temporary export goods shall be eligible for total relief from import duties, taxes or levies.

(2) Subsection (1) shall not apply where the manufacturing defect has been taken into account at the time when the goods were first cleared for home use.

### **Partial relief on duties, taxes or levies on repaired goods**

186. Where any repair on temporary export goods are carried out, a partial relief from import duties, taxes or levies shall be granted on the goods returned pursuant to section 179 based on the taxation element and customs value on the repair cost of the compensating products on the date of acceptance of declaration for clearance for home use.

### **Standard exchange system**

187. (1) A replacement product, may, in accordance with subsections (2) to (6), replace a compensating product, under the standard exchange system.

(2) The Assistant Commissioner of Customs may authorise the standard exchange system to be used where the processing operation involves the repair of Seychelles goods.

(3) Replacement products shall fall under the same tariff sub headings and have the same commercial quality and technical characteristics as the temporary export goods had the goods undergone any repair.

(4) Where the temporary export goods have been used prior to export, the replacement products shall also be used products.

(5) The Assistant Commissioner of Customs may, waive the fore-going requirement if the replacement product are supplied free of charge, due to a contractual or statutory obligation arising from a guarantee due to manufacturing defect.

(6) Standard exchange shall be authorised only where conditions laid down in subsections (3) and (4) are fulfilled.

(7) The provisions which would be applicable to the compensating products shall apply to the replacement products.

### **Prior importation of replacement products**

188. (1) The Assistant Commissioner of Customs may, on conditions prescribed by regulations, authorise replacement products to be imported before the defective goods are exported.

(2) A guarantee shall be provided for importation of a replacement product covering the amount of the import duties, taxes or levies payable should the defective goods not be exported in accordance with subsection (3).

(3) The defective goods shall be exported within a period of two months from the date of

acceptance by Customs of the declaration for the clearance for home use of the replacement products.

(4) Where the defective goods cannot be exported within the period referred to in subsection (3), the Assistant Commissioner of Customs may, at the request of the person concerned, extend that period.

### **Duty on prior importation**

189. Where, provisions of section 184 applies prior to importation, the amount to be deducted shall be determined on the basis of the cost incurred to bring the temporary export goods for outward processing on the date of acceptance of the declaration.

## **PART XI - EXPORT PROCEDURE AND CLEARANCE OF AIRCRAFTS AND VESSELS**

### **I. Prohibited or restricted exports**

#### **Prohibited or restricted exports**

190. (1) A person shall not export from Seychelles goods the exportation of which is prohibited or restricted as prescribed by regulation under subsection (2).

(2) The Minister may prescribe by regulations where it is in the public interest to prohibit any specified goods or goods of a specified class.

(3) A prohibition imposed under this section may be —

(a) general, limited, absolute or conditional;

(b) limited to the export of goods to a specified place or to a specified person or class of persons.

(4) A restricted good may be exported under the authority of a permit or consent to be granted subject to such conditions not inconsistent with the provisions of the restriction, as may be imposed by the Assistant Commissioner of Customs.

(5) A prohibition under this section shall not apply to goods already loaded into the exporting aircraft or vessel at the time when the prohibition or restriction comes into force.

### **II. Export Procedure**

#### **Obligation to lodge pre-departure declaration**

191. (1) A pre-departure declaration shall be lodged with customs for goods leaving Seychelles.

(2) The conditions under which goods are to be exported from Seychelles may be prescribed by regulations.

#### **Measures establishing procedure relating to pre-departure declaration**

192. (1) The Assistant Commissioner of Customs may specify —

- (a) goods leaving Seychelles which are not subject to a pre-departure declaration;
- (b) where the requirement for a pre-departure declaration may be waived or adapted;
- (c) the deadline by which the pre-departure declaration shall be lodged before the goods are exported from Seychelles;
- (d) any exceptions from and variations to the deadline referred to in paragraph (c);
- (e) the Customs office at which the pre-departure declaration shall be lodged where risk analysis and risk-based export and exit controls are to be carried out.

(2) In adopting these measures, Assistant Commissioner of Customs shall take into account of the following —

- (a) the special circumstances;
- (b) the application of measures to certain types of goods, traffic and modes of transport;  
or
- (c) special security arrangements under an international agreement.

### **Entry of goods for export**

193.(1) The manner and procedure of entry of goods to be exported by an exporter shall be prescribed by regulations.

(2) A person who makes an entry under this section shall —

- (a) answer any questions relevant to matters arising under this Act asked by an officer with respect to the goods; and
- (b) at the request of the officer present the goods to be examined.

(3) Where goods are exported under a drawback the making of any such entry is deemed to be the making of a claim for drawback.

(4) Unless the Assistant Commissioner of Customs otherwise determines, no right to drawback exists in the case of goods placed on an aircraft or vessel before entry has been made.

(5) Except as otherwise permitted by the Assistant Commissioner of Customs goods shall not be loaded for export until a declaration completed in the prescribed form and manner has been made.

### **Goods for export to be covered by a declaration**

194. (1) Goods loaded for export shall not re land in Seychelles, without the permission of the proper officer.

(2) Where goods are not exported the person who lodged the pre-departure declaration shall

immediately give notice to the proper officer of the failure to export and the reasons for it and the Assistant Commissioner of Customs —

- (a) shall cancel or amend the declaration; and
- (b) where applicable, allow the goods to be released from the control of Customs.

### **III. Customs-Approved Secure Exports Schemes**

#### **Secure exports scheme**

195. Customs may provide for a secure exports scheme to ensure that goods to be exported are —

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

#### **Approval of secure exports scheme**

196. (1) The Assistant Commissioner of Customs may, on application, authorise a person to use the secure export scheme.

(2) An authorisation shall be in writing and may be subject to such conditions as the Assistant Commissioner of Customs sees fit.

(3) The Assistant Commissioner of Customs may, at any time for reasonable cause, revoke or vary the terms of an authorisation.

(4) An authorisation shall specify the manner in which the goods to be exported under the scheme are to be packed, the person handling the packing, the conveyance of the goods and any other requirements.

#### **Conditions of secure export scheme authorisation**

197. (1) An authorisation shall specify the manner and conditions of the goods packed under the export scheme, such as —

- (a) secure packages to be used;
- (b) seal or markings to be applied to the packages in order to indicate —
  - (i) the package contains only declared goods when it was secured as approved; and
  - (ii) identify tampering or interference with the package after it is secured.
- (c) the persons who are to pack and convey the goods and the security checks to be applied to those persons;

- (d) the conditions under which the packing is to occur;
- (e) the manner in which the goods are to be conveyed;
- (f) any place or place of security en route to the place of shipment in which the goods are to be stored in the course of being conveyed to the place of shipment;
- (g) any other requirements.

(2) An exporter shall submit in advance an electronic export goods declaration to the officer prior to exportation.

(3) For container shipments, the declaration should be lodged prior to the goods being packed into the container.

### **Conditions to be acknowledged in secure exports scheme**

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

- (a) the goods to be exported under the scheme are subject to customs control from the time when they are first secured in a customs approved scheme package until the exportation of the goods to a place outside Seychelles;
- (b) the power of detention and search under section 48 are available if they are suspected to be goods that are —
  - (i) subject to customs control: or
  - (ii) in customs approved secure package
- (c) an officer may question any or all of the following persons about any goods destined to be exported from Seychelles —
  - (i) the owner or operator of a vehicle where an officer has reasonable cause to suspect that there are goods in the vehicle subject to customs control or in customs approved secured package;
  - (ii) the owner or occupier of premises where an officer has reasonable cause to suspect that there goods within the premises subject to customs control or in customs approved secured package;
  - (iii) a person employed by a person described in subparagraph (1) or (ii).

### **Formalities and Customs supervision**

199. (1) All goods including non Seychelles goods leaving Seychelles shall be subject to exit formalities and the goods shall be placed under the export procedure and shall be subject to —

- (a) the repayment or remission of any import duties, taxes or levies;

(b) the collection of export duties, taxes or levies where applicable;

(c) Customs supervision and control from the time the goods are presented and declared for export to the time they leave Seychelles.

(2) The release for export shall be granted on condition that the goods leave Seychelles in the same condition as when the pre-departure declarations were accepted.

### **Export of Non-Seychelles goods**

200. (1) A re-export notification shall be lodged for Non-Seychelles goods.

(2) Subsection (1) shall not apply to the following goods —

(a) goods transhipped within, or directly exported from, a trade zone;

(b) goods under the temporary storage procedure which are directly exported from an authorised temporary storage facility.

### **Exit summary declaration: outward report**

201. (1) Where non-Seychelles goods are destined to leave Seychelles and a re-export notification is not required, an exit summary declaration shall be lodged with Customs before the goods are to be taken out of Seychelles.

(2) The Assistant Commissioner of Customs may provide the manner and form of the exit summary declaration.

(3) The exit summary declaration may be lodged by one of the following persons —

(a) the person who brings the goods, or who assumes responsibility for the carriage of the goods out of Seychelles;

(b) the exporter or consignor or other person in whose name or on whose behalf the persons referred to in paragraph (a) act;

(c) any person who is able to present the goods to the proper officer.

### **Amendment of the exit summary declaration**

202. (1) A person who lodges the exit summary declaration, may amend the particulars of that declaration after it has been lodged.

(2) Notwithstanding subsection (1), no amendment shall be allowed where Customs have —

(a) informed the person who lodged the summary declaration that they intend to examine the goods;

(b) established that the particulars are incorrect; or

(c) allowed the removal of the goods.

#### **IV. Clearance Outward of Aircrafts and Vessels**

##### **Customs clearance prior to departure**

203. The commander of an aircraft or master of a vessel other than an aircraft or vessel calling for bunkers, provisions and stores shall not depart with the ship or aircraft from a port in Seychelles to a destination outside Seychelles without receiving a certificate of outward clearance for the aircraft or vessel from the Assistant Commissioner of Customs.

##### **Certificate of clearance**

204. (1) A certificate of clearance shall be granted where the person in charge of an aircraft or vessel —

(a) deliver to Customs within such time prescribed, an outward report containing particulars verified by declaration and accompanied by supporting documents as the Assistant Commissioner of Customs may require;

(b) answer any question asked by an officer relating to the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or journey;

(c) produce such documents as may be required by an officer relating to the vessel or aircraft, its passengers, crew, cargo, stores, and its intended voyage or journey; and

(d) comply with all requirements in this or any other Act concerning the vessel or aircraft and its passengers, crew, cargo, stores, and its intended voyage or journey.

(2) Where a commander of an aircraft or master of a vessel fails to depart from a airport or port in Seychelles within 36 hours from the time the clearance certificate was issued, the clearance shall lapse and The commander or master shall obtain a new clearance outwards before the aircraft or vessel shall be permitted to depart from a airport or port in Seychelles.

##### **Boarding of outward ship or aircraft**

205. The person in charge of an aircraft or vessel departing from a airport or port in Seychelles, shall, if required to do so by an officer, facilitate the boarding of the officer.

##### **Power to refuse and cancel outward clearance**

206. (1) A certificate of outward clearance shall not be granted to an aircraft or vessel unless all requirements of the law with regard to the inward and outward cargo have been duly complied with.

(2) The detention of any aircraft or vessel in pursuance of the any powers conferred or duties, taxes or levies imposed under any law or for the purpose of securing compliance with any provisions relating to importation or exportation of goods —

(a) the officer may at any time refuse clearance of any aircraft or vessel; and

(b) where clearance has been granted to an aircraft or vessel by an officer may at any time while the aircraft at any airport or the vessel is within the limits of any port in Seychelles request the clearance certificate be returned.

## **PART XII – CUSTOMS DEBTS AND GUARANTEES**

### **I. General provisions**

#### **Assessment of duties, taxes or levies**

207. (1) The assessment of duties, taxes or levies on import goods and export goods shall be based, on the following dutiable or taxable elements —

- (a) tariff classification in accordance with the Customs tariff for the time being in force in Seychelles;
- (b) Customs value or quantity where the duties, taxes or levies applicable are ad valorem or specific or a combination thereof; and
- (c) country of origin or consignment.

(2) The amount so determined shall constitute a customs debt.

#### **Self-assessment by the declarant and prior payment of duties, taxes or levies**

208. (1) Except as otherwise provided for in this Act, the legal onus is on the declarant to determine and declare the declarant's duty or taxable liability to the Assistant Commissioner of Customs.

(2) Dutiable or taxable goods shall not be diverted to home use or assigned a Customs-approved procedure or use unless the duties, taxes or levies chargeable have been paid or secured.

(3) Dutiable or taxable goods diverted to home use or assigned a Customs procedure or use without payment or securing payment for duties, taxes or levies are liable to forfeiture and may be seized.

#### **Customs debt in relation to home use and temporary admission**

209. (1) A Customs debt on importation shall be incurred —

- (a) where goods released for home use are liable to import duties, taxes or levies;
- (b) where goods are placed under the temporary admission procedure with partial relief from import duties, taxes or levies;
- (c) on the date of acceptance of a Customs declaration;
- (d) when the unlawful entry into Seychelles of goods is liable to import duties, taxes or levies;
- (e) when there is unlawful entry of goods into a trade zone or warehouse;



(f) goods are removed without authorisation from customs supervision or control;

(2) Where a Customs declaration is drawn up on information which leads to all or part of the duties, taxes or levies legally owed not being collected, the persons who provided the information and who knew, or who ought reasonably to have known, that such information was false shall also be a debtor.

### **Customs arising out of the non-fulfilment of an obligation or noncompliance with conditions relating to imported goods**

210. (1) A custom debt on importation shall be incurred through —

(a) non fulfilment of one of the obligations arising in respect of goods liable to import duties, taxes or levies for the temporary storage or use of the customs procedure under which they are placed; or

(b) non-compliance with a condition governing the placing of the goods under the procedure or the granting of reduced zero rate of import duties, taxes or levies by virtue of the end-use of the goods.

(2) The customs debt shall be incurred when non fulfilment of the customs debt ceases to be met or when the goods were placed under a customs procedure where the condition or the granting of a reduced or zero rate of import duties, taxes or levies of the end use of the goods are not fulfilled.

(3) The debtor shall be required to fulfil the obligations arising in respect of goods liable to import duties, taxes or levies from the temporary storage or from the customs procedure under which they have been placed or to comply with conditions governing the goods under the procedure or use.

### **Dutiable derogations**

211. (1) A customs debt shall not be incurred where —

(a) a person proves that the non fulfilment of the obligations under sections 64 and 75;

(b) keeping the goods in temporary storage; or

(c) the use of the Customs procedure under which the goods have been placed,

give rise to the total destruction or irretrievable loss of the goods as a result of the inherent nature of the goods, unforeseeable circumstances, force majeure, or as a consequence of authorisation by the Assistant Commissioner of Customs.

(2) For the purposes of subsection (1), goods shall be irretrievably lost when they are rendered unusable by any person.

(3) A Customs debt shall not be incurred in respect of goods on importation released for home use at a reduced or zero rate of import duties, taxes or levies by virtue of their end-use where such goods are exported or re-exported with the permission of the Assistant Commissioner of Customs.

### **Customs debt on scrap and waste**

212. A custom debt shall not be incurred in respect of goods released for home use at a reduced or zero rate of import duties or taxes on account of their end-use, and any scrap or waste resulting from such destruction shall be liable to any duties or taxes chargeable on the scrap or waste.

### **Joint and several liability for a debt**

213. Where several persons are liable for payment of Customs debt, they shall be jointly and severally liable for such debt.

### **Time and place when customs debt is incurred**

214. (1) (a) Except as, otherwise expressly provided in this Act, the amount of import and export duties and taxes chargeable on goods, shall be determined on the basis of rules of assessment appropriate to the goods at the time the customs debt is incurred.

(b) Where it is not possible to determine when the Customs debt is incurred, the time to be taken into account in determining the rules of assessment appropriate to the goods concerned shall be the time when the Assistant Commissioner of Customs concludes that a Customs debt is incurred.

(c) Where information shows that the Customs debt was incurred prior to the time concluded under subsection (2), the amount of the import or export duties, taxes or levies payable shall be determined on the basis on the rules of assessment of the goods at the time when customs debt arise from the information available.

(d) Compensatory interest shall be applied, by the Assistant Commissioner of Customs, at a rate to be determined under the Revenue Administration Act.

(2) A customs debt shall be incurred in a place —

(a) where the goods were placed under a procedure or where it was introduced into Seychelles under that procedure;

(b) where goods were in another place at an earlier date which may be established as the location of the goods at the earlier time when the customs debt was established;

(c) where it is not possible to establish the place, it shall be at the place where customs conclude that an event arising to the debt occurred.

