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Comité de l'évaluation en douane

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NOTIFICATION AU TITRE DE L'ARTICLE 22 DE L'ACCORD SUR LA MISE
EN OEUVRE DE L'ARTICLE VII DE L'ACCORD GENERAL SUR
LES TARIFS DOUANIERES ET LE COMMERCE DE 1994

SINGAPOUR

La Mission permanente de Singapour a fait parvenir au Secrétariat la communication ci-après.

Par la présente, Singapour notifie formellement sa décision de mettre en oeuvre l'article VII du GATT de 1994 à la fin de 1997.

Singapour présente les documents¹ suivants au Comité de l'évaluation en douane:

- a) Projet de règlement douanier (évaluation) (droits d'importation). Le règlement sera publié dans le Journal officiel dès la promulgation du projet de loi douanière (modification);
- b) Projet de loi douanière (modification). Le Parlement a procédé à la première lecture du projet de loi le 25 août 1997 et ce texte devrait être promulgué avant la réunion du Comité de l'évaluation en douane qui se tiendra le 23 octobre 1997;
- c) Article 90D de la Loi douanière tel qu'il a été introduit par la Loi douanière (modification) de 1996.

La législation d'application de Singapour se compose d'un projet d'amendement visant à incorporer l'Accord sur l'évaluation en douane dans la Loi douanière. Les détails d'exécution de l'Accord sur l'évaluation en douane figurent dans le règlement établi au titre de la Loi modifiée. Etant donné le calendrier des séances du Parlement, le projet d'amendement de la Loi douanière ne sera voté au Parlement que le 7 octobre 1997. Après approbation du Parlement, il doit également être approuvé par le Président et être publié dans le Journal officiel pour devenir une loi; cela prendra encore une semaine, ce qui devrait porter le délai au 14 octobre 1997.

Le règlement, c'est-à-dire la législation subsidiaire où figurent les règles d'exécution de l'Accord sur l'évaluation en douane, devrait être publié dans le Journal officiel, pour devenir une loi, le 17 octobre 1997.

Au vu du processus législatif ci-dessus, le projet d'amendement de la Loi douanière et le projet de règlement douanier en lieu et place de la Loi portant modification de la Loi douanière et des règlements publiés dans le Journal officiel ont été présentés pour distribution, puisqu'il s'agit des mêmes documents qui deviendront une loi d'exécution à Singapour.

¹Anglais seulement.

CUSTOMS ACT (CHAPTER 70)

CUSTOMS (VALUATION) (IMPORT DUTY) REGULATIONS - 1997

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred by sections 22A and 143(1) of the Customs Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Customs (Valuation) (Import Duty) Regulations 1997 and shall come into operation on the 1997.

Definitions

2. -(1) In these Regulations, unless the context otherwise requires -

"computed value" means the value determined in accordance with regulation 8;

"country of export" or "the country from which any goods are exported" means the country from which the goods are transported directly to Singapore or, as the case may be, the country from which the goods are deemed to be transported pursuant to paragraph (4)(b);

"deductive value" means the value determined in accordance with regulation 7;

"goods of the same class or kind" means imported goods that -

- (a) are within a group or range of imported goods produced by a particular industry or industry sector that includes identical goods or similar goods in relation to the goods being valued; and

- (b) for the purposes of -

- (i) regulation 7, were exported from any country; and

- (ii) regulation 8, were produced in and exported from the country in and from which the goods being valued were produced and exported;

"identical goods" means imported goods that -

- (a) are the same in all respects, including physical characteristics, quality and reputation, as the goods being valued, except for minor differences in appearance that do not affect the value of the goods;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, art work, design work, plans or sketches undertaken in Singapore were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"price paid or payable", in relation to any goods, means the aggregate of all amounts paid or payable by the buyer to or for the benefit of the seller in respect of the goods;

"produce" includes grow, manufacture and mine;

"similar goods" means imported goods that -

- (a) closely resemble the goods being valued in respect of component materials and parts and characteristics and are functionally and commercially interchangeable with the goods being valued having regard to the quality and reputation (including any relevant trade mark) of the goods and the goods being valued;
- (b) were produced in the country in which the goods being valued were produced; and
- (c) were produced by or on behalf of the person who produced the goods being valued,

but does not include imported goods where engineering, development work, art work, design work, plans or sketches undertaken in Singapore were supplied, directly or indirectly, by the buyer of those imported goods free of charge or at a reduced cost for use in connection with the production and sale for export of those imported goods;

"sufficient information", in respect of the determination of any amount, difference or adjustment, means objective and quantifiable information that clearly establishes the accuracy of the amount, difference or adjustment;

"transaction value" means the value determined in accordance with regulations 3 and 4.

- (2) For the purposes of these Regulations, persons shall be deemed to be related only if -

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognised partners in business;
- (c) they are employer and employee;

- (d) any person directly or indirectly owns, controls or holds 5 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.
- (3) Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of these Regulations if they fall within the criteria of paragraph (2).
- (4) For the purposes of these Regulations -
- (a) where there are no goods that were produced by or on behalf of the person who produced the goods being valued and that are otherwise identical goods or similar goods, goods that were produced by or on behalf of a different person and that are otherwise identical goods or similar goods shall be deemed to be identical goods or similar goods, as the case may be; and
 - (b) goods exported to Singapore from any country but passing through any other country on their way to Singapore (whether transhipped in that other country or not) shall be deemed to be transported directly from the first-mentioned country.
- (5) In the interpretation of these Regulations, regard shall be had to -
- (a) the Interpretative Notes in Annex I to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994; and
 - (b) the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods.