### **Deduction of duties, taxes or levies already paid**

215. (1) Where a Customs debt is incurred pursuant to section 209 in respect of goods released for home use at a reduced rate of duties, taxes or levies on account of their end-use the amount of duty, tax or levy paid on goods released for home use shall be deducted from the amount of the Customs debt.

(2) Subsection (1) shall apply where a secondary Customs debt is incurred in respect of scrap and waste resulting from the destruction of such goods.

(3) Where a Customs debt is incurred, pursuant to section 209 in respect of goods placed under temporary admission with partial relief from import duties, taxes or levies the amount paid under partial relief shall be deducted *pro rata* from the amount of the Customs debt.

## **II. Incurrence of a Customs Debt on Exportation or Importation**

### **Customs debt incurred through non-compliance and failure to fulfill obligations**

216. (1) A Customs debt on exportation shall be incurred through non compliance —

(a) of the obligations laid in customs law, exit movement or disposal of the goods; or

(b) of the conditions under which the goods were allowed to leave Seychelles with total or partial relief from export duties, taxes or levies.

(2) The time at which a customs debt on exportation is incurred shall be when —

(a) the goods leave Seychelles without customs declaration;

(b) the goods reach the destination other than that for which they were allowed to leave Seychelles with total or partial relief from export duties, taxes or levies;

(c) the Assistant Commissioner of Customs is unable to determine the date of expiry of the time limit for the production of evidence that the that relief has been fulfilled.

(3) Where goods liable for export duties, taxes or levies leave Seychelles without customs declaration a debtor shall be —

(a) a person who was required to lodge a customs declaration;

(b) a person who caused the act which led to the non-fulfilment of the obligation of lodging a Customs declaration;

(c) the declarant or his or her representative;

(d) where a Customs declaration is drawn up on the basis of information which leads to all or part of the export duties, taxes or levies not being collected, the person who provided the information knew, or who should reasonably have known, that such information was false.

### **Customs debt in relation to prohibited or restricted goods**

217. The Customs debt on importation or exportation shall be incurred if it is related to goods which are subject to prohibition or restrictions on importation and exportation of any kind.

### **Storage charges and costs for usual forms of handling**

218. Where costs for storage or usual manner of handling have been incurred in Seychelles for goods placed under a Customs procedure the cost or the increase in value shall not be taken into account for the

calculation of the amount of import duties, taxes or levies except the customs value, nature and origin of any imported goods used in the operations.

### **Tariff heading**

219. (1) Where the tariff classification of goods placed under a Customs procedure changes as a result of usual forms of handling in Seychelles, the original tariff classification for the goods placed under the procedure shall apply at the request from the declarant.

(2) In the absence of a request from the declarant, the tariff classification applicable to the goods at the time of their release from the procedure shall apply.

### **Duties, taxes or levies criteria for inward processing goods**

220. (1) Where a Customs debt is incurred for processed products resulting from the inward processing procedure and the goods are diverted to home use, the amount of such debt shall, at the request of the declarant, be determined on the basis of the tariff classification, customs value, nature and origin of the goods when placed under the processing procedure and at the time of acceptance of the declaration relating to goods.

(2) In the absence of a request from the declarant, the amount of the Customs debt shall be determined on the basis of the taxation elements appropriate to the processed products on their release from the inward processing procedure for home use.

(3) The value of the processed product shall be determined, where applicable, in the following manner —

(a) the Customs value of identical or similar goods produced in any country and imported into Seychelles at or about the same time as the goods being valued; or

(b) the value based on the unit price at which the identical or similar goods are sold in Seychelles in the greatest aggregate quantity to persons not related to the sellers; or

(c) the Customs value of the import goods plus the processing costs.

### **Duties, taxes or levies criteria for outward processing goods**

221. (1) Where a Customs debt is incurred for processed products resulting from the outward processing procedure other than in circumstances referred for in section 179, and where only ad valorem duties are involved, the amount of import duties, taxes or levies shall be calculated on the basis of the cost of the processing operation undertaken outside Seychelles.

(2) The rate of duties, taxes or levies shall apply to the processed products at the time of acceptance of the declaration for release for home use and the valuation applicable under this Act.

### **III. Guarantee for Debt**

#### **Guarantee for a customs debt**

222. (1) Where a guarantee is required to secure payment of all duties, taxes or levies the Assistant Commissioner of Customs may require the debtor or the person liable to provide a guarantee.

(2) The Assistant Commissioner of Customs shall require only one guarantee to be provided in respect of the goods or declaration for the Customs debt in respect of all goods covered by or relevant in that declaration.

(3) At the request of the debtor or the person liable to provide a guarantee the Assistant Commissioner of Customs may, in accordance with section 227 authorise a comprehensive guarantee to cover the Customs debt.

#### **Compulsory guarantee**

223. (1) Where a guarantee is required under this Act, the Assistant Commissioner of Customs shall fix the amount of the guarantee at a level equal to the amount of the Customs debt.

(2) Where it is not possible to establish the amount of the Customs debt, the amount of the guarantee shall be fixed at the maximum amount as estimated by the Assistant Commissioner of Customs of the Customs debt which has been or may be incurred.

#### **Comprehensive guarantee**

224. Where a comprehensive guarantee is provided for Customs debts the amount of the guarantee shall be set at a level enabling the maximum Customs debts to be covered at all times.

#### **Type of guarantee**

225. (1) A guarantee may be —

(a) a cash deposit or any other means of payment accepted by the Assistant Commissioner of Customs as being equivalent to a cash deposit;

(b) an undertaking given by a guarantor;

(c) another form of guarantee which provides equivalent assurance that the Customs debt will be paid.

(2) The Assistant Commissioner of Customs may refuse to accept the type of guarantee where it is incompatible with the proper functions of a Customs procedure.

(3) The Assistant Commissioner of Customs may require that the guarantee be maintained for a specific period.

## **Guarantor**

226. (1) The guarantor shall be approved by the Assistant Commissioner of Customs, unless —

(a) the guarantor is a bank or a financial institution in Seychelles;

(b) a person established in Seychelles and have not commit a serious offence against customs or revenue laws.

(2) The guarantor shall undertake in writing to pay the secured amount of a Customs debt and secured amount of import or export duties, taxes or levies payable following post release verification.

(3) The Assistant Commissioner of Customs may refuse to approve the guarantor or type of guarantee proposed where either does not appear certain to ensure payment of the customs debt within the prescribed period.

## **Additional or replacement guarantee**

227. (1) Comprehensive guarantees may be replaced with a specific guarantee where the Assistant Commissioner of Customs is satisfied that the goods are subject to fraud and that a comprehensive guarantee would not adequately secure the revenue risk involved in the procedure of operation.

(2) Where the Assistant Commissioner of Customs establishes that the guarantee provided does not ensure or is no longer sufficient to ensure payment of the Customs debt within the prescribed period the Assistant Commissioner of Customs shall require an additional guarantee or a new guarantee.

## **Release of the guarantee**

228. (1) The Assistant Commissioner of Customs shall release the guarantee when the Customs debt has been settled.

(2) Where the Customs debt has been settled in part or may arise in respect of part of the amount which has been secured the settled part of the guarantee shall be released at the request of the person concerned, unless the amount involved does not justify the release.

## **IV. Recovery and payment of duties, taxes or levies**

### **Notification of the Customs debt to the debtor**

229. (1) The Assistant Commissioner of Customs shall notify the debtor of the amount of duties, taxes or levies payable.

(2) The debtor shall be notified where the amount of duties, taxes or levies payable declared in the bill of entry if different from the amount of duty tax or levy payable as determined by customs.

### **Time limit for notification of Customs debt**

230. (1) Notification of a decision determining the amount of duty tax or levy may not be issued to the debtor after the expiry of a period of 4 years from the date on which the customs debt had incurred.

(2) Where the Customs debt is the result of an act which at the time it was committed was liable to give rise to criminal proceedings the 4 year period laid down in subsection (1) shall not apply.

(3) Where an appeal is lodged with the Revenue Tribunal the periods laid down in subsection (1) shall be suspended from the date on which the appeal is lodged.

(4) Where liability for a Customs debt is reinstated the liability shall be considered as suspended from the date on which the repayment or remission application was submitted in accordance with section 237 (3) until a decision on the repayment or remission is taken.

### **Entry of accounts**

231. (1) Customs shall enter in the accounts the duties, taxes or levies payable.

(2) Customs shall not enter in the accounts the duties, taxes or levies which cannot be notified to the debtor.

(3) The Assistant Commissioner of Customs shall determine the procedure for entry of the amount of duties, taxes or levies and deferment of payment.

### **Time limit for payment**

232. (1) The amount of duties, taxes or levies notified shall be paid by the debtor within 3 working days following the receipt of the notification.

(2) An extension of that period shall be granted automatically where it is established that the person concerned received the notification too late to enable the person to make payment within the prescribed period.

(3) An extension of that period may be granted by the Assistant Commissioner of Customs at the request of the debtor where the amount of duty or tax payable has been determined in the course of post-release verification referred to in section 117 and such extensions shall not exceed the time for the debtor to discharge the obligation.

### **Payment facilities**

233. Payment shall be made in cash or by any other means with similar discharging effect including an adjustment of credit balance as agreed by the Assistant Commissioner of Customs.

### **Deferred payment**

234. (1) The Assistant Commissioner of Customs may grant the debtor payment facilities other than deferred payment on condition that an approved guarantee is provided.

(2) Where such facilities are granted pursuant to subsection (1), the credit interest may be charged on the amount of duties, taxes or levies which shall be prescribed by regulation.

(3) A customs debt is not affected where —

- (a) the goods have ceased to be subject to Customs control or supervision;
- (b) a guarantee or other security has been given for the payment of the duties, taxes or levies; or
- (c) the proper officer has accepted the declarant's self-assessment of the amount of duty, tax or levy payable and released the goods for home use.

(4) Where the amount of duties, taxes or levies payable has not been paid within the prescribed period the Assistant Commissioner of Customs shall secure payment by making an application to the Revenue Tribunal.

(5) Interest on arrears may be charged on the amount of duties, taxes or levies from the date of expiry of the period until the date of payment.

(6) The duties, taxes or levies chargeable on goods —

(a) shall be subject to paragraph (c) constitute a charge on those goods until fully paid;

(b) as to whether or not the goods passed to a third party be liable or seized as goods being liable for forfeiture and dealt with in accordance with condition prescribed in regulations;

(c) shall not apply against a purchaser for value who purchased in the ordinary course of business without knowledge, either actual or constructive that the duties, taxes or levies owing on the goods had not been paid or secured by an approved guarantee or security.

(7) Where a person claims as the purchaser at or before the taking of possession of the goods, the Assistant Commissioner of Customs, may —

(a) where the goods are in possession or control of the importer, take possession of the goods and subject to subsection (9) retain possession of them; or

(b) where the goods are in the possession or control of the purchaser, by notice in writing, direct the purchaser, subject to subsection (9) retain possession or control of the goods.

(8) Where —

(a) possession of the goods has been taken by the Assistant Commissioner of Customs but the goods have not been sold; and

(b) a person notifies the Assistant Commissioner of Customs is a purchaser to whom subsection (6) (a) applies;

(9) The Assistant Commissioner of Customs shall, subject to subsection (10), retain possession of the goods pending the resolution of the dispute and subsection (10) to (12) shall apply.

(10) Where any goods that the Assistant Commissioner of Customs has taken possession of or has directed a purchaser to retain under this section consist wholly or partly of any living creature or anything



which, in the opinion of the Assistant Commissioner of Customs, is of a perishable nature or which may otherwise lose its value if not sold as soon as possible, the Assistant Commissioner of Customs may, or the purchaser in possession or control of the goods may with the prior consent of the Assistant Commissioner of Customs, sell the goods, and the net proceeds of such sale shall be substituted for the goods sold.

(11) The Assistant Commissioner of Customs or the purchaser of the goods may apply to the court for a ruling as to whether the goods were acquired by a bona fide purchaser for value who purchased the goods for full value in the ordinary course of business without knowledge, either actual or constructive and the duty, tax or levy owing on the goods had not been paid.

(12) In any proceeding under subsection (10), where the purchaser and the person liable to pay the duties, taxes or levies are related, the onus of proving that the goods were acquired by the purchaser for valuable consideration and without knowledge that the duty or tax was owing but unpaid, shall be on the purchaser.

### **Conditions for settlement of Customs debts**

235. (1) A Customs debt on importation or exportation shall cease —

(a) by payment of the amount of the duties, taxes or levies;

(b) subject to subsection (3), by remission of the amount of duty, tax or levy;

(c) where goods declared for a Customs procedure and the Customs declaration is invalidated;

(d) where goods liable for import or export duties, taxes or levies are seized, forfeited, destroyed or abandoned;

(e) where goods in respect of which a debt has been incurred pursuant to section 209 are seized on the unlawful introduction and confiscated;

(f) where goods released for home use, duty or tax-free, or at a reduced rate of import duty or tax have been exported with the permission of an officer;

(g) where the formalities carried out in order to enable the preferential tariff treatment has been cancelled or has not been granted; or

(h) where, the goods have been exported from Seychelles.

(2) Where a Customs debt is extinguished in respect of goods released for home use duty or tax-free or at a reduced rate of import duty or tax on account of their end-use, any scrap or waste resulting from such destruction shall be deemed to be foreign goods and liable to duties, taxes or levies.

(3) Where several persons are liable for payment of the Customs debt and remission is granted the obligation to pay the amount of duties, taxes or levies shall be extinguished only in respect of the person or persons to whom the remission is granted.

(4) The obligation to pay the amount of duties, taxes or levies shall not be extinguished in respect of any person or persons who attempts deception.

## **V. Repayment and remission of duties, taxes or levies**

### **Definitions**

236. For the purposes of sections 237 to 243, the following definitions shall apply —

(a) “repayment” means the refunding of import or export duty, tax or levy which have been paid;

(b) “remission” means the waiving of the obligation to pay an amount of import or export duties, taxes or levies which have not been paid.

### **Repayments, remissions and time limits**

237. (1) Import and export duty, levy or tax shall be repaid or remitted where they were paid and the amount was not legally owed or that the amount has been entered in the accounts contrary to section 231(2).

(2) A repayment or remission shall be granted where the facts which led to the payment or entry in the accounts of an amount which was not legally owed are the result of deliberate action by the person concerned.

(3) Import or export duties, taxes or levies shall be repaid or remitted upon submission of an application to the Customs within a period of 4 years from the date on which the amount of duties, taxes or levies was declared to and accepted by Customs.

(4) The period referred to in subsection (3) shall be extended if the person concerned provides evidence that the person was prevented from submitting an application within the said period as a result of unforeseeable circumstances or force majeure.

(5) Where Customs has discovered within the period set out in subsection (3) of a situation described in subsections (1) Customs shall repay or remit on their own initiative.

(6) Where an appeal has been lodged against the notification of the Customs debt the relevant period specified in subsection (3) shall be suspended from the date on which the appeal is lodged, for the duration of the appeal proceedings.

### **Repayment or remission when declaration is invalid**

238. Import and export duties, taxes or levies shall be repaid or remitted where a Customs declaration is invalidated and the duties, taxes or levies have been paid on submission of an application by the person concerned within the periods laid down for submission of the application for invalidation of the Customs declaration.

### **Repayment or remission, of duties, taxes or levies on rejected goods**

239. (1) Import duties, taxes or levies shall be repaid or remitted where the amount entered in the accounts relates to goods released for home use which have been rejected by the importer because they are defective or do not comply with the terms of the contract on the basis of which they were imported.

(2) Repayment or remission of import duties, taxes or levies shall be granted on condition that —

(a) the goods have not been used, except for initial use as may have been necessary to establish that they were defective or did not comply with the terms of the contract;

(b) the goods are exported from Seychelles.

(3) At the request of the importer Customs shall permit the goods to be destroyed or to be placed, for re-exportation, under the external transit procedure or the Customs warehousing procedure or in a trade zone, instead of being exported.

(4) For the purposes of being assigned one or more of the approved Customs procedures referred to in subsection (3), the goods shall be deemed to be non- Seychelles goods.

(5) Import duties, taxes or levies shall not be repaid or remitted in respect of goods which, before being declared to Customs declaration, were imported temporarily for testing, unless goods are defective or did not comply with the terms of the contract and could not normally have been detected in the course of the tests.