Transaction value as primary basis of valuation

- (3) - (1) For the levying of import duty, the value of imported goods shall be their transaction value, that is, the price paid or payable for the goods when sold for export to Singapore, adjusted in accordance with regulation 4, if -
- (a) there are no restrictions respecting the disposition or use of the goods by the buyer, other than restrictions that -
 - (i) are imposed 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 of the goods or the price paid or payable for the goods is not subject to some condition or consideration in respect of which a value cannot be determined;

- (c) any part of the proceeds of any subsequent resale, disposal, or use of the goods by the buyer is to accrue, directly or indirectly, to the seller, the price paid or payable for the goods includes the value of that part of the proceeds or can be adjusted in accordance with regulation 4; and
- (d) the buyer and seller of the goods are not related at the time the goods are sold for export or, where the buyer and seller are related at that time -
 - (i) their relationship did not influence the price paid or payable for the goods; or
 - (ii) the importer demonstrates that the transaction value of the goods meets the requirements set out in paragraph (2).

(2) In a sale between related persons, for the purpose of showing that the relationship did not influence the transaction value, the importer may produce evidence that the transaction value of the goods being valued, taking into consideration any relevant factors including such factors and differences as enumerated in paragraph (6), closely approximates the customs value of other goods determined at the same time or substantially at the same time as the goods being valued, being -

- (a) the transaction value of identical goods or similar goods in respect of a sale of those goods for export to Singapore between a seller and buyer who are not related at time of the sale;
- (b) the deductive value of identical or similar goods determined in accordance with regulation 7; or
- (c) the computed value of identical or similar goods determined in accordance with regulation 8.

(3) In any case where the proper officer of customs is of the opinion that the relationship between the buyer and seller of any goods influenced the price paid or payable for the goods, he shall inform the importer, in writing if so requested, of the grounds on which he formed his opinion, and shall give the importer a reasonable opportunity to satisfy him that the relationship did not influence the price.

(4) Where, in the opinion of the proper officer of customs, the customs value cannot be determined under this regulation, it shall be determined by proceeding sequentially through regulations 5 to 9 to the first such regulation under which the customs value can, in his opinion, be determined.

(5) Notwithstanding paragraph (4), on the written request of the importer to the proper officer of customs the order of consideration of the valuation basis provided for in regulations 7 and 8 shall be reversed.

(6) The factors and differences referred to in paragraph (2) are as follows -

- (a) the nature of the goods being valued;
- (b) the nature of the industry that produces the goods being valued;
- (c) the season in which the goods being valued are imported;
- (d) whether a difference in values is commercially significant;

- (e) the commercial levels at which the sales take place;
- (f) the quantity levels of the sales;
- (g) any of the amounts referred to in regulation 4(2) and (3); and
- (h) the costs, charges or expenses incurred by a seller, when he sells to a buyer to whom he is not related that are not incurred when a seller sells to a buyer to whom he is related.

Adjustment of price paid or payable

4.-(1) In determining the transaction value of goods under regulation 3, the price paid or payable for the goods shall be adjusted in the manner specified in paragraphs (2) and (3).

(2) The price paid or payable for the goods shall be adjusted by adding amounts, to the extent that each such amount is not otherwise included in the price paid or payable for the goods and is determined on the basis of sufficient information, equal to -

- (a) commissions and brokerage in respect of the goods incurred by the buyer, other than fees paid or payable by the buyer to his agent for the service of representing him overseas in respect of the purchase of the goods;
- (b) the packing costs and charges incurred by the buyer in respect of the goods, including the cost of cartons, cases and other containers and coverings that are treated for customs purposes as being part of the imported goods and all expenses of packing incidental to placing the goods in the condition in which they are transported to Singapore;
- (c) the value of any of the following goods and services -
 - (i) materials, component parts, and other goods incorporated in the imported goods;
 - (ii) tools, dies, moulds and other goods utilised in the production of the imported goods;
 - (iii) materials consumed in the production of the imported goods; or
 - (iv) engineering, development work, art work, design work, plans and sketches undertaken elsewhere than in Singapore and necessary for the production of the imported goods.

determined in the manner specified in paragraphs (5) to (8), that are supplied, directly or indirectly, by the buyer free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles;

- (d) royalties and licence fees, including payments for patents, trademarks and copyrights in respect of the imported goods that the buyer must pay, directly or indirectly, as a condition of the sale of the goods for export to Singapore, exclusive of charges for the right to reproduce the imported goods in Singapore;
- (e) the value of any part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer that accrues or is to accrue, directly or indirectly, to the seller; and

- (f) the cost of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of the imported goods from the country of export to Singapore.

(3) After the additions are made in accordance with paragraph (2), the price paid or payable for the goods shall be further adjusted by deducting amounts, to the extent that each such amount is otherwise included in the price paid or payable for the goods, equal to any of the following costs, charges or expenses -

- (a) any reasonable cost, charge or expense that is incurred for the construction, erection, assembly or maintenance of, or technical assistance provided in respect of, the goods after the goods are imported;
- (b) any reasonable cost, charge or expense that is incurred in respect of the transportation or insurance of the goods within Singapore and any reasonable cost, charge or expense associated therewith; or
- (c) any customs duties or other taxes payable in Singapore by reason of the importation or sale of the goods,

if the cost, charge or expense is identified separately from the balance of the price paid or payable for the goods.

(4) Where any adjustment in terms of paragraph (1), (2) and (3) cannot, in the opinion of the proper officer of customs, be made because of the lack of sufficient information, then the transaction value of the goods being valued cannot be determined under regulation 3.

(5) The value of the goods and services supplied, directly or indirectly, by the buyer of any goods being valued shall be determined in accordance with paragraphs (6), (7) and (8).

(6) In the case of materials, components, parts and other goods incorporated in the goods being valued or any materials consumed in the production of the goods being valued -

- (a) by ascertaining -
 - (i) their cost of acquisition where they were acquired by the buyer from a person who was not related to him at the time of their acquisition;
 - (ii) their cost of acquisition incurred by the person related to the buyer, where the goods were acquired by the buyer from a person who was related to him at the time of their acquisition but who did not produce them; or
 - (iii) their cost of production where they were produced by the buyer or a person related to him at the time of their production; and
- (b) by adding thereto -
 - (i) the cost of their transportation to the place of production of the goods being valued; and
 - (ii) the value added to them by any repairs or modifications made to them after they were so acquired or produced.

(7) In the case of tools, dies, moulds, and other goods, utilised in the production of the goods being valued -

- (a) by ascertaining -
 - (i) their cost of acquisition where they were acquired by the buyer from a person who was not related to him at the time they were so acquired;
 - (ii) their cost of acquisition incurred by the person related to the buyer, where they were acquired by the buyer from a person related to him at the time they were so acquired but who did not produce them; or
 - (iii) their cost of production where they were produced by the buyer or a person related to him at the time of their production; and
- (b) by adding thereto -
 - (i) the cost of their transportation to the place of production of the goods being valued; and
 - (ii) the value added to them by any repairs or modifications made to them after they were so acquired or produced; and
- (c) by deducting therefrom an amount to account for any previous use of the goods made after the goods were so acquired or produced.

(8) In the case of engineering, development work, art work, design work, plans and sketches, undertaken elsewhere than in Singapore and necessary for the production of the goods being valued, by ascertaining -

- (a) their cost of acquisition or of the lease thereof, where they were acquired or leased by the buyer from a person who was not related to him at the time they were so acquired or leased and are not generally available to the public;
- (b) their cost of acquisition or of the lease thereof incurred by the person related to the buyer, where they were acquired or leased by the buyer from a person related to him at the time they were so acquired or leased, but who did not produce them and are not generally available to the public;
- (c) the cost to the public of obtaining them where they are available generally to the public; or
- (d) the cost of production thereof where they were produced by the buyer or a person related to him at the time of their production.

Transaction value of identical goods as value

5.-(1) Subject to paragraphs (2) to (4), where the customs value of imported goods cannot, in the opinion of the proper officer of customs, be determined under regulation 3, the customs value of the goods shall be the transaction value of identical goods in respect of a sale of those goods for export to Singapore if that transaction value is the customs value of the identical goods and the identical goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions -

- (a) to a buyer at the same or substantially the same commercial level as the buyer of the goods being valued; and
- (b) in the same or substantially the same quantities as the goods being valued.

(2) Where the customs value of imported goods cannot be determined under paragraph (1) because identical goods were not sold under the conditions described in paragraph (1)(a) and (b), there shall be substituted therefore identical goods sold under any of the following conditions -

- (a) to a buyer at the same or substantially the same commercial level as the buyer of the goods being valued but in quantities different from the quantities in which those goods were sold;
- (b) to a buyer at a commercial level different from that of the buyer of the goods being valued but in the same or substantially the same quantities as the quantities in which those goods were sold; or
- (c) to a buyer at a commercial level different from that of the buyer of the goods being valued and in quantities different from the quantities in which those goods were sold.

(3) For the purposes of determining the customs value of imported goods under paragraph (1), the transaction value of identical goods shall be adjusted by adding thereto or deducting therefrom, as the case may be, amounts to account for -

- (a) commercially significant differences between the costs, charges and expenses referred to regulation 4(2)(f) in respect of the identical goods and those costs, charges and expenses in respect of the goods being valued that are attributable to differences in distances and modes of transport; and
- (b) where the transaction value is in respect of identical goods sold under the conditions described in any of sub-paragraphs (a), (b) and (c) of paragraph (2), differences in the commercial levels of the buyers of the identical goods and the goods being valued or the quantities in which the identical goods and the goods being valued were sold or both, as the case may be,

if each such amount can, in the opinion of the proper officer of customs, be determined on the basis of sufficient information; and where any such amount cannot be so determined, the customs value of the goods being valued shall not be determined on the basis of the transaction value of those identical goods under this regulation.

(4) Where, in relation to imported goods being valued, there are 2 or more transaction values of identical goods that meet all the requirements set out in paragraphs (1) and (3) or where there is no such transaction value but there are 2 or more transaction values of identical goods sold under the conditions described in any of sub-paragraphs (a), (b) and (c) of paragraph (2) that meet all the requirements set out in this paragraph that are applicable by virtue of paragraph (2), the customs value of the goods being valued shall be determined on the basis of the lowest such transaction value.