(6) Import duties or taxes shall be repaid or remitted under subsection (1) upon submission of an application to the appropriate Customs office within 12 months from the date on which the amount was accepted by the Assistant Commissioner of Customs and the Assistant Commissioner of Customs may permit this period to be extended.

### **Equitable repayments or remissions**

240. (1) Import and export duties, taxes or levies may be repaid or remitted in situations other than those referred to in sections 237 and 239, where —

(a) it is determined in accordance with the Customs procedure;

(b) no deception or obvious negligence may be attributed to the person concerned;

(c) repayment or remission may be made subject to conditions.

(2) Duty, tax or levy shall be repaid or remitted under subsection (1) upon submission of an application to the Customs office within 12 months from the date on which the amount was entered in the accounts. The Assistant Commissioner of Customs may permit this period to be extended.

### **Circumstances for repayment or remission of a minimum amount**

241. (1) Import and export duty, tax, levy shall be repaid or remitted only if the amount to be repaid or remitted exceeds an amount fixed in accordance with the Customs procedure.

(2) The Assistant Commissioner of Customs may grant an application for repayment or remission in respect of a lower amount where the claim is of good faith and there are extenuating circumstances.

### **Circumstances for payment of interest charges**

242. (1) Repayment by Customs on amounts of import or export duties, taxes or levies on credit interests or interest on arrears collected on the payment shall not give rise to the payment of interests by customs.

(2) The amount of such interests shall be prescribed by regulations.

### **Repayments and remissions made in error**

243. (1) Where a Customs debt has been remitted or the corresponding amount of duty or tax has been repaid in error, the original debt shall become payable, and any interests paid under section 242 shall be reimbursed.

(2) Where a certificate is issued by an authority outside of Seychelles and is proved to be incorrect the owner of the goods shall not benefit from the preferential tax.

(3) A debtor shall be considered to be in good faith if the debtor can demonstrate that, during the period of the trading operations, the debtor has taken due care to ensure that the conditions for the preferential treatment have been fulfilled.

### **Drawback of duty**

244. (1) The Assistant Commissioner of Customs may within 12 months from the date of exportation or performance of the conditions allow duties, taxes or levies on drawback subject to limitations and conditions as may be prescribed by regulations.

(2) The Assistant Commissioner of Customs may upon request, extend the periods referred to in subsection (1).

(3) Drawbacks on any duties, taxes or levies to be paid on goods or on material used in the manufacture or processing of goods may be prescribed by regulations.

### **Rebates**

245. The Minister may prescribe by regulations for the grant of rebates or exemptions from duties, taxes or levies.

## **PART XIII – OFFENCES**

### **I. Provisions relating to forfeiture**

#### **Forfeiture of uncustomed, prohibited or restricted goods**

246. (1) Where —

(a) except as provided by or under this Act, any imported goods, being goods chargeable on their importation with any import duties, taxes or levies are without payment of or security for the payment of the duties, taxes or levies —

(i) unshipped at any point, port or place in Seychelles;

(ii) unloaded from any vessel or aircraft in Seychelles;

(iii) removed from the point or place of importation or from any approved port, wharf, examination station, temporary storage area Customs warehouse, trade zone or other approved premises;

(b) any goods imported, landed or unloaded contrary to any prohibition or restriction in force with accordance with this act or any other law;

(c) any goods being chargeable with any import duties, taxes or levies or the importation of which is prohibited or restricted under this Act or any other law are found whether before or after unloading to have been undeclared or concealed in any manner on board any vessel or aircraft;

(d) any goods are imported or concealed in a container holding goods of a different description;

(e) any imported goods are found, whether before or after release or clearance for home use does not correspond with the entry made; or

(f) any imported goods are concealed or packed in any manner appearing to be intended to deceive an officer,

shall be liable to forfeiture and may be seized.

(2) Where the importation of any goods which is prohibited or restricted under this Act or any other law, are —

(a) reported as intended for re-exportation in the same vessel or aircraft;

(b) entered for transshipment; or

(c) entered to be warehoused for exportation or for use as ships stores,

the Assistant Commissioner of Customs may, permit the goods to be dealt with as it deems fit.

### **Power to detain goods pending investigation**

247. (1) Where an officer reasonably suspects that any goods were —

(a) imported without payment of the duties, taxes or levies;

(b) imported in contravention of any prohibition or restriction in force under this Act and

any other law;

(c) intended for or in the course of exportation without payment of any duties, taxes or levies; or

(d) intended for or in the course of exportation in contravention of any prohibition or restriction in force under this Act or any other law,

the officer may detain the goods for the purposes of conducting any examination and make all enquiries necessary to determine the Customs status of the goods. The officer may call on other officers and any other assistance for the purposes of conducting examinations and enquiries.

(2) When a determination referred to in subsection (1) has been made in respect of any goods, or on the expiry of a period of 30 days from the date on which the goods were detained, whichever is the earlier, the goods, shall be seized liable for forfeiture under this Act or released from official custody.

### **Forfeiture of aircraft, vehicle or vessel**

248. Where —

(a) a vessel is or has been in territorial or inland waters of Seychelles;

(b) a vessel or aircraft is or has been at any place, whether on land or water in Seychelles;  
or

(c) a vehicle is or has been within the limits of any port or at any airport or within prescribed area,

while constructed, adapted, altered or fitted in any manner for the purposes of concealing goods that aircraft, vehicle, vessel shall be liable for forfeiture.

### **Forfeiture of vessels when goods liable for forfeiture**

249. If any part of the cargo of a vessel or other goods are thrown overboard or staved or destroyed to prevent seizure —

(a) while the vessel is in territorial waters or inland waters Seychelles; or

(b) where the vessel having been properly summoned to bring to by any vessel in the service of the Assistant commissioner of Customs fails to do so at any given time during the chase, the vessel shall be liable for forfeiture.

### **Liability for missing cargo**

250. Where a vessel has been within the limits of any port in Seychelles or an aircraft is in Seychelles with a cargo on board and a substantial part of that cargo is found to be missing and the commander of the aircraft or master of the vessel fails to account for the missing goods to the satisfaction of the Assistant Commissioner of Customs the commander of the aircraft or the master of vessel shall be liable to a penalty not exceeding SCR100,000.

## II. Offences

### Threatening or resisting Customs officer

251. A person who —

- (a) threatens or assaults;
- (b) by force resists hinders, obstructs or intimidates any officer in the execution of the officer's duties or a person acting in the officer's aid;
- (c) interferes with any equipment used by Customs; or
- (d) does any act with the intention of impairing the effectiveness of any equipment used by the Customs,

commits an offence and is liable on conviction to a fine not exceeding SCR50,000, or imprisonment for a term not exceeding 3 years, or both.

### Bribery and collusion

252. (1) Where the Assistant Commissioner of Customs, officer or any other person appointed or authorised by the Assistant Commissioner of Customs to discharge any duty —

- (a) directly or indirectly asks for or takes in connection with his or her duties, any payment or other reward, or any promise or security for any payment, not being a payment which the person is entitled to claim or receive; or
- (b) proposes or enters into in any agreement to conceal an act whereby the Government of Seychelles is or may be defrauded or which is unlawful,

commits an offence and is liable on conviction to a fine not exceeding SCR 100,000 or imprisonment for a term not exceeding 5 years, or both.

(2) A person who —

- (a) directly or indirectly offers or gives to the Assistant Commissioner of Customs, officer or other person appointed or authorised by the Assistant Commissioner of Customs any payment or other reward, or any promise or security for any payment or reward; or
- (b) proposes or enters into any agreement with the Assistant Commissioner of Customs, officer or other person appointed or authorised by the Assistant Commissioner of Customs, to induce him conceal an act whereby the Government of Seychelles may be defrauded or which is otherwise unlawful,

commits an offence and is liable on conviction to a fine not exceeding SCR 100,000 or imprisonment for a term not exceeding 5 years, or both.

### **Counterfeit seals or marks**

253. (1) A person who, without lawful authority or excuse, has in his possession, or makes or uses, any counterfeit seal, stamp, or mark in imitation of or closely resembling any seal, stamp, signature or other initials or mark used by the Customs, commits an offence and is liable on conviction, —

(a) in the case of an individual, to a fine not exceeding SCR50,000 or imprisonment for seven years, or both; and

(b) in the case of a body corporate to a fine not exceeding SCR100,000

### **Unauthorised access to or improper use of Customs computerised entry processing system**

254. Any person who —

(a) knowingly and without lawful authority by any means gains access to or attempts to gain access to any Customs computerised system; or

(b) having lawful access to any Customs computerised system, knowingly uses or discloses information obtained for any unauthorised purpose; or

(c) receives information obtained from any Customs computerised system, and uses, discloses, publishes, or otherwise disseminates such information;

(d) falsifies any record or information stored in a Customs computerised system;

(e) damages or impairs a Customs computerized system; or

(f) damages or impairs any duplicate tape or disc or other medium on which any information obtained from a Customs' computerised system is stored,

commits an offence and is liable on conviction to a fine not exceeding SCR 50,000 or imprisonment for a term not exceeding 5 years or both.

### **Aiding, abetting, counselling or procuring**

255. A person who aids, abets, counsels or procures the commission of an offence under this Act or who solicits or incites any other person to commit an offence under this Act shall on conviction shall be liable to a fine not exceeding SCR50,000 or imprisonment for a term not exceeding 5 years, or both.

### **Failure to produce books, records or other documents and data**

256. (1) A person commits an offence if that person fails or refuses to comply with a requirement of Customs under section 36 and is liable on conviction —

(a) in the case of an individual, to a fine not exceeding SCR20,000;

(b) in the case of a body corporate, to a fine not exceeding SCR50,000.



### **Interference with seals and fastenings**

257. Where any fastening, lock, mark, sign, stamp, or seal that has been placed by an officer on any goods or container is, without the authority of an officer, opened, altered, broken, or erased by any person while the vessel or aircraft is in Seychelles the person so acting and the person in charge of the vessel or aircraft commit an offence and are liable on conviction to a fine not exceeding SCR20,000.

### **Interference with cargo**

258. (1) Where after an aircraft or vessel arrives in Seychelles, and before a report is made in accordance with section 57—

- (a) the cargo is interfered with; or
- (b) alteration is made in the storage of goods,

the person so acting and the person in charge of the vessel or aircraft commits an offence and liable on conviction to a fine not exceeding SCR50,000.

### **Interference with goods**

259. Where a person without lawful justification or without the permission of the proper officer —

- (a) makes any alteration in the condition of goods subject to Customs control;
- (b) interferes with including by way of addition to or taking away the goods;
- (c) removes the goods from a place which an officer has directed that the goods are to be stored,

commits an offence and is liable on conviction to a fine not exceeding, —

- (a) in the case of an individual, SCR 50,000;
- (b) in the case of a body corporate, SCR 100,000.

### **Offences in relation to entries and other declarations**

260. If a person —

- (a) fails to make an entry or declaration, required under this Act;
- (b) makes a false entry or declaration required under this Act;
- (c) makes or delivers to a Customs officer a false document;
- (d) fails to take all reasonable steps to ensure that an entry or declaration in a document made is genuine,

commits an offence and is liable on conviction —

- (a) in the case of an individual, to a fine not exceeding SCR50,000;
- (b) in the case of a body corporate, to a fine not exceeding SCR 100,000.

#### **Fine for fraudulent evasion of duties, etc**

261. Where under any provision of this Act or the Customs tariff Act goods are, declared for a particular purpose or entered under any condition and are exempt from duties, taxes or levies or tax or liable to a lower rate of duty tax or levy, a person —

- (a) uses or deals with those goods for a purpose other than that for which they have been declared; or
- (b) fails to comply with any condition imposed when the goods were entered,

commits an offence and is liable on conviction to a fine not exceeding an amount equal to 3 times the amount of the duties, taxes or levies that would have been payable if the goods had been declared or entered under the proper customs procedure, or a fine not exceeding SCR 25,000, whichever sum is greater.

#### **Offences relating to evasion of duties, taxes or levies**

262. Where goods subject to examination are removed from customs supervision or control —

- (a) without the authorisation of an officer goods may be seized and shall be liable to forfeiture.
- (b) by a person with intent to defraud the Customs of any duties, taxes or levies or to evade any prohibition or restriction in force commits an offence and upon conviction is liable to a fine of SCR50,000.

#### **Failure to pay duties, taxes or levies on stores not exempt from duties, taxes or levies**

263. If any goods shipped or carried as duty free stores for use on a voyage to a destination outside Seychelles without payment of duty or tax, are landed or unloaded at any place within Seychelles without authorisation from an officer —

- (a) the goods shall be liable to forfeiture; and
- (b) the owner and commander or master of the aircraft or vessel shall each be liable to a penalty of SCR100,000 or treble the value of the goods whichever is greater.

#### **Compounding of offences**

264. (1) The Revenue commissioner may —

- (a) compound an offence under this Act; or

(b) restore, subject to such conditions as the Assistant Commissioner of Customs sees fit, anything forfeited or seized under this Act.

(2) Any prohibited or restricted goods not covered by a permit or authorisation shall not be restored.

(3) An admission of guilt by a person shall not be a condition for a compounded settlement of a Customs offence or the restoration of goods subjects to seizure or forfeiture.

(4) In deciding whether to offer a compounded settlement, the Revenue commissioner shall consider, among other things, the following —

(a) the need to deter other potential offenders;

(b) the legitimate interests of other importers or exporters;

(c) the gravity of the offence;

(d) the previous revenue record.

(5) Procedures relating to the compounding of offences shall be prescribed by regulations.

#### **PART XIV - MISCELLANOUS PROVISIONS**

##### **Administrative penalties in relation to entry declarations**

265. Administrative penalties in relation to entry declarations shall be prescribed by regulations.

##### **Appeal against duties, taxes or levies**

266. Where there is a dispute as to the amount of duties, taxes or levies payable in respect of any goods imported or as to the liability of the goods following checks on the declaration and accompanying documents the person responsible for the paying the duties, taxes or levies may appeal against the decision of the Assistant Commissioner of Customs pursuant to section 32(2) and (3).

##### **Payment for outstanding amount on duties, taxes or levies**

267. (1) Where an underpayment of duties, taxes or levies arises as a result of the incorrect classification, undervaluation or a false claim to preferential tariff treatment, the persons responsible for payment of duties, taxes or levies shall pay the outstanding amounts.

(2) A person responsible for paying any duties, taxes or levies may pay under protest the sum demanded by the Assistant Commissioner of Customs and may appeal against the decision pursuant to section 32(2) and (3).

##### **Provision for trade remedy measures**

268. Dumping from a third country into Seychelles shall be prohibited and pursuant to this Act or any other law for the time being in force and an anti-dumping duty on any dumped products may be levied.

## **Importation and exportation of goods by post**

269. Procedure for the importation and exportation of goods by post shall be prescribed by regulations.

## **Regulations**

270. The Minister may make regulations for carrying into effect the provisions of this Act and may —

- (a) prescribe forms and the means of electronic communication formats to be used for the electronic transmission of data;
- (b) provide for specific services that customs may provide and the applicable fees;
- (c) prescribe duty, tax, levy and other charges on goods imported into or exported from Seychelles;
- (d) prescribe for grant of rebates or exemptions from duties, taxes or levies;
- (e) prescribe for grant of rebates or exemptions from duties, taxes or levies;
- (f) prescribe working hour, days and attendance charges and service rates;
- (g) prescribe all matters which by this Act required to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act.

## **PART XV – REPEAL**

### **Repeal**

271. The Customs Management Decree 1980 and Trade Tax Act (Cap 240) is hereby repealed.

### **Savings and Transitional**

272. (1) The regulations made, certificates and directions issued under the repealed Acts shall continue in effect until they are repealed or amended under the provisions of this Act.

Note: SI 49/2009 Trades Tax Regulations 2009 amended by SI 51 of 2012 Customs Management (Trade Tax) Regulations, 2012 with effect from 31 August 2012

(2) Upon the commencement of this Act any appointments made under a provision of the repealed Acts shall continue to apply as if made under the provisions under this Act.

(3) The repeal of the Acts does not affect —

- (a) proceedings commenced in any Court before the commencement of this Act;
- (b) any information submitted by any officer in respect of an alleged offence committed before the commencement of this Act;

(c) any right or proceedings relating to a refund, remission, or drawback of duty or tax under any of the trades tax regulations before the commencement of this Act;

(d) any right to recover money under the trades tax regulations whether paid before or after the commencement of this Act;

(e) the condemnation of any goods in accordance with trade tax regulations.

(4) A person who, immediately before the commencement of this Act, was an officer appointed in accordance with the Trades Tax Act shall be deemed to be an officer appointed by the Revenue Commissioner.