Transaction value of similar goods as value

6.-(1) Subject to paragraph (2) and regulation 5(2), (3) and (4), where the customs value of imported goods cannot, in the opinion of the proper officer of customs, be determined under regulation 5, the customs value of the goods shall be the transaction value of similar goods in respect of a sale of those goods for export to Singapore if that transaction value is the customs value of the similar goods and the similar goods were exported at the same or substantially the same time as the goods being valued and were sold under the following conditions -

- (a) to a buyer at the same or substantially the same commercial level as the buyer of the goods being valued; and
 - (b) in the same or substantially the same quantities as the goods being valued.
- (2) Regulation 5(2), (3) and (4) shall apply to this regulation in respect of similar goods as if every reference in those paragraphs to "identical goods" were a reference to "similar goods".

Deductive value as value

7.-(1.) Subject to regulation 3(4) and (5), where the customs value cannot, in the opinion of the proper officer of customs, be determined under regulation 6, the customs value of the goods shall be the deductive value in respect of the goods.

(2) Where the goods being valued or identical goods or similar goods are sold in Singapore in the conditions in which they were imported at the same or substantially the same time as the time of importation of the goods being valued, the deductive value of the goods being valued shall be the price per unit in respect of sales described in paragraph (5), determined in accordance with that paragraph and adjusted in accordance with paragraph (6), at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold.

(3) Where the goods being valued or identical goods or similar goods are sold in Singapore in the condition in which they were imported before the expiration of 90 days after the importation of the goods being valued but are not so sold at the same or substantially the same time as the time of that importation, the deductive value of the goods being valued shall be the price per unit in respect of sales described in paragraph (5), determined in accordance with the paragraph and adjusted in accordance with paragraph (6), at which the greatest number of units of the goods being valued or identical goods or similar goods are so sold at the earliest date after the importation of the goods being valued.

(4) Where the goods being valued or identical goods or similar goods are not sold in Singapore in the circumstances described in paragraph (2) or (3), but the goods being valued, after being assembled, packaged or further processed in Singapore, are sold in Singapore before the expiration of 90 days after the importation and the importer of the goods being valued requests that this paragraph be applied in the determination of the customs value of those goods, the deductive value of the goods being valued shall be the price per unit, in respect of sales described in paragraph (5), determined in accordance with that paragraph and adjusted in accordance with paragraph (6), at which the greatest number of units of the goods being valued are so sold.

(5) For the purposes of paragraphs (2), (3) and (4), the price per unit in respect of any goods being valued or identical goods or similar goods, shall be determined by ascertaining the unit price in respect of sales of the goods at the first commercial level after their importation to persons who -

- (a) are not related to the persons from whom they buy the goods at the time the goods are sold to them; and
 - (b) have not supplied, directly or indirectly, free of charge or at a reduced cost for use in connection with the production and sale for export of the goods, any of the goods or services referred to in regulation 4(2)(c),

at which the greatest number of units of the goods is sold where, in the opinion of the proper officer of customs, a sufficient number of such sales have been made to permit a determination of the price per unit of the goods.

(6) For the purposes of paragraphs (2), (3) and (4), the price per unit in respect of any goods being valued or identical goods or similar goods, shall be adjusted by deducting therefrom an amount equal to the aggregate of -

- (a) an amount, determined in the manner specified in paragraph (8), equal to -
 - (i) the amount of commission generally earned on a unit basis; or
 - (ii) the amount for profit and general expenses, including all costs of marketing the goods, considered together as a whole, that is generally reflected on a unit basis,

in connection with sales in Singapore of goods of the same class or kind as those goods;

- (b) reasonable costs, charges and expenses that are incurred in respect of the transportation and insurance of the goods within Singapore and reasonable costs, charges and expenses associated therewith to the extent that an amount for such costs, charges and expenses is not deducted in respect of general expenses under sub-paragraph (a);
- (c) any customs duties or other taxes payable in Singapore by reason of the importation or sale of the goods, to the extent that an amount for such duties and taxes is not deducted in respect of general expenses under sub-paragraph (a); and
- (d) where paragraph (4) applies, the amount of the value added to the goods that is attributable to the assembly, packaging or further processing in Singapore of the goods, if the amount is determined, in the opinion of the proper officer of customs, on the basis of sufficient information.

(7) Where an amount referred to in paragraph (6)(d) in respect of any goods being valued cannot, in the opinion of the proper officer of customs, be determined on the basis of sufficient information, then the customs value of the goods cannot be determined on the basis of the deductive value under paragraph (4).

(8) An amount equal to the amount of commission or the amount for profit and general expenses referred to in paragraph (6)(a) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with generally accepted accounting principles that is supplied -

- (a) by or on behalf of the importer of the goods being valued; or
- (b) where the information supplied by or on behalf of the importer of the goods being valued is not sufficient information, by an examination of sales in Singapore of the narrowest group or range of goods of the same class or kind as the goods being valued from which sufficient information can, in the opinion of the proper officer of customs, be obtained.

Computed value as value

8.-(1) Subject to regulation 3(4) and (5), where the customs value of imported goods cannot, in the opinion of the proper officer of customs, be determined under regulation 7, the customs value of the goods shall be the computed value in respect of those goods.

(2) The computed value of the goods being valued is the aggregate of amounts equal to -

(a) the costs, charges and expenses incurred in respect of, or the value of -

- (i) materials employed in producing the goods being valued; and
- (ii) the production or other processing of the goods being valued,

determined in the manner specified in paragraph (3), including, without limiting the generality of the foregoing -

- (iii) the costs, charges and expenses referred to in regulation 4(2)(b);
- (iv) the value of any of the goods and services referred to in regulation 4(2)(c), determined and apportioned to the goods being valued as referred to in that regulation, whether or not such goods and services have been supplied free of charge or at a reduced cost; and
- (v) the costs, charges and expenses incurred by the producer in respect of engineering, development work, art work, design work, plans or sketches undertaken in Singapore that were supplied, directly or indirectly, by the buyer of the goods being valued for use in connection with the production and sale for export of those goods to the extent that such elements are charged to the producer of the goods, apportioned to the goods being valued as referred to in regulation 4(2)(c);

(b) the amount, determined in the manner specified in paragraph (4), for profit and general expenses, considered together as a whole, generally reflected in sales for export to Singapore of goods of the same class or kind as the goods being valued, made by the producers of the goods to buyers in Singapore who are not related to the producers from whom they buy the goods at the time the goods are sold to them; and

(c) the costs of transportation and insurance of, and the loading, unloading, and handling charges, and other charges and expenses associated with the transportation of the goods being valued from the country of export to Singapore.

(3) The costs, charges and expenses incurred in respect of, or the value of, the materials employed in producing the goods being valued and the production or other processing of the goods being valued shall be determined on the basis of -

(a) the commercial accounts of the producer of the goods being valued; or

(b) any other sufficient information relating to the production of the goods being valued

that are supplied by or on behalf of the producer of the goods and prepared in a manner consistent with the generally accepted accounting principles of the country of production of the goods being valued.

(4) The amount of profit and general expenses referred to in paragraph (2)(b) shall be calculated on a percentage basis and determined on the basis of information prepared in a manner consistent with

generally acceptable accounting principles of the country of production of the goods being valued and that is supplied -

- (a) by or on behalf of the producer of the goods being valued; or
- (b) where the information supplied by or on behalf of the producer of the goods being valued is not sufficient information, by an examination of sales for export to Singapore of the narrowest group or range of goods of the same class or kind referred to in paragraph (2)(b) from which sufficient information can, in the opinion of the proper officer of customs, be obtained.

(5) For the purposes of this regulation, "general expenses" means the direct and indirect costs, charges and expenses of producing and selling goods for export, other than the costs, charges and expenses referred to in paragraph (2)(a) and (c).

Residual basis of valuation

9.-(1) Where the value of imported goods cannot, in the opinion of the proper officer of customs, be determined under regulation 8, it shall be determined on information available in Singapore on the basis of a value derived from the methods of valuation set out in regulations 3 to 8 interpreted in a flexible manner and reasonably adjusted to the extent necessary to arrive at a value of the goods.

(2) A customs value shall not be determined on the basis of -

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

Determination of value by Customs

10.-(1) The value of goods pursuant to these Regulations shall be determined by any proper officer of customs and import duty shall be payable in accordance with that determination unless, pursuant to these Regulations, a different amount is proved to be the correct value of the goods.

(2) If, upon an objection received from the importer of the goods or for any other reason, the proper officer of customs is satisfied that any determination made under the provisions of these Regulations in respect of any goods is inconsistent with the Regulations or incorrect for any other reason, he shall amend his determination in respect of that determination accordingly and import duty shall be payable in accordance with that amended determination.

(3) Where a proper officer of customs amends his determination of the value of any goods pursuant to these Regulations otherwise than as a result of an objection received from the importer of the goods he shall give notice to the importer of the amended determination.

Supply of information

11.-(1) Subject to paragraph (2), upon written request by the importer of any goods, the Director-General shall give notice to him in writing of the value of the goods, and the basis of the determination of that value, including the provisions of these Regulations applying to the goods.

(2) Any information which is by its nature confidential, or which has been provided to the Director-General by any government or person on a confidential basis for the purpose of determining the value of any goods, shall not be disclosed to any other government or person without the specific authority of that government or person, except to the extent to which it may require to be disclosed in any legal proceedings arising out of the determination.

Foreign currency conversion

12.-(1) Where under any provision of these Regulations the conversion of foreign currency into Singapore currency is required to be made, the rate of exchange for the purpose of the conversion shall be the current selling rate in Singapore at the time when import duty is paid for the imported goods.

(2) The rate of exchange under paragraph (1) shall be notified by the Director-General in such manner as he may determine.

Made this day of 1997.

*Permanent Secretary,
Ministry of Finance,
Singapore.*

[Customs 0102/71/PtA/V.II; MF(R) R17.4.001 V3; AG/LEG/SL/70/95/4 Vol 1]

(To be presented to Parliament under section 143(2) of the Customs Act).



REPUBLIC OF SINGAPORE
GOVERNMENT GAZETTE
BILLS SUPPLEMENT

Published by Authority

NO. 10]

TUESDAY, AUGUST 26

[1997

Notification No. B 10 — The Customs (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 25th day of August 1997.

Customs (Amendment) Bill

Bill No. 10/97.

Read the first time on 25th August 1997.