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Note: Numerous Statutory Instruments made under the Customs Management Decree and Trade Tax Act continue in force but are not separately listed or reproduced in this document.

## **CUSTOMS MANAGEMENT ACT, 2011**

### **SUBSIDIARY LEGISLATION: SECTION 270(G) AND SECTION 193: CUSTOMS MANAGEMENT (ENTRY OF GOODS FOR EXPORT) REGULATIONS, 2012**

*(5th November, 2012)*

S.I. 55 of 2012

#### **Citation**

1. These regulations may be cited as the Customs Management (Entry of goods for export) Regulations, 2012.

#### **Declaration of Bill of Entry or special request Export Form**

2. (1) Goods intended to be exported shall be declared in a Bill of Entry Form or Special Request Export Form, as required.

(2) The exporter, agent or representative shall submit the Bill of Entry Form together with the supporting documents prior to the exportation of the goods.

(3) Where the exporter, agent or representative is unable to submit the required documents prior to or at the time of the exportation the Assistant Commissioner of Customs may authorise the goods be exported on submission of the completed Special Request Export Form on condition that a completed Bill of Entry form be submitted within 10 days of the goods being exported.

#### **Goods subject to examination**

3. Goods intended for export may be subjected to physical examination by officers and wherever possible by electronic screening.

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**SUBSIDIARY LEGISLATION: SECTION 270(G) AND SECTION 160: CUSTOMS  
MANAGEMENT (CONDITION FOR RELIEF ON RE-IMPORTATION AND SAME STATE  
RETURN) REGULATIONS, 2012**

*(5th November, 2012)*

S.I. 56 of 2012

**Citation and commencement**

1. These regulations may be cited as the Customs Management (Condition for relief on re-importation and same state return) Regulations, 2012.

**Definition**

2. For the purpose of these Regulations –

“Goods in free circulation” means goods disposed of without Customs restriction.

**Exempt of import duties, taxes or levies**

3. Goods that are re-imported or returned into Seychelles shall be exempt from import duties, taxes or levies and to a repayment of any duties, taxes or levies paid on exportation, where –

(a) goods have not undergone any manufacturing, processing or repairs and are in the same condition as when exported;

(b) the re-imported or returned goods can be identified as the goods that were exported;  
and

(c) re-importation or return occurs within a year from the time of exportation or within such further period as may be determined by the Assistant Commissioner of Customs.

**Exportation of partial goods**

4. (1) Subject to regulation (3) partial goods exported from the Seychelles re-imported or returned into Seychelles, shall be exempt from duties, taxes or levies.

(2) Customs shall satisfy themselves that the use, damage or deterioration of the goods is consistent with the purpose and use for which the goods were exported and may not refuse the re-importation or return of goods in the same state return on grounds that the goods have been used, damaged or deteriorated.

**Non-requirement of declaration**

5. Packing, containers and pallets in use for transport of commercial goods in free circulation at the time of exportation shall not require any declaration for the re-importation or return in the same condition.

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**SUBSIDIARY LEGISLATION: SECTION 270 AND SECTION 32: CUSTOMS MANAGEMENT  
(APPEAL AGAINST ADMINISTRATIVE DECISIONS) REGULATIONS, 2012**

*(3rd December, 2012)*

S.I. 60 of 2012

**Citation and commencement**

1. These regulations may be cited as the Customs Management (Appeal against administrative decisions) Regulations, 2012.

**Right of appeal**

2. Any person dissatisfied with a decision of Customs may appeal against a decision within 60 days from the date the person has been served with the decision.

**Application of appeal**

3. Any person appealing a decision of Customs shall lodge an application of appeal with the Revenue Commissioner in the Form set out in the Schedule.

**Extension of time for lodgement**

4. A person may, apply in writing to the Revenue Commissioner for an extension of time to lodge the application of appeal and the Revenue Commissioner, if satisfied there is reasonable cause, grant the extension of time.

**Decision of Revenue**

5. The Revenue Commissioner may affirm, vary or set aside the decision within 30 days of the lodgement of the application of the appeal and give reasons for the decision.

**Appeal to Revenue Tribunal**

6. A person dissatisfied with the decision of the Revenue Commissioner may lodge an appeal to the Revenue Tribunal in accordance with the procedure set out under the Revenue Administration Act 2009.

**SCHEDULE**

**FORM**

**APPLICATION FOR APPEAL**

[Seychelles Revenue Commission logo]

**Seychelles Revenue Commission NOTICE OF APPEAL**

The completed form together with the supporting documentation must be returned to SRC	
Full name of taxpayer (the importer) or Trading Name	
TIN	
NIN	
Contact details	
Full name(s)	
Tel number	
Fax number	
Post address	
E-mail	
<b>Assessment detail</b> – (circle where applicable)	
Type of tax:	GST
	VAT
	Trades Tax
	Other
Amount in dispute:	Value of the goods
	Concessions granted
	Additional tax
	Interest
	Other
If “other” please specify	
Tax year:	
Date of decision:	
<b>Grounds of appeal</b> (If the space provided is not sufficient, attach additional sheets)	



Request for Extension for Appeal	
Lodgment of appeal expired on:	
Reasons for late appeal:	
Supporting Documents	
Number of pages attached:	
List of sporting [sic] documents:	
Name:	Date:
Signature:	

**SUBSIDIARY LEGISLATION: CUSTOMS MANAGEMENT (COMPOUNDING OF OFFENCES) REGULATIONS, 2012**

*(3rd December, 2012)*

S.I. 61 of 2012

**Citation and commencement**

1. These Regulations may be cited as the Customs Management (Compounding of Offences) Regulations, 2012.

**Agreement for compounding of offences**

2. (1) The Revenue Commission, after identifying the offence of one or more of the provisions of the Act, shall notify the offender of the –

(a) offence;

- (b) rectification that is required;
- (c) time frame within which the offence shall be rectified;
- (d) penalty under the relevant provision of the Act;
- (e) proposed amount of compounded monetary penalty that may be agreed to;
- (f) the time frame within which the penalty shall be paid;
- (g) the manner in which such money shall be paid to the Seychelles Revenue Commission.

(2) The compounded monetary penalty to be imposed shall amount to at least one third of the maximum fine but not exceed the maximum fine prescribed in the Act.

(3) Where the Revenue Commissioner is satisfied that the offence has been rectified he or she shall inform the offender in writing.

#### **Compounding of offences**

3. (1) The Revenue Commissioner may compound an offence where a person is suspected of being in possession of any prohibited, restricted goods or goods in excess of allowable quantity.

(2) The Revenue Commissioner may compound an offence in consultation with the Attorney General in lieu of instituting legal proceedings under the Act.

#### **Compounding of offences to be final**

4. An agreement to compound an offence shall be final and conclusive.

#### **Legal proceedings not instituted**

5. Where an offence is compounded under this regulations legal proceedings shall not be instituted in relation to that offence.

#### **Breach of compounded settlement**

6. Where the terms of the compounded settlements are breached by the offender the Revenue Commissioner may institute legal proceedings against the offender in terms of the Act.

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### **SUBSIDIARY LEGISLATION: CUSTOMS MANAGEMENT (TARIFF AND CLASSIFICATION OF GOODS) REGULATIONS, 2014**

S.I. 8 of 2013  
S.I. 51 of 2013  
S.I. 69 of 2013  
S.I. 6 of 2014

Note: This statutory instrument is too large to be electronically reproduced in this document but is freely available in the Supreme Court library at Palais de Justice, Ile du Port, Mahe.

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**SUBSIDIARY LEGISLATION: CUSTOMS MANAGEMENT (LEVY ON IMPORTATION OF MOTOR VEHICLES FOR TAXI OPERATORS' BUSINESS) REGULATIONS, 2013**

*(14th March, 2013)*

S.I. 25 of 2013

**Citation**

1. These Regulations may be cited as the Customs Management (Levy on Importation of Motor Vehicles for Taxi Operators' Business) Regulations, 2012.

**Levy**

2. (1) Motor vehicles imported for the purpose of carrying the business of taxi operators shall be subject to a levy of SCR5,000.

(2) An application for the payment of the levy referred to in paragraph (1) shall be made to the Ministry responsible for Trade accompanied by a Bill of Entry endorsed by an authorised officer in the Ministry of Finance.

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**SUBSIDIARY LEGISLATION: CUSTOMS MANAGEMENT (ORIGIN OF GOODS) REGULATIONS, 2013**

*(1st January, 2014)*

S.I. 8 of 2014

**Citation and commencement**

1. These regulations may be cited as the Customs Management (Origin of Goods) Regulations, 2013 and shall come into operation on 1st January, 2014.

**Interpretation**

2. The World Trade Organisation (WTO) Agreement on Rules of Origin, annexed to the General Agreement on Tariffs and Trade, 1994, shall govern the interpretation of these Regulations on non-preferential origin of goods.

### **Application of non-preferential Rules of Origin**

3. Non-preferential origin of goods is established for the purposes of –
  - (a) applying the Customs Tariff of Seychelles with the exception of –
    - (i) the preferential tariff measures contained in agreements which Seychelles has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment; and
    - (ii) preferential tariff measures adopted unilaterally or bilaterally by the Seychelles in respect of certain countries or territories
  - (b) application of measures other than tariff measures established by provisions governing specific fields relating to trade in goods; and
  - (c) the preparation and issuance of certificates of origin.

### **Goods wholly produced or obtained in a country**

4. (1) Goods wholly obtained in Seychelles or in the territory of Seychelles shall be regarded as having Seychelles's origin or origin of the territory of Seychelles.
  - (2) Goods wholly obtained in Seychelles or in the territory of Seychelles are –
    - (a) mineral products extracted within Seychelles;
    - (b) vegetable products harvested within Seychelles;
    - (c) live animals born and raised within Seychelles;
    - (d) products obtained from live animals raised within Seychelles or the territory of Seychelles;
    - (e) products obtained by hunting or fishing conducted within Seychelles;
    - (f) products of sea-fishing and other products taken from the sea outside Seychelles's territorial waters by vessels registered or recorded in Seychelles and flying the Seychelles flag;
    - (g) goods obtained or produced on board factory ships from the products referred to in sub-paragraph (f) originating in Seychelles, provided that such factory ships are registered or recorded in Seychelles and fly the Seychelles flag;
    - (h) products taken from the seabed or subsoil beneath the seabed outside the territorial waters of Seychelles provided that Seychelles has exclusive rights to exploit that seabed or subsoil;
    - (i) waste and scrap products derived from manufacturing operations and used articles, if

they were collected within the territory of Seychelles and are fit only for the recovery of raw materials; and

(j) goods which are produced, within the territory of Seychelles, exclusively from goods referred to in sub-paragraphs (a) to (i) or from their derivatives, at any stage of production.

(3) For the purposes of these Regulations, the expressions “territory” or “Seychelles” shall cover Seychelles’ territorial land, sea and inland waters.

### **Origin of goods produced in more than one country**

5. (1) Where more than one country is involved in the production of goods, such goods shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture.

(2) Where any processing or working in respect of which it is established, or in respect of which the facts as ascertained justify the presumption that its sole object was to circumvent the provisions applicable in Seychelles to goods from specific countries, the goods thus produced shall not be conferred the origin of the country where it is carried out within the meaning of sub regulation (1).

### **Proof of origin**

6. (1) Any claim that the goods shall be accepted as originating from Seychelles in accordance with the provisions of these Regulations, shall be supported by a certificate or an invoice, as the case may be, as proof of origin of the goods in question.

(2) The certificate as proof of origin shall be authenticated by the Assistant Commissioner of Customs.

(3) The Assistant Commissioner of Customs shall prescribe the relevant requirements and documentation in accordance with the provisions of sub regulation (1).

(4) Where proof of origin of goods is provided pursuant to sub regulation (1), the Assistant Commissioner of Customs may, if considered appropriate, require additional evidence to ensure that the indication of origin complies with the rules.

### **Application of preferential rules of origin**

7. (1) Preferential measures established in the framework of international trade by preferential arrangements, whether reciprocally or unilaterally, shall be governed by the respective rules concerning the origin of goods and the administrative cooperation.

(2) Preferential rules of origin shall establish the rules governing acquisition of origin which goods shall fulfill in order to benefit from the measures referred to in regulation 3 (a) (i) or (ii).

(3) The rules shall –

(a) in the case of goods benefiting from preferential tariff measures contained in regulation 3(a) (i), be laid down in those agreements; and

(b) in the case of goods benefiting from preferential tariff measures contained in regulation 3(a) (ii), be those adopted in such agreements.

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## **SUBSIDIARY LEGISLATION: SECTION 270: CUSTOMS MANAGEMENT REGULATIONS, 2014**

*(1st June 2014)*

S. I. 42 of 2014

### **CHAPTER 1 PRELIMINARY**

#### **Citation and commencement**

1. These regulations may be cited as the Customs Management Regulations, 2014 and shall come into operation on the 1st day of June, 2014.

#### **Interpretation**

2. In these regulations, unless the context otherwise requires -

"Act" means the Customs Management Act, 2011;

"buying commission" means any fee paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the imported goods;

"carrier" means the person actually transporting goods or in charge of, or responsible for, the operation of the means of transport;

"carrier medium" means any physical object designed principally for use in storing a digital product by any method, and from which a digital product can be perceived, reproduced, or communicated, directly or indirectly, and includes, but is not limited to, an optical medium, a floppy disk, or a magnetic tape, but does not include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices;

"CN22" and "CN23" means the special declaration forms for postal items specified under Schedule 1;

"Customs" shall have the meaning assigned to it under section 2 of the Act;

"customs value of imported goods" means the value of goods for the purpose of levying duties and taxes on imported goods;

"essential information" means information that is necessary for the assessment of a goods declaration which includes

- (a) description of goods;
- (b) quantity and value of goods; and
- (c) origin of goods;

"goods of the same class or kind" means goods which falls within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

"identical goods" means goods that are the same in all respect, including physical characteristics, quality and reputation, where minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;

"imported goods", in relation to which the customs value has to be determined, means goods presented to Customs at the time of entry for domestic consumption;

"incomplete declaration" means a bill of entry which does not contain all the essential information to facilitate the assessment of the goods declaration;

"postal items" means the postal articles as defined in the Postal Sector Act, when carried for postal services;

"postal operator" means any public postal operator or any person licensed to provide postal services under the Postal Sector Act; .

"produced" includes grown, manufactured and mined;

"provisional declaration" means an undertaking by the declarant to produce a final and complete goods declaration or to provide supplementary information to Customs in order to receive immediate release of the goods;

"similar goods" means goods that, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same function and to be commercially interchangeable;

"Universal Postal Union" means the specialised agency of the United Nations on postal services.

## **CHAPTER 2 VALUATION OF GOODS**

### **Determination of identical or similar goods**

3. (1) In determining whether goods are identical or similar, the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered.

(2) The identical goods or similar goods shall not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has

been made under regulation 8(1)(b)(iv).

(3) Goods shall not be regarded as identical goods or similar goods unless they are produced in the same country as the goods being valued.

### **Related persons**

4. (1) For the purposes of these regulations, persons shall be deemed to be related if –

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised associates in business;
- (c) they are employer and employee;
- (d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family.

(2) All persons associated in business with one another where one person is the sole agent, sole distributor or sole concessionaire of the other persons shall be deemed to be related for the purpose of this regulation, if they fall under any of the categories referred to in subregulation (1).

### **Price actually paid or payable**

5. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Seychelles adjusted in accordance with the provisions of regulation 8, provided that –

- (a) there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which –
  - (i) are imposed or required by law;
  - (ii) limit the geographical area in which the goods may be resold; or
  - (iii) do not substantially affect the value of the goods;
- (b) the sale or price is not subject to any term or external condition for which a value cannot be determined with respect to the goods being valued;
- (c) no part of the proceeds of any disposal, use or subsequent resale of the goods by the



buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in terms of regulation 8; and

(d) the buyer and the seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes within the meaning of regulation 6.

### **Determination of transaction value**

6.(1) In determining whether the transaction value is acceptable for the purposes of regulation 5, the fact that the buyer and the seller are related within the meaning of regulation 4 shall not be sufficient grounds for regarding the transaction value as unacceptable.

(2) The circumstances of the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price.

(3) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with regulation 5, where the declarant demonstrates that such value closely approximates one of the following, occurring at or about the same time -

(a) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

(b) the customs value of identical or similar goods as determined under the provisions of regulation 12; or

(c) the customs value of identical or similar goods as determined under the provisions of regulation 13.

(4) In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in regulation 8 and costs incurred by the seller in sales in which the seller and the buyer are not related, that are not incurred by the seller in sales in which the seller and the buyer are related.

(5) The provisions of subregulation (3) are to be applied at the initiative of the importer and for comparison purposes only.

(6) Substitute values shall not be established under the provisions of subregulation (3).

(7) If Customs determines that the relationship influenced the price, Customs shall communicate the grounds for the determination to the declarant and the declarant shall be given a reasonable opportunity to respond.

### **Form of payment**

7. (1) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods.

(2) The payment may be made, directly or indirectly, in the form of a transfer of money, cash,

letter of credit, negotiable instrument, or other acceptable method of payment.

(3) Any activity, including marketing activity, undertaken by the buyer on the buyer's own account, other than those for which an adjustment is made under regulation 8, shall not be considered as an indirect payment to the seller, even though it might be regarded as of benefit to the seller, and shall not be added to the price actually paid or payable in determining the customs value of the imported goods.

### **Adjustments of price actually paid or payable**

8. (1) In determining the customs value under regulation 5, there shall be added to the price actually paid or payable for the imported goods-

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods -

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and

(iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services, where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable, -

(i) materials, components, parts and similar items incorporated in the imported goods;

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

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

(iv) 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;

(c) the royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

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

(e) The following costs, to the extent that they are incurred by the buyer but not included in the price actually paid or payable -

- (i) the cost of transport of the imported goods to the port or place of importation;
- (ii) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (iii) the cost of insurance.

(2) Any addition to the price actually paid or payable shall be made on the basis of objective and quantifiable data.

(3) Notwithstanding regulation 8(1)(c) -

(a) the charges for the right to reproduce the imported goods in Seychelles shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

(b) the payment made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the Seychelles.

### **Value of identical goods**

9. (1) Where the customs value of the imported goods cannot be determined under regulation 5, customs value shall be based on the transaction value of identical goods sold for export to Seychelles and exported at or about the same time as the goods being valued.

(2) In applying this regulation, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) Where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(4) Where the costs and charges referred to in regulation 8(1) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods arising from differences in distances and modes of transport.

(5) Where more than one transaction value of identical goods is found, the lowest of such values shall be used to determine the customs value of the imported goods.

### **Value of similar goods**

10. (1) Where the customs value of the imported goods cannot be determined under regulation 5 or 9, customs value shall be based on the transaction value of similar goods sold for export to Seychelles and exported at or about the same time as the goods being valued. .

(2) In applying this regulation, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) Where no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(4) Where the costs and charges referred to in regulation 8(1) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods arising from differences in distances and modes of transport.

(5) Where more than one transaction value of similar goods is found, the lowest of such values shall be used to determine the customs value of the imported goods.

#### **Application of valuation methods in reverse order**

11. Where the customs value of imported goods cannot be determined under the provisions of regulations 5, 9 and 10, the customs value shall be determined under the provisions of regulation 12 or, when the customs value cannot be determined under that regulation, under the provisions regulation 13 except that, at the request of the importer, the order of application of regulation 12 and 13 shall be reversed.

#### **Deductive value**

12. (1) Where the imported goods or identical or similar imported goods are sold in Seychelles in the same condition as that in which they were when imported, the customs value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods, as the case may be, are sold in Seychelles in the greatest aggregate quantity, at or about the time of importation of the goods to be valued, by the importers thereof to persons not related to the importer, subject to deductions for -

(a) commissions usually paid or agreed to be paid or additions usually made for profit and general expenses, including the direct and indirect costs of marketing the goods relative to sales in Seychelles of imported goods of the same kind or class as the goods to be valued, irrespective of the country of exportation;

(b) the cost of transportation and the cost of loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods from the port or place of export in the country of exportation to the importer's premises in Seychelles;

(c) where appropriate, the costs and charges referred to in regulation 8(2); and

(d) any duties and taxes paid or payable in Seychelles by reason of the importation of the goods or sale of the goods within Seychelles.

(2) Where the imported goods or identical or similar imported goods are not sold at or about the time of importation of the goods to be valued, the customs value shall, subject to subregulation (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Seychelles in the same condition as that, in which they were when imported, at the earliest date after the importation of the goods being valued, but not later than 90 days after such importation.

(3) Where the imported goods or identical or similar imported goods are not sold in Seychelles in the condition as imported, then, if the importer so requests in writing, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in Seychelles who are not related to the sellers of such goods, due allowance being made for the value added by such processing and the deductions referred to in subregulation (1).

### **Computed value**

13. (1) Where the customs value of the imported goods cannot be determined under regulations 5, 9, 10 or 12, the customs value shall be based on a computed value which shall consist of the sum of -

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles; and

(c) the cost or value of all other expenses referred to in regulation 8(1).

(2) The Customs may not require or compel any person not resident in Seychelles to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value.

(3) The information supplied by the producer of the goods for the purpose of determining the customs value may be verified in another country by Seychelles authorities with the agreement of the producer and provided that the Government of the country in question does not object to the investigation,

### **Fall-back method**

14. (1) Where the customs value of imported goods cannot be determined under regulation 5, 9 to 13, inclusive, the customs value shall be determined using reasonable means, consistent with the principles and general provisions of Article VII of the General Agreement on Tariffs and Trade 1994 and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, on the basis of data available in Seychelles.

(2) Notwithstanding anything in this regulation, the customs value shall not be determined under this regulation on the basis of -

(a) the selling price in Seychelles of goods produced in Seychelles;

(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;

- (c) the selling price of goods on the domestic market of the country of origin or exportation;
- (d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with regulation 13;
- (e) the price of the goods for export to a country other than Seychelles;
- (f) a system of minimum customs values; or
- (g) arbitrary or fictitious values.

(3) Where the importer so requests, the importer shall be informed in writing of the customs value under the provisions of these regulations and the method used to determine such value.

### **Exchange rate**

15. Where factors used to determine the customs value of goods are expressed in a currency other than the currency of Seychelles, the rate of exchange published by the competent authorities of Seychelles, in effect on the date of importation shall be applied.

### **Carrier media**

16. In determining the customs value of imported carrier media bearing data or instructions, customs value shall not include the cost or value of the data or instructions (excluding sound, cinematic or video recordings), provided that this is distinguished from the cost or the value of the carrier medium.

### **Interpretative notes to this Chapter**

17. The interpretative notes specified in Schedule 2 shall apply for the interpretation of this Chapter.

## **CHAPTER 3 MANIFEST FORM AND PROCEDURES**

### **Exceptions**

18. Any cargo brought into Seychelles shall be covered by a cargo manifest except for -

- (a) passenger's accompanied baggage;
- (b) fish caught by local fisherman and landed using their own vessels;
- (c) currency imported in the maximum amount of \$10,000 or equivalent; and
- (d) goods imported through the post.

### **Cargo manifest**

19. The carrier or the carrier's authorised agent shall electronically submit cargo manifest, to the Customs through the customs computer system and shall conform to the approved formats or manually

capture the cargo manifest directly to the customs computer system -

- (a) within 72 hours before the arrival of a vessel carrying the cargo; or
- (b) immediately following the departure of an aircraft from its point of origin for cargo arriving by air.

### **Registration of manifest**

20. The carrier or the carrier's authorised agent shall register the cargo manifest on the customs computer system and submit a printed copy thereof to the Customs, on arrival of a vessel or an aircraft in Seychelles and before the unloading of the cargo.

### **Non-release of goods prior to registration of manifest**

21. With the exceptions set forth in regulation 18, cargo shall not be released from the Customs without prior registration of a cargo manifest.

## **CHAPTER 4 SUPPLY AND GRANTING OF STORES**

### **Stores on board**

22. Subject to regulation 24, any vessel or aircraft departing for a destination or place outside Seychelles shall be entitled to take on board, exempted from duties and taxes, stores in such quantities deemed reasonable.

### **Supply and granting of stores**

23: The procedures and conditions, for the supply and granting of stores to be taken on board an aircraft or vessel departing from Seychelles bound for an airport, port or destination beyond the territorial waters of Seychelles, shall be as follows-

(a) the master or commander of a vessel or aircraft or their representative shall submit an application to Customs in the forms specified under Schedule 3, containing the details of-

- (i) the number of passengers and crew; ,
- (ii) the length of the voyage or flight;
- (iii) the quantities of such stores already on board;
- (iv) the quantity of any goods which may be carried in any vessel or aircraft as stores for use on a voyage or flight to a destination outside Seychelles; and
- (v) the description of vessel on which goods carried as stores is intended to be used; and

(b) the approval for the application of stores shall be subject to such quantities as the Assistant Commissioner of Customs deems reasonable having regard to the matter

specified under paragraph (a) (i) to (v).

### **Restriction of stores to size of craft**

24. Subject to the limitations specified in section 22, goods shall be permitted to be shipped as stores without payment of the duty and tax on aircraft or in vessels of not less than 40 tons net tonnage register bound for a country or destination beyond the territorial waters of Seychelles.

### **Force majeure**

25. Where stores shipped or carried in pursuant to these regulations are landed or unloaded as a result of force majeure at any place within Seychelles,-

(a) the stores shall not be liable to forfeiture; and

(b) the owner and commander of an aircraft or master of a vessel shall not be subject to any penalties,

subject to condition that any duty and tax, other than excise duty and tax, payable under these regulation shall be recoverable as a debt owed to Government.

## **CHAPTER 5 SECURITY FOR TRANSIT AND TRANSSHIPMENT PROCEDURE**

### **Form of security**

26. Where a security is required to be lodged under the Act, such security shall be in the form of –

(a) cash;

(b) a certified cheque;

(c) bank guarantee;

(d) insurance guarantee; or

(e) any combination of security specified in paragraphs (a), (b) and (c).

### **Sufficient security**

27. The forms of security shall be sufficient for all purposes of a bond or guarantee under these regulations and shall bind the guarantor to such security.

### **Validity**

28. All security shall be valid for a period as may be specified in the bond or guarantee agreement and may be reviewed accordingly.



### **Amount of security**

29. The Customs shall fix the amount of security, at a level equal to -

(a) the amount of the liability where that amount can be established based on the customs value of the goods; or

(b) an amount, as established by Customs based on available evidence of the liability which may be incurred.

### **Comprehensive security for transit or transshipment operations**

30. The Customs may allow for a comprehensive security covering a number of transit or transshipment operations and the amount of such security shall be set at a level commensurate with the maximum possible revenue risk to cover each transit or transshipment operation at all times.

## **CHAPTER 6 DECLARATIONS FOR IMPORTATION OR EXPORTATION OF GOODS**

### **Electronic declaration**

31. All declarations, except a declaration under section 100 of the Act, for the importation or exportation of goods shall be submitted through the Customs computer system in the electronic declaration form set out in Schedule 4 and a printed copy thereof to the Customs.

### **Documents to be signed**

32. The printed copy of the declarations for the importation and exportation of goods shall be signed.

### **Acceptance by Assistant Commissioner**

33. The declarations complying with regulation 31 shall be accepted by the Assistant Commissioner of Customs without delay, provided that the goods to which they refer are presented to Customs.

## **CHAPTER 7 PROVISIONAL AND INCOMPLETE DECLARATION**

### **Same form to be used**

34. A provisional or incomplete declaration shall be completed using the same form as a complete goods declaration.

### **Requirements for declaration**

35. Where a provisional or incomplete declaration is accepted under this regulation, the declarant shall provide Customs with all information required for a complete declaration within the following time frame -

(a) for perishable goods, within 48 hours; and

(b) for all other goods, within 3 months.

### **Release of goods**

36. Where a provisional or incomplete declaration is accepted and the declarant has given security to the satisfaction of Customs for payment of any outstanding duties and taxes, the goods may be released without payment of any duty and tax chargeable in respect of the goods, subject to the condition that any such duty or tax shall be paid within three months.

### **Date of acceptance**

37. The point in time for determining the rates of duties and taxes payable, and any other measures applicable to the goods, shall be the date of acceptance by Customs of the provisional or incomplete declaration.

### **Revocation of approval**

38. (1) The Customs may revoke the acceptance of provisional or incomplete declaration where Customs determines that -

(a) the person has failed to comply with any requirement imposed by the provisions relating to the control of importation or exportation; or

(b) there are other reasonable grounds for the revocation.

(2) The Assistant Commissioner of Customs shall inform the declarant of its decision in writing.

## **CHAPTER 8 DISPOSAL OF GOODS**

### **Measures to be taken by Customs**

39. The Customs shall take appropriate measures to regularise goods including confiscation, seizure, abandonment, destruction or sale to dispose of goods.

### **Goods liable to forfeiture**

40. The goods that are liable to forfeiture may be seized and disposed of in accordance with these regulations where -

(a) the goods have been brought unlawfully into Seychelles or have been withheld from Customs supervision or control; or

(b) the goods are subject to prohibitions or restrictions, including those related to health, security and safety.

### **Goods deemed abandoned**

41. The Assistant Commissioner of Customs shall advise the importer that if the status set forth in this regulation is not complied with within 21 days of notification, the goods in question shall be deemed abandoned and treated in accordance with these regulations where -

(a) the formalities necessary for the goods are not initiated within 30 working days after completing discharge for goods carried by sea or air;

(b) the goods have not been removed from Customs control area within 30 days after their release or clearance by Customs;

(c) the goods cannot be released because it has not been possible to undertake or continue examination of the goods within such period as Customs think appropriate for the reasons communicated to the declarant;

(d) required payments or a guarantee in respect of import or export duties and taxes, have not been made or provided within the period fixed by Customs; or

(e) the documents required before the placement of goods under these regulations have not been produced within the period fixed by Customs.

### **Notification**

42. (1) Any notification under regulation 41 shall be deemed to have been duly served on the importer -

(a) if addressed to the importer and left or forwarded by post at his usual or last known place of abode or business or corporation, at its registered or principal office; or

(b) where the importer has no address within Seychelles, or the address is unknown, by publication of notice of abandonment in the Gazette or national newspapers.

(2) The date of notification shall be 3 working days from the date of posting or the date of the publication in the Gazette or national newspapers.

### **Destruction of goods**

43. Where the Assistant Commissioner of Customs is satisfied that any goods presented to Customs is not in conformity with the provisions of the Act or these regulations, the Assistant Commissioner of Customs may require such goods to be destroyed and shall inform the declarant in writing accordingly.

### **Disposal of pest-infected or harmful goods and packaging**

44. Notwithstanding regulation 43, where Customs determines that any goods under Custom's control are detrimental to health, Customs may direct that such goods, including any packing and containers in which they are packed be seized, and destroyed or otherwise dealt with in accordance with the relevant provisions of any written law.

### **Inspection by owner**

45. Subject to regulation 44, Customs shall notify the owner of the goods in advance so as to allow him to inspect the goods prior to their disposal.

## **Appeal**

46. The importer or the owner of the goods, as the case may be, aggrieved by a decision of Customs under regulation 40,41,42 or 45 may appeal to the Revenue Commissioner in accordance with section 32 of the Act.

## **Costs for destruction**

47. Where goods are destroyed under these regulations, the costs incurred for the destruction of the goods, including the costs of the packaging and containers shall be borne by the importer or exporter.

## **No rights to accounting or compensation**

48. Where goods are disposed of under these regulations, a person with any rights in those goods shall not be entitled to any accounting or compensation for their value.

## **Waste or scrap**

49. Any waste or scrap remaining after destruction shall be liable, if taken into home use or exported, to the duties and taxes that would be applicable to such waste or scrap imported or exported in that state as required under the relevant Customs-approved procedure or use.

## **Abandonment**

50. Imported goods may be voluntarily abandoned to Customs by the declarant or, as the case may be, the holder of the goods.

## **Costs to be borne by declarant**

51. The declarant or, as the case may be, the holder of the goods, shall bear the costs of any destruction or other disposal of goods abandoned under regulation 50.

## **Sale by auction**

52. (1) Where Customs sells goods which have not been declared within the time specified under these regulations or could not be released, the proceeds of the sale, after deduction of any duties and taxes and all other charges and expenses incurred, shall be remitted to those persons entitled to receive them or held for their account for 4 years.

(2) Subregulation (1) shall not apply to the sale of goods by Customs where the goods have been voluntarily abandoned to Customs and in such cases all the proceeds of the sale shall remain with Customs.

## **Sale by public auction**

53. (1) Where goods which have not been seized or subject to forfeiture are sold by Customs under these regulations, the sale shall be by public auction unless the goods are of a perishable nature.

(2) Any auction under these regulations shall be advertised in the national newspaper circulated

in Seychelles, not less than 15 days before it is due to take place.