A BILL

intituled

An Act to amend the Customs Act (Chapter 70 of the 1995 Revised Edition) and to make consequential amendments to the Free Trade Zones Act (Chapter 114 of the 1985 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Customs (Amendment) Act 1997
s and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Amendment of section 22

2. Section 22 of the Customs Act is amended —

- (a) by inserting, immediately after the words “purposes of” in the first line of subsection (1), the words “levying excise duty under”; 5
- (b) by deleting the word “duty” in the third and in the sixth lines of subsection (7) and substituting in each case the words “excise duty”; and
- (c) by deleting the word “customs” in subsection (8) (c) and substituting the word “excise”. 10

New sections 22A and 22B

3. The Customs Act is amended by inserting, immediately after section 22, the following sections:

“Value of imported goods other than motor spirit for import duty 15

22A.—(1) For the purposes of levying import duty under this Act, the value of any imported goods other than motor spirit shall be determined according to the regulations made by the Minister for the purposes of this section.

(2) Regulations made under subsection (1) may provide for requiring any importer or other person concerned with the importation of goods — 20

- (a) to furnish to a proper officer of customs, in such form as he may require, such information as is in his opinion necessary for a proper valuation of the goods; 25
- (b) to produce any books of accounts or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.

Objection and appeal on valuation

22B.—(1) If any person disagrees with any determination by the proper officer of customs of the value of any goods under section 22 or 22A, he may object to that value by making an application to the Director-General, stating the grounds of his objection and the amount that he considers should be the value of the goods. 30
35

(2) An objection under this section shall be given in writing to the Director-General within 14 days after any determination made under section 22 or 22A or within such further time as the Director-General may allow.

5 (3) The Director-General shall consider the objection and inform the importer in writing of his decision.

(4) Where a proper officer of customs amends his determination of the value of any goods pursuant to this Act otherwise than as a result of an objection received from the importer of the
10 goods, he shall give notice to the importer of the amended determination.

(5) If any person is dissatisfied with the decision of the Director-General in respect of his objection under subsection (1), he may appeal to the High Court against that decision.

15 (6) Every appeal under subsection (5) shall be made by giving notice of appeal within 28 days after the date on which the importer is notified in writing under subsection (3) of the decision or within such further period as the High Court may allow.

20 (7) On any appeal under subsection (5), the High Court may confirm, vary or set aside the decision of the Director-General and make such further or other order on such appeal, whether as to costs or otherwise, as the High Court may think fit.

(8) Notwithstanding anything to the contrary in this section,
25 where, in the course of determining any appeal, it becomes necessary to delay the final determination of the appeal, the importer shall be given delivery of his goods from customs control subject to the Director-General receiving such security as he thinks sufficient to cover the full amount of customs duty on
30 the goods.”.

Amendment of section 130

4. Section 130 (1) (j) of the Customs Act is amended —

- (a) by deleting the word “and” in the ninth line of sub-paragraph (iii) and substituting the word “or”;
- 35 (b) by inserting, immediately after the words “3 years” in the last line of sub-paragraph (iii), the words “or to both”;

- (c) by deleting the words “the goods consist” in the first line of sub-paragraph (iv) and substituting the words “he has been convicted on a previous occasion of an offence under this section involving goods consisting”;
- (d) by deleting the words “— on the second or subsequent conviction to both” in the fourth and fifth lines of sub-paragraph (iv) and substituting the words “, and he is again convicted of such offence — to”;
- (e) by deleting the word “and” in the penultimate line of sub-paragraph (iv) and substituting the word “or”; and
- (f) by inserting, immediately after the words “6 years” in the last line of sub-paragraph (iv), the words “or to both”.

Consequential amendment to Free Trade Zones Act

5. The Free Trade Zones Act (Cap. 114) is amended —

- (a) by deleting the semi-colon at the end of the definition of “senior officer of customs” in section 2 and substituting a full-stop;
- (b) by deleting the definition of “value” in section 2; and
- (c) by inserting, immediately after subsection (2) of section 7, the following subsection:
 - “(3) The valuation applicable to any goods subject to customs duty shall be ascertained in accordance with the Customs Act (Cap. 70).”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Customs Act (Cap. 70) to give effect to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade (GATT), known as the Customs Valuation Code (CVC). The CVC will replace the present valuation system under which imported goods are assessed for the purposes of levying import duty according to their open market value with a valuation system based on the value of the imported goods which includes the cost, insurance and freight. However for the purposes of levying excise duties, the current valuation system under section 22 will be retained. A technical amendment is also made to section 130 (1).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 22 (1) to confine the method of valuation in section 22 to that for the purposes of levying excise duty under the Act. The value of any imported goods other than motor spirit shall be taken to be the normal price. This is the price which the goods would fetch at the time when the excise duty becomes payable on a sale in the open market between the buyer and the seller independent of each other.

Clause 3 inserts new sections 22A and 22B. The new section 22A provides that, for the purposes of levying import duty under the Act, the valuation of imported goods other than motor spirit is to be determined in accordance with rules to be made by the Minister. The new section 22B provides for any person who disagrees with the valuation under section 22 or 22A an avenue to object to the valuation and, if necessary, to appeal to the High Court.

Clause 4 amends section 130 (1) to make it clear that for offences involving tobacco products of more than 2 kg in weight —

- (a) the punishment of imprisonment is not mandatory; and
- (b) the first offence refers to an offence involving tobacco products of more than 2 kg in weight.

Clause 5 makes consequential amendments to the Free Trade Zones Act (Cap. 114) to ensure consistency with the Customs Act in the valuation of imported goods for the purposes of levying customs duty.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.