(3) The Assistant Commissioner of Customs shall appoint a person, who may be an officer, to act as auctioneer at any auction under these regulations,

(4) In every sale by auction, the auctioneer shall announce -

- (a) the amount of duty, rent and charges due to Customs on each lot;
- (b) that the bids taken will be inclusive of such duty, rent and charges;
- (c) that any goods sold but not cleared within 14 days from the day of sale are liable to forfeiture; and
- (d) any other special conditions that the Assistant Commissioner of Customs may attach to the sale of any lot.

(4) The Customs officers shall not be permitted to bid at an auction under these regulations.

Note: Subregulation 53(4) appears twice in the S.I. as gazetted.

#### **Disposal of goods not sold at auction**

54. Any goods not sold at auction under these regulations, and all prohibited goods forfeited, shall be destroyed or otherwise disposed of as the Revenue Commissioner may direct.

#### **Counterfeit goods**

55. The counterfeit goods shall be disposed of in accordance with the Chapter 13 as applicable to border measures.

#### **Withholding of sale of forfeited goods**

56. Assistant Commissioner of Customs may, with the prior approval of the Revenue Commissioner, withhold the sale of any goods forfeited for use by the public service or otherwise dealt with in the best interest of revenue.

#### **Disposal by re-exportation**

57. Goods may be disposed of through re-exportation by applying the formalities, including commercial policy measures, applicable for goods being exported from Seychelles.

#### **Notification prior to re-exportation**

58. Prior to re-exportation of goods under regulation 57, the owner shall submit a notice for approval by Customs unless prescribed otherwise.

## CHAPTER 9 USUAL FORM OF HANDLING

### Usual form of handling

59. (1) Goods placed under Customs warehousing or a handling processing procedure or in a trade zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

(2) The following forms of handling shall not result in goods having a different harmonised commodity code for the purposes of import duties -

(a) ventilation, spreading-out, drying, removal of dust, simple cleaning operations, repair of packing, elementary repairs of damage incurred during transport or storage in so far as it concerns simple operations, application and removal of protective coating for transport;

(b) reconstruction of the goods after transport;

(c) stocktaking, sampling, sorting, sifting, mechanical filtering and weighing of the goods;

(d) removal of damaged or contaminated components;

(e) conservation, by means of pasteurisation, sterilisation, irradiation or the addition of preservatives;

(f) treatment against parasites;

(g) antirust treatment;

(h) treatment by -

(i) simple raising of the temperature, without further treatment or distillation process, or

(ii) simple lowering of the temperature;

(i) electrostatic treatment or ironing of textiles;

(j) treatment consisting in

(i) stemming or pitting of fruits, cutting up and breaking down of dried fruits or vegetables, rehydration of fruits, or

(ii) dehydration of fruits;

(k) desalination, cleaning and butting of hides;

(l) addition of goods or addition or replacement of accessory components as long as this addition or replacement is relatively limited or is intended to ensure compliance with

technical standards and does not change the nature or improve the performances of the original goods;

(m) dilution or concentration of fluids, without further treatment or distillation process;

(n) mixing between them of the same kind of goods, with a different quality, in order to obtain a constant quality or a quality which is requested by the customer, without changing the nature of the goods;

(o) dividing or size cutting out of goods if only simple operations are involved;

(p) packing, unpacking, change of packing, decanting and simple transfer into containers, affixing, removal and altering of marks, seals, labels, price tags or other similar distinguishing signs;

(q) testing, adjusting, regulating and putting into working order of machines, apparatus and vehicles, in particular in order to control the compliance with technical standards, if only simple operations are involved;

(r) dulling of pipe fittings to prepare the goods for certain markets; or

(s) any usual forms of handling, other than the above mentioned, intended to improve the appearance or marketable quality of the import goods or to prepare them for distribution or resale, provided that these operations do not change the nature or the performance of the original goods.

### **Risk of fraud**

60. The usual forms of handling under regulation 59(2) shall not be permitted if, in the opinion of the Assistant Commissioner of Customs, the operation is likely to increase the risk of fraud.

## **CHAPTER 10 WAREHOUSE BOND**

### **Execution of bond**

61. (1) The warehouse keeper shall execute a bond with Customs in the amount determined by the Assistant Commissioner of Customs sufficient to cover the total amount of potential duties, taxes and applicable levies for goods stored in the warehouse.

(2) The bond and security shall be renewed on an annual basis.

### **Warehouse keeper responsible**

62. The warehouse keeper shall be responsible for maintaining sufficient securities for coverage of potential liabilities on all goods in the warehouse at all times.

### **Guarantee**

63. (1) The warehouse keeper shall, prior to goods being warehoused, guarantee the bond by

providing to Customs with a form of security, covering the full amount of duties, taxes and applicable levies for goods stored in the warehouse.

(2) Subject to the approval of the Assistant Commissioner of Customs, the securities may be in the form of

(a) an insurance guarantee; or

(b) a bank guarantee.

(3) Notwithstanding the termination or expiration of the bond, the underlying securities shall remain valid until all outstanding obligations have been fulfilled.

### **Termination of warehousing bond**

64. Where Customs has been notified that a warehouse keeper wishes to terminate a bond and if -

(a) goods secured by any bond have been cleared or are otherwise duly accounted for; and

(b) the amount due on account of such goods have been paid,

the Assistant Commissioner of Customs shall terminate the bond in full and release the securities.

## **CHAPTER 11 OBLIGATION TO LODGE PRE-DEPARTURE DECLARATION**

### **Electronic declaration**

65. Subject to section 192 of the Act, all exported goods shall be supported by a declaration submitted on Customs' electronic declaration system while complying with the following conditions -

(a) goods subject to any restriction or prohibition shall be authorised for export by the appropriate competent authorities and shall be supported by an export permit;

(b) goods intended for export shall not be re-landed in the Seychelles without permission from the Assistant Commissioner of Customs;

(c) goods shall be exported from a designated port or airport unless otherwise approved by the Assistant Commissioner of Customs; and

(d) goods intended for export shall be presented to Customs prior to loading.

## **CHAPTER 12 IMPORTATION AND EXPORTATION OF GOODS BY POST**

### **Customs control and supervision**

66. All goods imported or exported through the postal operator shall be subject to Customs control and supervision.



## **Postal items**

67. Subject to the prohibitions or restrictions in force under section 63 of the Act, or any written law, importation of goods by post shall be allowed irrespective of whether the goods are intended to be cleared or released for home use or assign to any other Customs-approved procedure or use.

## **Regulations applicable to postal traffic**

68. Any other written law relating to importation of goods shall apply, mutatis mutandis, to goods imported or exported into or out of Seychelles by post from or to any place outside Seychelles as they apply in relation to goods otherwise imported or exported into or out of Seychelles.

## **Designated post offices**

69. The Assistant Commissioner of Customs shall, in consultation with the postal operator, designate the post offices or other places at which the postal items may be cleared for customs purposes.

## **Clearance of postal items**

70. The clearance of postal items shall be carried out as soon as possible and Customs control shall be restricted to necessary measures required to ensure compliance with the laws and regulations which Customs is responsible for enforcing.

## **Responsibility for production and handling of postal items**

71. (1) The postal operator shall be responsible for the conveyance, storage and production to Customs of postal items and, at the request of Customs, may open them for the purposes of Customs control.

(2) The Customs shall not, as a general rule, require the following categories of imported postal items to be produced for clearance -

- (a) postcards and letters containing personal messages only;
- (b) literature for the blind; and
- (c) printed papers not subject to duties and taxes.

## **Postal operator to report**

72. The postal operator shall report, by means of a manifest or in any other approved form, all goods or parcels arriving or departing from the Seychelles and shall produce such goods to Customs for clearance.

## **Powers in relation to postal items**

73. A Customs officer, whether accompanied by the postal operator or otherwise, may -

- (a) open any postal item irrespective of whether the addressee is present or not;

- (b) examine, sample and list the contents of any postal item;
- (c) assess any duties and taxes payable on the goods contained in any postal item;
- (d) detain any such goods for payment of any duties and taxes payable
- (e) detain any such goods pending enquiries relating to the dutiable or taxable nature of the goods or whether any prohibitions or restrictions apply to the goods; or
- (f) seize any goods that are liable to forfeiture under any law or regulations in force.

### **Declaration of postal items**

74. (1) All imports or exports by post shall be accompanied by a completed form CN 22 or CN 23, as the case may be, affixed to the postal item.

(2) The completed form CN22 or CN23, as the case may be, shall be construed as goods declarations.

(3) Notwithstanding subregulation (2), a separate goods declaration is required where -

- (a) goods having a value exceeding SCR 5,000.00 in accordance with regulation in force;
- (b) goods which are subject to prohibitions or restrictions on importation;
- (c) imported goods to be placed under a Customs-approved procedure or use other than clearance for home use; or
- (d) goods the exportation of which must be endorsed by Customs such as
  - (i) goods exported for repair or replacement; or
  - (ii) goods subject to claim for VAT refund or duty drawback.

### **Exportation of postal items**

75. (1) The Assistant Commissioner of Customs shall not require postal items to be produced to Customs at exportation for the purposes of Customs control unless they contain goods

- (a) the exportation of which must be certified;
- (b) which are subject to export prohibitions or restrictions;
- (c) which are subject to export duties and taxes; or
- (d) which are selected for Customs control on a selective or random basis.

Note: There is no subregulation 75(2) in the S.I. as gazetted.

## **Uncustomed goods**

76. (1) Any uncustomed, prohibited or restricted goods, shall be subject to detention, forfeiture or seizure under the laws and regulations in force.

Note: There is no subregulation 76(2) in the S.I. as gazetted.

## **CHAPTER 13 BORDER MEASURES FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

### **Applications by rightsholder**

77. (1) A rightsholder may submit an application to Customs, in accordance with the procedures and under the conditions set out in this Chapter, for the suspension of customs clearance of imported goods that are suspected of being infringing goods.

(2) Any application by a rightsholder for suspension of customs clearance of imported goods that are suspected of being infringing goods under these regulations shall be made in the form specified under Schedule 5.

(3) The Customs shall process the application received under subregulation (2) as early as practicable and shall allow the application if it *prima facie* satisfies the following conditions -

(a) the intellectual property right which relates to the goods subsists; and

(b) the applicant is the rightsholder of that intellectual property right.

(4) In order to determine whether the goods are infringing goods, Customs may request additional information from the applicant.

(5) Where Customs is not satisfied with an application due to lack of information provided, Customs shall not reject the application but shall notify the applicant and defer its decision pending submission of additional information by the applicant within 10 working days of the submission of the notification.

(6) An urgent application in which immediate action is required and where sufficiently specific information concerning known shipments containing allegedly infringing goods is provided shall be determined immediately, and notification to the rightsholder shall be made as soon as practicable.

(7) Where the applicant has been granted an extension of the time limit for taking actions, such extension shall automatically apply to the appeal procedure referred to in these regulations.

(8) Where an application is rejected, Customs shall clearly state the reason for the rejection.

### **Suspension of clearance**

78. (1) The Customs shall suspend clearance of the goods if satisfied that the goods are infringing goods covered by the application allowed under section 76(3).

(2) The suspension of clearance of goods under subregulation (1) shall be effective for 90 days unless the rightsholder -

(a) requested a shorter period; or

(b) applied for action in cases of specific shipments.

(3) The Customs shall refuse to suspend clearance of goods unless the rightsholder furnishes to Customs a security in the manner and amount that Customs may reasonably require to indemnify itself against any liability that may be incurred pursuant to such suspension, and to cover any expenses that may be incurred in effecting the suspension.

(4) The Customs shall inform all Customs offices immediately of the suspension with full particulars to enable them to act in accordance with the terms of the suspension.

(5) The Customs shall immediately inform the following persons of the suspension of the clearance of the goods and the reason therefore in writing-

(a) the importer, exporter, consignee or the consignor where their identity is known to Customs; and

(b) the applicant.

(5) The rightsholder shall inform Customs when his intellectual property right ceases to be valid or if he ceases to be the owner of the right for any reason whatsoever, in which event the application or suspension shall lapse.

Note: Subregulation 78(5) appears twice in the S.I. as gazetted.

### **Appeal against refusal**

79. A decision taken by Customs on refusal of the application shall be subject to the appeal in accordance section 32 of the Act.

### **Suspension of clearance of goods by Customs on its own initiative**

80. (1) The Customs may, on its own initiative, suspend the clearance of goods -

(a) in respect of which it has acquired *prima facie* evidence that the goods are infringing goods; or

(b) where there are reasonable grounds to suspect that the goods are infringing goods.

(2) Where Customs suspends the clearance of goods under subregulation (1), the provisions of sections 4 and 5 of the Act shall, *mutatis mutandis* apply.

### **Disposal of infringing goods**

81. (1) Where Customs determines that goods are infringing goods, Customs may, upon the request

by the rightsholder, order that the goods be forfeited and destroyed, where the rightsholder has provided adequate evidence to the satisfaction of Customs that the goods are infringing goods, and -

(a) the importer, the exporter, the consignee, the consignor, the owner of the goods, or the declarant who has been served by Customs with a notice of suspension, has been informed about the possibility of confiscation and destruction or disposal of goods and does not oppose the measure within 60 days after having been served the notice; or

(b) if after reasonable efforts by Customs the importer, exporter, consignee, consignor, the owner of the goods, or the declarant has not been identified, Customs may, without a court order and without the request of the rightsholder, forfeit and destroy or dispose of the goods.

(2) The Customs shall, while making an order under subregulation (1), take the following into consideration -

(a) disposal shall be outside the normal channels of commerce and in such a manner so as to minimize the risks of further infringements, and without detriment to the rights of the rightsholder;

(b) the rightsholder's proposed manner of destruction or disposal; and

(c) the effect on the environment of the manner of destruction.

(3) The Customs may, with the consent of the rightsholder, retain samples of the infringing goods for the purpose of training or education of Customs officials.

### **Re-exportation prohibited**

82. In the case of counterfeit trademark goods, the re-exportation of the goods in an unaltered state, or subjecting them to a different Customs-approved procedure or use, shall not be permitted except in a case where the Assistant Commissioner of Customs determines that disposal of such goods in Seychelles may result to a security, health or safety risk.

### **Interpretation under this Chapter**

83. In this Chapter, unless the context otherwise requires-

"counterfeit goods" means any goods, including packaging -

(a) bearing without authorisation a trademark which is identical to the trade mark of the rightsholder validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the rightsholder of the trade mark in question under the laws of Seychelles; or

(b) infringing any other intellectual property right protected under the Industrial Property Act; "Court" means the Supreme Court of Seychelles;

"infringing goods" means a counterfeit trade mark goods and pirated copyright goods, but

excluding any goods of a non-commercial nature and intended for the importer's or consignee's own personal use contained in personal luggage or sent in small consignments;

"intellectual property right" means the rights granted to the rightsholder in respect of -

(a) copyright, under the Copyright Act, 2014; and

(b) industrial property, under the Industrial Property Act, 2014;

"pirated copyright goods" means any goods which are copies made without the consent of the rightsholder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right of the rightsholder under the laws of Seychelles;

"rightsholder" means a person, pursuant a written law is to be regarded as the owner of an intellectual property right, its successor in title, or its duly authorised exclusive licensee, whether an individual, a corporation or an association, authorised by any of the aforementioned persons to protect its rights;

"suspension" means the cessation of the customs clearance process by which goods enter Seychelles;

"trade mark" means any mark as defined under the Industrial Property Act, 2014, including registered marks, certification marks, collective marks, geographical indications and trade names.

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## **SCHEDULE 1**

**[Regulations 2 and 74]**

### **FORM CN 22 and FORM CN 23**

Note: These forms have not been reproduced in this version of the Act but can be viewed in the PDF version of the S.I. as gazetted through [www.seyllii.org](http://www.seyllii.org)

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## **SCHEDULE 2**

**[Regulation 17]**

### **INTERPRETATIVE NOTES TO CHAPTER 2**

#### **GENERAL NOTE**

1. Sequential application of valuation methods -

(1) Regulations 5 and 9 to 14 define how the customs value of imported goods is to be determined under these regulations. The methods of valuation are set out in a sequential order of application. The

primary method for customs valuation is defined in regulation 5 and imported goods are to be valued in accordance with the provisions of this regulation whenever the conditions prescribed therein are fulfilled.

(2) Where the customs value cannot be determined under the provisions of regulation 5, it is to be determined by proceeding sequentially through the succeeding regulations until to the first such regulation under which the customs value can be determined. Except as provided in regulation 11, it is only when the customs value cannot be determined under the provisions of a particular regulation that the provisions of the next regulation in the sequence can be used.