REPUBLIC OF SINGAPORE
GOVERNMENT GAZETTE
ACTS SUPPLEMENT

Published by Authority

NO. 24]

FRIDAY, AUGUST 16

[1996

The following Act was passed by Parliament on 12th July 1996 and assented to by the President on 1st August 1996:—

REPUBLIC OF SINGAPORE

No. 24 of 1996.

I assent.

ONG TENG CHEONG,
President.
1st August 1996.



An Act to amend the Customs Act (Chapter 70 of the 1995 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

1.—(1) This Act may be cited as the Customs (Amendment) Act 1996 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

Short title
and com-
mencement.

(2) The Minister may appoint different dates for the coming into operation of the different provisions of this Act.

Amendment
of section 3.

2. Section 3 of the Customs Act is amended —

(a) by inserting, immediately after the definition of “alcohol” in subsection (1), the following definition:

“ “authentication code” means any identification or identifying code, password or any other authentication method or procedure which has been assigned to a registered user of the computer service referred to in section 90A for the purposes of identifying and authenticating the access to and use of the computer service by the registered user;”;

(b) by inserting, immediately after the definition of “customs territory” in subsection (1), the following definition:

“ “database report” means any automatic log, journal or other report which is automatically generated by the computer service referred to in section 90A for the purposes of recording the details of a transaction relating to an electronic notice including the authentication code, date and time of receipt, storage location and any alteration or deletion relating to the notice;”;

(c) by inserting, immediately after the definition of “dutiabale goods” in subsection (1), the following definition:

“ “electronic notice” has the meaning assigned to it in section 90A (1);”;

(d) by inserting, immediately after the definition of “Government warehouse” in subsection (1), the following definition:

“ “Green Channel” means any passage or area in a customs airport, railway station or customs station clearly indicated with a sign in the shape of a regular octagon and marked in green with the words “Customs” and “Nothing To Declare”;”;

- (e) by inserting, immediately after the definition of “proper officer of customs” in subsection (1), the following definitions:

“ “Red Channel” means any passage or area in a customs airport, railway station or customs station clearly indicated with a sign in the shape of a square marked in red with the words “Customs” and “Goods To Declare”;

“registered user” means a person who has been registered with and authorised by the Director-General to gain access to and use the computer service referred to in section 90A;”; and

- (f) by inserting, immediately after subsection (2), the following subsections:

“(3) In this Act, a reference to a document or record shall include, in addition to a document or record on paper, a reference to any, or part of any —

(a) document or record kept on any magnetic, optical, chemical or other medium;

(b) photograph;

(c) map, plan, graph, picture or drawing;

(d) film (including a microfilm and a microfiche), negative, disc, tape, sound-track or any other device in which one or more visual images, sounds or other data are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced therefrom.

(4) In this Act, a reference to a document or record in writing or the making of a document or record in writing shall, unless the context otherwise requires, include any electronic notice, or the making, serving or submitting of such a notice under the provisions of this Act or any subsidiary legislation made thereunder.”.

Amendment
of section 40.

3. Section 40 (1) of the Customs Act is amended by inserting, immediately after the word “specify” at the end thereof, the words “except that the Director-General may refuse to accept any amendment made after the Director-General has been notified that investigations into any offence under any written law have commenced in connection with goods to which the manifest relates”.

New sections
90A to 90D.

4. The Customs Act is amended by inserting, immediately after section 90, the following sections:

“Computer
service.

90A.—(1) The Director-General may establish and operate a computer service and make provision for any manifest, return, list, statement, declaration, direction, notice, permit, receipt or other document required or authorised by this Act or any subsidiary legislation made thereunder to be made, served or submitted by electronic transmission (referred to in this Act as an electronic notice).

(2) A registered user may, in accordance with the regulations made under subsection (11), make and serve an electronic notice to the computer account of the Director-General.

(3) The Director-General or any person authorised by him may, in accordance with the regulations made under subsection (11), make and serve an electronic notice to the computer account of a registered user.

(4) Where an electronic notice is transmitted to the computer account of the Director-General using the authentication code assigned to a registered user —

(a) with or without the authority of the registered user; and

(b) before the notification to the Director-General by the registered user in the prescribed manner, of cancellation of the authentication code,

that notice shall, for the purposes of this Act or any subsidiary legislation made thereunder, be presumed to be made by the registered user unless he adduces evidence to the contrary; and

CUSTOMS (AMENDMENT)

where he alleges that he has transmitted no such notice, the burden is also on him to adduce evidence of that fact.

(5) For the purposes of this Act, an electronic notice or a copy thereof shall not be inadmissible in evidence merely on the basis that it was transmitted without the making or delivery of any equivalent document or counterpart in paper form.

(6) Notwithstanding any other written law, in any proceedings under this Act or any subsidiary legislation made thereunder, an electronic notice or a copy thereof (including a print-out of that notice or copy) or any database report (including a print-out of that report) relating to that notice —

- (a) certified by the Director-General to contain all or any information transmitted in accordance with this section; and
- (b) duly authenticated in the manner specified in subsection (7) or is otherwise duly authenticated by showing that there is no material discrepancy between the electronic notice or copy thereof certified by the Director-General and the copy of the same electronic notice kept by an independent record keeper appointed under any regulations made under subsection (11),

shall be admissible as evidence of the facts stated or contained therein.