(3) If the importer does not request that the order of regulation 12 and 13 be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value under the provisions of regulation 13, the customs value is to be determined under the provisions of regulation 12, if it can be so determined.

(4) Where the customs value cannot be determined under the provisions of regulation 5 and 9 through 13 it is to be determined under the provisions of regulation 7.

2. Note to regulation 5 -

(1) Use of generally accepted accounting principles -

(a) "Generally accepted accounting principles" refers to the revised consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

(b) For the purposes of these regulations the customs administration shall utilise information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the regulation in question. For example, the determination of usual profit and general expenses under the provisions of regulation 12 would be carried out utilising information prepared in a manner consistent with generally accepted accounting principles of Seychelles. On the other hand the determination of usual profit and general expenses under the provisions of regulation 13 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in regulation 8 (1)(b)(ii) undertaken in Seychelles would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.

(2) Price actually paid or payable -

(a) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole

or in part, of a debt owed by the seller.

(b) Activities undertaken by the buyer on the buyer's own account other than those for which an adjustment is provided in regulation 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

(c) The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods -

(i) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

(ii) the cost of transport after importation;

(iii) duties and taxes of Seychelles.

(d) The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

(3) Subregulation (a)(iii) Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

(4) Subregulation (b) -

(i) If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include -

(a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;

(b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

(c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.

(ii) The conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in Seychelles



shall not result in rejection of the transaction value for the purposes of regulation 5. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

### 3. Regulation 6 -

(1) Regulation 6 (1) to (3) provide different means of establishing the acceptability of a transaction value.

(2) Regulation 6 (1) and (2) provide that where the buyer and the seller are related the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration has no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

(3) Where the customs administration is unable to accept the transaction value without further inquiry, it should give the Importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organise their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of regulation 2, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realised over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

(4) Regulation 6(3) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable under the provisions of Article 1. Where a test under regulation 6 (3) is met, it is not necessary to examine the question of influence under regulation 6 (1) and (2). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in regulation 6 (3) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In regulation 6 (3) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

### 4. Regulation 6(3) -

A number of factors must be taken into consideration in determining whether one value "closely

approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in regulation 6 (3).

5. Note to regulation 9 -

(1) In applying regulation 9, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used -

- (a) a sale at the same commercial level but in different quantities;
- (b) a sale at a different commercial level but in substantially the same quantities; or
- (c) a sale at a different commercial level and in different quantities.

(2) Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for -

- (a) quantity factors only;
- (b) commercial level factors only; or
- (c) both commercial level and quantity factors.

(3) For the purposes of regulation 9, the transaction value of identical imported goods means a customs value, adjusted as provided for in regulation 9 (2) to (4), which has already been accepted under regulation 5.

(4) A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognised that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of regulation 9 is not appropriate.

6. Note to regulation 10 -

(1) In applying regulation 10, the customs administration shall, wherever possible, use a sale of

similar goods at the same commercial level and in substantially the same quantities as the goods, being valued. Where no such sale is found, a sale of similar goods that takes place under anyone of the following three conditions may be used -

- (a) a sale at the same commercial level but in different quantities;
- (b) a sale at a different commercial level but in substantially the same quantities; or
- (c) a sale at a different commercial level and in different quantities.

(2) Having found a sale under anyone of these three conditions adjustments will then be made, as the case may be, for -

- (a) quantity factors only;
- (b) commercial level factors only; or
- (c) both commercial level and quantity factors.

(3) For the purpose of regulation 10, the transaction value of similar imported goods means a customs value, adjusted as provided for in sub regulation (2) and (3), which has already been accepted under Article 1.

(4) A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of regulation 10 is not appropriate.

7. Note to regulation 12 -

(1) The term "unit price at which goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(2) As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
---------------	------------	-----------------	-----------------------------------

1-10 units	100	10 sales of 5 units	65
		5 sales of 3 units	
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units	80
		1 sale of 50 units	

(3) The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

(4) As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

(5) A third example would be the following situation where various quantities are sold at various prices.

(a) Sales	
Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100
(b) Totals	
Total quantity sold	Unit price
65	90
50	95
60	100
25	105

(6) In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

(7) Any sale in the importing country, as described in regulation 12(1), to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in regulation 8(1)(b), should not be taken into account in establishing the unit price for the purposes of regulation 12.

(8) It should be noted that 'profit and general expenses' referred to in regulation 12(1) should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in Seychelles of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon

relevant information other than that supplied by or on behalf of the importer.

(9) The "general expenses" include the direct and indirect costs of marketing the goods in question.

(10) Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of regulation 12(1)(d) shall be deducted under the provisions of regulation 12(10)(a).

(11) In determining either the commissions or the usual profits and general expenses under the provisions of sub regulation 1 of regulation 12, the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in Seychelles of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of regulation 12, "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries,

(12) For the purposes of regulation 12(2), the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

(13) Where the method in regulation 12(3) is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

(14) It is recognized that the method of valuation provided for in regulation 12(3) would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in Seychelles that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

#### 8. Note to regulation 13 -

(1) As a general rule, customs value is determined under these regulations on the basis of information readily available in Seychelles. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside Seychelles. In most cases the producer of the goods will be outside the jurisdiction of the authorities of Seychelles. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of Seychelles the necessary costing and to provide facilities for any subsequent verification which may be necessary.

(2) The "cost or value" referred to in regulation 13(1)(a) is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

(3) The "cost or value" shall include the cost of elements specified in regulation 8(1)(a)(ii) and

(iii). It shall also include the value, apportioned as appropriate under the provisions of the relevant note to regulation 8, of any element specified in regulation 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in regulation 8(1)(b)(iv) which are undertaken in Seychelles shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

(4) The "amount for profit and general expenses" referred to in regulation 13(1)(b) is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles.

(5) It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a produce were being launched in Seychelles and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on sales of the imported goods because of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in Seychelles and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

(6) Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities Seychelles shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Section 37 of the Customs Management Act, 2011.

(7) The "general expenses" referred to in regulation 13(1)(b) covers the direct and indirect costs of producing and selling the goods for export which are not included under regulation 13(1)(a).

(8) Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of regulation 13, sales for export to Seychelles of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of regulation 13, "goods of the same class or kind" must be from the same country as the goods being valued.

9. Note to regulation 14 –

(1) Customs values determined under the provisions of regulation 14 should, to the greatest extent possible, be based on previously determined customs values.

(2) The methods of valuation to be employed under regulation 14 should be those laid down in regulation 5, 9 to 13 but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of regulation 14.

(3) Some examples of reasonable flexibility are as follows-

Identical goods-	the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of regulation 12 and 13 could be used.
Similar goods-	the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of regulation 12 and 13 could be used,
Deductive method-	the requirement that the goods shall have been sold in the "condition as imported" in paragraph 1(a) of regulation 12 could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

10. Note to regulation 8 –

(1) . Subregulation 1(a)(i) The term "buying commissions" means fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the goods being valued.

(2) Subregulation 1(b)(ii) There are two factors involved in the apportionment of the elements specified in regulation 8(1)(b)(ii) to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

(3) Concerning the value of the element, if the importer acquires the element from a seller not related to the importer at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to the importer, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

(4) Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, the importer may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.

(5) As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with the producer to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

(6) Subregulation 1(b)(iv) Additions for the elements specified in regulation 8(1)(b)(iv) should be based on objective and quantifiable data. In order to minimise the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

(7) For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease.. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

(8) . The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

(9) For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside Seychelles in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of regulation 8.



(10) In another case, a firm may carry the cost of the design centre outside Seychelles as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of regulation 8 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

(11) Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation,

(12) In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside Seychelles.

(13) . Subregulation (1)(c) The royalties and licence fees referred to in subregulation 1(c) of regulation 8 may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in Seychelles shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

(14) Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to Seychelles of the imported goods.

(15) Subregulation (2) Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of regulation 8, the transaction value cannot be determined under the provisions of regulation 5. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

11. Note to regulation 15 –

For the purposes of regulation 15, "time of importation" may include the time of entry for customs purposes.

12. *Note to Article 11* is provided for under section 32 of the Customs Management Act; 2011 –

(1) Section 32 provides the importer with the right to appeal against administrative decisions such as those against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

(2) Appeal shall be without penalty by the importer or any other person liable for the payment of duty. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

(3) Nothing in Article 11 as represented under section 32 of the Customs Management Act, 2011 shall prevent a Member from requiring full payment of assessed customs duties prior to an appeal.

13. *Note to Article 15* is provided for section 1 of the Customs Management Act, 2011 –

(1) Section 2 For the purposes of Article 15, which provides for definition under section 2 of the Customs Management Act 2011 the term "persons" includes a legal person, where appropriate.

(2) Regulation 4(e) For the purposes of the Agreement, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

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### **SCHEDULE 3**

**[Regulation 23(a)]**

### **BOND FOR SHIPMENT OF STORES**

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### **SCHEDULE 4**

**[Regulation 31]**

### **DECLARATION FORM**

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### **SCHEDULE 5**

**[Regulation 77(2)]**

### **APPLICATION FOR ACTION BY CUSTOMS DIVISION**

#### **PART 1**

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## **PART 2**

### **NOTES ON COMPLETION**

#### **1. MANDATORY INFORMATION ON RIGHTS AND ABILITY TO ACT:**

(a) Where the holder of the right makes the application himself –

(i) in the case of a right that is registered or for which an application has been lodged, proof of registration with the relevant office or lodging of the application,

(ii) in the case of a copyright, related right or design right which is not registered or for which an application has not been lodged, any evidence of authorship or of his status as original holder; (b) Where the application is made by any other authorised users, in addition to the proof required under, the document showing authorisation to use the right in question;

(c) Where a representative of the right holder or of any other authorised users, in addition to the proof required under subparagraphs (a) and (b), proof of authorisation to act.

(d) Box 5 contains all geographical indications. Protected geographical indication means the official indications following the geographical designations for spirit drinks means the official designations following the Individual producers as well as groups and their representatives are entitled to make an application.

(e) Registration and specifications are required when an application is made for clause on protected geographical indication.

#### **2. WHAT DOES THE APPLICATION FOR ACTION HAVE TO CONTAIN:**

An application for action can be used by the right holder, free of charge, either as a preventive measure or where he has reason to think that his intellectual property right or rights have been or are likely to be infringed.

The application must contain all the information needed to make the goods in question readily recognisable by the customs, and in particular -

(i) an accurate and detailed technical description of the goods;

(ii) any specific information the right holder may have concerning the type or pattern of fraud;

(iii) the name and address of the contact person appointed by the right holder,

(iv) the security required of the applicant by regulation 78 of the Customs Management Regulations, 2014 and proof that the applicant holds the right for the goods in question.

### **3. HOW TO FILE AN APPLICATION FOR ACTION:**

The right holder must submit his application for action to the relevant office referred to in Box 2 of the form. On receipt of the application, customs will process it and notify the applicant in writing of its decision within 30 working days. If the office refuses the application by reasoned decision, the applicant has the right of appeal.

### **4. EXPLANATION OF THE MAIN BOXES TO BE FILLED IN BY THE APPLICANT:**

**Box 3:** Name, address and capacity of the application. Within the meaning of regulation 82 of the Customs Management Regulations, 2014, the applicant may be the rightsholder himself, a person authorised to use the intellectual property right or a designated representative.

The person, physical or moral, who fills in box 3 of the application for action must, in all cases, be the one who will provide the documents foreseen in box 9 of the application for action.

**Box 4:** Status of the applicant. Tick the appropriate box.

**Box 5:** Type of right concerned by the application for action. Tick the appropriate box.

**Boxes 6-7-8-:** These boxes are very important. Accurate; practical details must be provided to enable the customs authorities to quickly identify the goods detained (photos, documents, etc.). Specific information relating to the type or pattern of fraud will facilitate risk analysis. The information should be as detailed as possible to allow the customs authorities to identify suspect consignments simply and effectively using risk analysis. These boxes should be used to provide customs with more accurate intelligence in relation to products and so improve its understanding of trafficking. Additional supporting details can be provided such as: the pre-tax value of the legal goods, the location of the goods or their intended destination, particulars identifying the consignment or packages, the scheduled arrival or departure date of the goods, the means of transport used, the identity of the importer, exporter or holder.

**Box 11:** By signing this box, the right holder certifies that he accepts the terms of the regulation and his obligations.

**Box 12:** The duly completed and signed form must be submitted to customs.

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## **SUBSIDIARY LEGISLATION: SECTIONS 270 AND 63: CUSTOMS MANAGEMENT (PROHIBITED AND RESTRICTED GOODS) REGULATIONS, 2014**

*(2nd June, 2014)*

S.I. 43 of 2014

### **Citation**

1. These regulations may be cited as the Customs Management (Prohibited and Restricted Goods) Regulations, 2014.

### **Prohibited goods**

2. (1) The goods listed in the First Schedule appended to these regulations are prohibited goods.
- (2) Any person shall not import into Seychelles any goods prohibited under subregulation (1).

### **Restricted goods**

3. (1) The goods listed in the Second Schedule appended to these regulations are restricted goods.

(2) The import of the goods specified under subregulation (1) shall be subject to the prior approval of the authority specified in the Second Schedule.

(3) Any person importing any goods listed under column (1), the HS Code and the description of goods are given under columns (2) and (3) respectively, of the Second Schedule shall, prior to the import into Seychelles of such goods, obtain approval in writing from the authority specified in the corresponding entry under column (4) of that Schedule.

### **Repeal of S.I. 51 of 2009**

4. The Trades Tax (Restricted and Prohibited) Regulations, 2009 are hereby repealed.

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## **FIRST SCHEDULE**

### **(Regulation 2)**

#### **PROHIBITED GOODS**

<b>GOODS</b>	<b>HS CODE</b>	<b>DESCRIPTION OF GOODS</b>
(1)	(2)	(3)
Arms and ammunition	9301.1100 to 9301.9000	Military weapons, Artillery weapons (for example guns, mortars, rocket launchers, flame-throwers, grenade launchers, torpedo tubes and similar projectors.)
	9302.0000	Revolvers and Pistols
	9303.1000 to 9303.9000	Other firearms and similar devices which operates by the firing of an explosive charge (for example, sporting shotguns and rifles, muzzle-loading firearms, very pistols and other devices designed to project only signal flares, pistols and revolvers for firing blank ammunition, captive bolt humane killers, line throwing guns.)
	9304.0000	Other arms (for example spring, air or gas guns and pistols, truncheons, mace and knuckle dusters, including tasers but excluding those of heading 93.07.
	9305.1000 to 9305.9900	Parts and accessories of headings 93.01 to 93.04

	9306.2100 to 9306.9000	Bombs, grenades, torpedoes, mines, missiles and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads.
	8710.0000	Tanks and other annoured fighting vehicles, motorized, whether or not fitted with weapons, and parts for such vehicles.
	8906.1000	Warships of all kinds
Controlled drugs		All drugs listed under the First Schedule of the Misuse of Drugs Act (Cap 133)
Toxic chemicals		Chemicals and Pesticides containing Organochlorine banned under the Stockholm Convention, including Aldrin, Toxaphene, Dichloro diphenyl trichloro ethane (DOT), Chlordane, Dieldrin, Endrine, Hexachlorobenzene (HCB), Heptachlor, Mirex, Polychlorinated biphenyl (PCB),
	2620.2100	Leaded gasoline sludges and leaded antiknock compound sludges
	3811.1100	Anti-knock preparations based on lead compounds
	3808.5000	Goods of Subheading Note1 Chap38: aldrin (ISO); binapacryl (ISO); camphechlor (ISO) (toxaphene); captafol (ISO); chlordane (ISO); chlordimeform (ISO); chlorobenzilate (ISO); DOT (ISO) (clofenotane (INN), 1,1,1- trichloro-2,2-bis(p- <:lorophenyl) ethane); dieldrin (ISO, INN); dinoseb (ISO), its salts or its esters; ethylene dibromide (ISO) (1,2- dibromoethane); ethylene dichloride (ISO) (1,2- dichloroethane); fluoroa Generalamide (ISO); heptachlor (ISO); hexachlorobenzene (ISO); •,2,3,4,5,6- hexachlorocyclohexane (HCH (ISO», including lindane (ISO, INN); mercury compounds; methamidophos (ISO); monocrotophos (ISO); oxirane (ethylene oxide); parathion (ISO); parathionmethyl (ISO) (methyl-parathion); pentachlorophenol (ISO); phosphamidon (ISO); 2,4,5-T (ISO)(2,4,5- trichlorophenoxya Generalic acid), its salts or its esters.
	2524.1000 to 2524.9000	Asbestos
	6811.4000 to 6811.8900	Articles of asbestos-cement, of cellulose fibre-cement or the like
	6812.8000 to 6812.9990	Fabricated asbestos fibres; mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate (for example clothing, paper and blankets)
Counterfeit currencies		Meaning any coins or bank and currency notes not genuine but resembling or apparently intended to resemble or pass for genuine coins or bank and currency notes; and includes genuine coin or bank and currency notes prepared or altered so as to pass for coin or bank and currency notes of a higher denomination.

Pornographic or indecent materials		Includes all indecent or obscene prints, printings, books, cards, lithographic, and other engravings or any other indecent or obscene articles.  Any appeals should be directed to the Seychelles Classification Board.
Military uniform		No person except a member of the Seychelles Peoples Defence Forces may wear or import – (a) the uniform, or a distinctive part of the uniform, of the Seychelles Peoples Defence Forces; (b) a uniform any part of which is similar to a distinctive part of the uniform of the Seychelles Peoples Defence Forces; or (c) material printed with military camouflage print in the colours of the Seychelles Peoples Defence Forces
Bodies for motor vehicles	8707.1000	Bodies including cabs for motor vehicles of heading 87.03;  Bodies of motor cars and other motor vehicles principally designed for the transport of person other than those of heading 87.02, including station wagons and racing cars.
Part and accessories for motor vehicles	8708.9920	Half cut for vehicles of heading 87.02 to 87.03
Waste or waste product or both of any kind	3006.9200	Waste pharmaceuticals
	3825.1000 to 3825.9000	Residual products of chemical or allied industries not elsewhere specified or included; municipal waste; sewage slugged; other waste specified in Note 6 to this same chapter
	4017.0000	Waste of hard rubber
	7204.1000	Waste and scrap of cast iron
	7204.2100	Waste and scrap of alloy steel, of stainless steel
	7802.0000	Lead waste and scrap
	7902.0000	Zinc Waste and scrap
	8002.0000	Tin Waste and scrap
	Chapter 81	Waste (other base metals; cermets; articles thereof) and any other waste and waste products) under the Customs Management (Tariff Classification of Goods) Regulations, 2013 (S.1. 8 of 2013).
	5505.1000	Waste of synthetic fibres
	5505.2000	Waste of artificial fibres
Imitation or replica of firearms, ammunitions and guns		Anything which has the physical appearance of being an exact replica of a firearm or ammunition, or a replica gun or toy ammunition which is so realistically designed so as to make it indistinguishable from a firearm or ammunition
Furskins, hides and skins of animals	4101.2000 to 4106.9200	Raw hides and skins of other animals (other than furskins).
	4301.1000 to 4304.0000	Furskins and artificial fur: manufactures thereof

CFC gas and equipment dependent on cfc and hydro- chloro carbon (hcfc)	2903.3900 2903.1300 3824.7100 to 3824.7800	Gas with CFC Component, Halon extinguishers, methyl bromide and methyl chloroform;  All hydro-floro carbon (HCFC) of component of HCFC or equipment dependent on HCFC covered under the Environment Protection (Ozone) Regulations, 2000 (S.I. 24 of 2000).
All palm plants	9603.1010	All Palm plants covered under the Plant Protection (Aleurotrochelus Atratus) Regulations, 2007 (S.1. 17 of 2007).  Brooms and brushes of coconut fibres
Non-tobacco products		Any non-tobacco product which resembles a tobacco product (including sweets, snacks, toys and electronic cigarettes) covered under the Tobacco Control Act, 2009 (Cap 235).
Radioactive substances	28.44	Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.



## SECOND SCHEDULE

### (Regulation 3)

#### RESTRICTED GOODS

GOODS	HS CODE	DESCRIPTION OF GOODS	APPROVAL AUTHORITY
(2)	(3)	(4)	(1)
Plant and plant products	0601.1000 to 0604.9900	Live trees and other plants; bulbs roots and the like; cut flowers and ornamental foliage	Ministry of Natural Resources
Wood treated and untreated	4401.1000	Fuel wood	
	4401.2100 to 4401.2200	Wood in chips or particles	
	4403.1000 to 4403.2000	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	
	4403.4100 to 4403.9900 4407.1000	Other, of tropical wood specified in subheading note 1 of chapter 44.	
	4407.2400 to 4407.9900	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of thickness exceeding 6mm	
Brooms consisting of twigs or other vegetables materials bound together, with or without handles	9603.1010 9603.1020	Brooms and brushes of coconut fibre	
		Brooms & brushes of other vegetables material (Except Coconut Fibers)	
Edible vegetables	0701.1000 to 0709.9090	Edible vegetables and certain roots and tubers (Excluding Heading 07.10 to 07.13).	
	0714.1000 to 0714.9090	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content	
Edible fruits	08.01	Coconuts, Brazil nuts and cashew nuts, whether or not shelled or peeled (excluding dried)	
	08.02	Other nuts, whether or not shelled or peeled (excluding	

		dried)	
	0803.0010	Bananas, including plantains, (excluding dried)	
	0804.1010 to 0804.4000	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens (excluding dried)	
	0805.1000 to 0805.4000	Citrus Fruits (excluding dried)	
	0805.9000	Citrus fruit, (other than oranges, mandarins, clementines, wilkings, grapefruit, lemons and other similar citrus hybrids) (excluding dried)	
	0806.1000	Fresh Grapes	
	0807.1100 to 0810.9090	Fresh melons and papayas, apples, pears and quinces, apricots, cherries, peaches (including nectarines), plums and soles, other fresh fruit.	
Spices	0910.9110	Fresh Mixtures of spices	
	0910.9910	Other Fresh spices	
Meat and edible meat offal, fresh, frozen or chilled	0201.1000 to 0209.0000	Meat and meat products of bovine animals, fresh or chilled, meat of swine fresh or chilled, meat of sheep and goats fresh or chilled, meat of horses, asses, mules or hinnies, fresh, chilled or frozen.  Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnie, fresh, chilled or frozen, other meat and edible meat of the poultry of heading no.01.05 fresh, chilled or frozen and pig fat free of lean meat and poultry fat not rendered or otherwise extracted, fresh, chilled, frozen, salted in brine, dried or smoked.	
Fish and crustaceans, mollusk and other aquatic invertebrates, fresh, frozen or chilled	0301.1000 to 0304.9900	Live Fish, fresh or chilled and Fish products.	
	0306.1100 to	Crustaceans, Molluscs whether in shell or not, live, fresh,	

	0307.9990	<p>chilled, frozen, dried, salted in brine, cooked by steaming or by boiling in water.</p> <p>Flour meals and pellets of aquatic invertebrates other than crustaceans fit for human consumption.</p>	
Fertilizers (growing media and compost)	3101.0000 to 3105.9000	<p>Animal or vegetable fertilizers, whether or not mixed together or chemically treated; fertilizers produced by the mixing or chemical treatment of animal or vegetable products.</p> <p>Mineral or chemical fertilizers, nitrogenous.</p> <p>Mineral or chemical fertilizers, phosphatic.</p> <p>Mineral or chemical fertilizers, potassic.</p> <p>Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorous and potassium; other fertilizers; goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg .</p>	
Animals and animal by-products not treated	0101.1000 to 0106.9000	Live animals; animal products.	Ministry of Environment and Energy, and Ministry of Natural Resources
	0407.0010 to 0407.0090	Birds eggs in shell, fresh, preserved or cooked for consumption	
	0408.1100 to 0408.9900	Birds egg not in shell and egg yolks other than dried	
	0410.0000	Edible products of animal origin not elsewhere specified or included.	
	0501.0000	Human hair, unworked, whether or not washed or scoured; waste of human hair.	
	0502.1000 to	Pigs, hogs or boars bristles and hair, badger hair and other	

	0504.0000	brush making hair, waste of such bristles or hair.  Gut bladders and stomach of animals (other than fish) whole and pieces thereof, fresh, chilled, frozen, salted in brine, dried or smoked.	
	0505.1000	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation, powder and waste of feathers or parts of feathers.	
	0506.1000 to 0506.9000	Bones and horn-cores unworked, defatted, simply prepared (but not cut to shape), treated with acid or degalatinised; powder and waste of these products.	
	0508.0000 to 0511.9990	Coral and similar materials, unworked or simply prepared but not otherwise worked; shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut in shape, powder and waste thereof.  Ambergris, castoreum, civet and musk; cantharides, bile, whether or not dried; glands and other animals products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved.  Animal products not elsewhere specified or included; dead animals of chapter 1 or 3, unfit for human consumption.	
Endangered Species	0507.1000 to 0507.9000	Any Species listed under the Convention on International Trade in Endangered Species	Ministry of Environment and Energy

		(CITES).  Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hoovers, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products	
	9601.1000 to 9601.9000	Worked ivory, bone, tortoise - shell, horn, antlers, coral, mother-of-pearl and other animal carving material and articles of these materials (including articles obtained by moulding).	
Primary forms Plastic and other articles of plastic Environment (Prohibition of plastic carrier bags) Regulations, 2008	3923.2110 to 3923.2990	Sacks and bags (including cones) of polymers of ethylene; polybags of the type used in primary industries and of other plastics. Vest type plastic bags made of less than 30 microns	
Dangerous Chemicals and Precursor Chemicals	28.01 to 28.53 3808.9911 3808.9919 3824.7900	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals or radioactive elements or of isotopes.  Miscellaneous chemical products excluding heading 28.44  Rodenticides  --- Other  Mosquito nets treated with pesticides	
Dangerous Chemicals and Precursor Chemicals	29.01 to 29.42	Organic Chemicals	Ministry of Environment and Energy, and Ministry of Health
Mineral fuels, mineral oils and products of their distillations, bituminous substances; Mineral waxes	2710.11 10 2710.1120 2710.1911 2710.1921 2710.1922 2710.9100 2710.9900	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of	Ministry of Finance, Trade and Investment

		oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils.  These Include- Aviation Spirit (Avgas), Motor spirits (gasoline, mogas, MSP); Kerosene, type jet fuel, illuminating kerosene (IK) and Fuel oil (furnace oil).	
	2711.1200 2711.1300	Petroleum gases and other gaseous hydrocarbons.  Liquefied propane gas and Butanes gases	
Alcoholic beverages	2203.0010 to 2208.9099	Beverages and spirits	
Tobacco	2401.1000 to 2403.9900	Tobacco and manufactures tobacco substitutes.	
Left Hand Drive Vehicles	Chapter 87	All vehicles of chapter 87 with the steering wheel located on the left hand side; excluding golf carts and any other off-road vehicles or vehicles for which permission has been granted to be used off road.	Department of Transport
Second Hand Vehicles	Chapter 87	All vehicles of chapter 87, previously used; excluding golf carts and any other off-road vehicles or vehicles for which permission has been granted to be used off road.	
Vehicle and Chassis/ Bodies.	8426.1100 to 8427.9000	Derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane. Fork-lift trucks; other works trucks fitted with lifting or handling equipment.	
Spark-ignition reciprocating piston engine of kind used for the propulsion of vehicles of chapter 87.  Compression-	8429.1100 to 8430.6900	Self-propelled bulldozers, angledozers, graders, levelers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers. Other moving, grading, leveling, scraping, excavating, tamping,	

ignition internal combustion piston engine (diesel or semi diesel engines) of kind used for the propulsion of vehicles of chapter 87.		compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow blowers.	
	8701.1000 to 8705.9000	Vehicles other than railway or tramway rolling stock and parts and accessories thereof	
	8706.0000	Chassis fitted with engines, for the motor vehicle of heading Nos 87.0J to 87.05.	
	8708.9910	Bodies - Nose cuts, front cuts, rear cuts and quarter panels of vehicles of headings no.87.0 to 87.04.	
	8708.9930	Chassis with no engine	
	8711.1000 to 8711.9000	Motor cycle (including mopeds) and cycles fitted with auxiliary motor, with or without side-cars; side cars.	
	8716.1000 to 8716.4000	Trailers and semi-trailers	
	8716.8090	Others	
	8407.3100 to 8407.9000	Reciprocating piston engines of kind used for the propulsion of vehicles of chapter 87. Of cylinder capacity not exceeding 50cc; exceeding 50cc but not exceeding 250cc; exceeding 250cc but not exceeding 1,000cc; exceeding 1,000cc and other engines	
	8408.2000	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines) of a kind used for the propulsion of vehicles of chapter 87	
	8408.9000	Other Engines diesel or semi-diesel Hybrid Vehicles of chapter 87	
	8703.9011 to 8703.9049	Electric Cars, and cars using alternative fuels other than fossil fuel	
Pyrotechnic products	3601.0000	Explosives; pyrotechnic	Ministry of Home

and Blasting explosives	to 3604.9090	products; pyrophoric alloys; certain combustible preparations (excluding matches), fireworks and signal flares.	Affairs, and Commissioner of Police
Sword, cutlasses, bayonets and similar arms	9307.0000	Swords, cutlasses, bayonets, lances, similar arms, parts thereof, scabbards, and sheaths thereof and scabbards and sheaths therefore.	
Pharmaceutical and Veterinary products	3001.2000 to 3004.5000	Pharmaceutical products (example gland and organs, human blood; animal blood), and parts of medicaments.	Ministry of Health
	3006.1000 to 3006.7000	Chemical contraceptive preparation based on hormones on other products of heading 29.37 or on spermicides  Pharmaceutical Products	
	2806.1000	Hydrochloric acid	
	2807.0000	Sulphuric Acid	
	2841.6100	Potassium permanganate	
Radio communication equipment including VSAT	8525.5000	Other transmission apparatus of the following specification - Walkie Talkie/Land Mobile (hand held or fixed);	Department of Information and Communication Technology
	8525.6000	Satellite mobile equipment - Iridium, Globalstar, Thuraya, Inmarsat, etc.;  Amateur Radio;  Fixed Broadband Wireless Access, except for the following European standards from the European Technical Standards Institute (ETSI): • 2.4 GHz· EN 300-328 • •• Maximum EIRP 100mW or 20dBm • 5.7 GHz· • EN 300-440 • Maximum EIRP 25mW or 14 dBm • No external antennas licensed	
	8529.1010 to	Satellite dishes (person/commercial) - receive	



	8529.1040 8525.5010 to 8525.5090	only; VSAT (very small aperture terminal) - transmit and receive;  Police radar detector  Telecommunication Jamming equipment;	
	8526.1000	Aeronautical radios (hand held and fixed);  Radio broadcasting (transmission) equipment (AM, FM, TV etc);  Equipment for fixed services;  Citizen Band (CB) radios.	
Glass and glazed glass products for architectural use in building	7005.1000 to 7005.3000	Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked.	Seychelles Bureau of Standards
	7016.9000	Other articles of pressed or moulded glass whether or not wired, kind used for building or construction purposes	
PVC Insulated wires and Cables for fixed wiring	8544.1100 to 8544.2000	Winding wire of copper and of other materials PVC insulated cables should be in accordance to British Standard BS 6004 or IEC Standard 60227	Ministry of Environment and Energy, and Seychelles Energy Commission
PVC Insulated flexible cord for use with appliances and equipment intended for domestic, office and similar environments	8544.4200 to 8544.6000	PVC insulated flexible cables (cords) should be in accordance to British Standard BS 6500 or IEC Standard 60227	
Prefabricated Building	9406.0000	Prefabricated buildings	Ministry of Land Use and Habitat
Aircrafts	8801.1000 to 8802.6000	Balloons and dirigibles; gliders, hang gliders and other non-powered aircraft  Other aircraft (for example, helicopters, aeroplanes); spacecraft (including satellite);	Seychelles Civil Aviation Authority

		and spacecraft launch vehicles	
Ships and Vessels	8901.1000	Cruise ships, excursion boats and similar vessels principally designed for the transport of persons; ferry boat of all kind	Seychelles Maritime Safety Authority
	8901.2000	Tanker	
	8901.3000	Refrigerated vessels, other than those of subheading 8901.20	
	8901.9000	Other vessels for the transportation of goods and other vessels for the transportation of both persons and goods.	
	8902.0000	Fishing Vessels	
	8903.1000 to 8903.9200	Yachts and other vessels or pleasure or sports;  (These include Inflatable, sailboats with or without auxiliary motor, motorboats, other than outboard motorboats but exclude Kayak and Canoes)	
	8903.9990	Other boats and vessels not elsewhere specified	