(7) For the purposes of this section, a certificate —

- (a) giving the authentication code and other particulars of any user and device (if known) involved in the production and transmission of, and identifying the nature of, the electronic notice or copy thereof; and

(b) purporting to be signed by the Director-General or by a person occupying a responsible position in relation to the operation of the computer service at the relevant time, shall be sufficient evidence that the electronic notice or copy thereof has been duly authenticated, unless the court, in its discretion, calls for further evidence on this issue.

(8) Where an electronic notice or a copy thereof is admissible under subsection (6), it shall be presumed, until the contrary is proved, that the contents of the electronic notice or copy thereof have been accurately transmitted.

(9) The Director-General may, for the purpose of facilitating any electronic transmission under this section, approve the use in any such electronic transmission of symbols, codes, abbreviations or other notations to represent any particulars or information required under this Act or any subsidiary legislation made thereunder.

(10) Any officer of customs or any other person employed in the administration of this Act shall not be treated as having contravened any provision of any written law relating to confidentiality or secrecy merely because he communicates to the independent record keeper or his employee or permits the independent record keeper or his employee to have access to any electronic notice or any information contained therein; and the independent record keeper, his employee and any person transmitting an electronic notice on behalf of another person shall not divulge or disclose the contents of any electronic notice or a copy thereof without the prior written consent of the Director-General.

-
- (11) The Minister may make regulations —
- (a) prescribing the conditions for subscription to the computer service, including the manner in which the authentication codes are to be assigned;
 - (b) prescribing the manifests, returns, lists, statements, declarations, directions, notices, permits, receipts or any other document which may be transmitted through the computer service including the form and manner in which they are to be transmitted;
 - (c) for the correction of errors in or amendments to electronic notices;
 - (d) prescribing the procedure for use of the computer service including the procedure in circumstances where there is a breakdown or interruption in the service;
 - (e) for the appointment of an independent record keeper to be charged with the duty to maintain for a prescribed period a record of all the electronic notices and transactions made through the data service provider between the Director-General and the registered users, such a duty to include keeping the database reports;
 - (f) for the independent record keeper to produce a copy of the relevant record pertaining to any electronic notice or a copy thereof to either the Director-General or the registered user, whose electronic notice is in issue, when requested by either party to do so;
 - (g) for the standards of security, confidentiality, data integrity and conduct of the computer service and for the review of the operations and activities of the data service provider by such authority or expert as may be prescribed; and

(h) generally for the better provision of the computer service.

Preservation of records.

90B.—(1) Any duty under this Act or any subsidiary legislation made thereunder to keep or preserve any books of account, register, stock book or other records may be discharged by the preservation of the information contained therein by such means as the Director-General may approve; and where that information is so preserved a copy of any document forming part of the records shall, subject to subsections (2) and (3), be admissible in evidence in any proceedings, whether civil or criminal, to the same extent as the records themselves.

(2) The Director-General may, as a condition of approving under subsection (1) any means of preserving information contained in any books of account, register, stock book or other records, impose such reasonable requirements as appear to him necessary for securing that the information will be as readily available to him as if the books of account, register, stock book or records themselves had been preserved.

(3) A statement contained in a document produced by a computer shall not by virtue of subsection (1) be admissible in evidence whether in civil or criminal proceedings except in accordance with the Evidence Act.

Cap. 97.

Power of Director-General to obtain information and furnishing of information.

90C.—(1) The Director-General or any officer of customs authorised by him shall at all times have full and free access to all buildings, places, books, documents and other records for any of the purposes of this Act, and may inspect, copy or make extracts from any such books, documents or records.

(2) The Director-General or any officer of customs authorised by him may take possession of any such books, documents or records where in his opinion —

(a) the inspection, copying thereof or extraction therefrom cannot reasonably be performed without taking possession;

- (b) the books, documents or records may be interfered with or destroyed unless possession is taken; or
- (c) the books, documents or records may be required as evidence in proceedings for an offence under this Act or in proceedings for the recovery of customs duty, tax or penalty, or in proceedings by way of an appeal against an assessment of customs duty or tax.

(3) The Director-General may require any person to give orally or in writing, as may be required, all such information concerning his or any other person's transactions made in the course of a business as may be demanded of him by the Director-General for the purposes of this Act except that no person shall, by virtue of this section, be obliged to disclose any particulars as to which he is under any statutory obligation to observe secrecy.

Information
not to be
published or
disclosed.

90D.—(1) No particulars, information or document furnished for the purposes of this Act or any subsidiary legislation made thereunder shall, unless with the prior consent in writing of the person having the control, management or superintendence of the goods in relation to which the same was given or furnished —

- (a) be published; or
- (b) be communicated or disclosed to any person,

except where it is necessary for the purposes of —

- (i) a prosecution under this Act or the Goods and Services Tax Act or any subsidiary legislation made under either Act;
- (ii) enabling an officer of customs to enforce a provision of this Act or any subsidiary legislation made thereunder;

Cap. 117A.

Cap. 117A.

- (iii) enabling the Comptroller of Goods and Services Tax or an officer of customs to enforce a provision of the Goods and Services Tax Act or any subsidiary legislation made thereunder;
- (iv) enabling an officer of customs to investigate a suspected offence under this Act or any subsidiary legislation made thereunder; or
- (v) enabling the Comptroller of Goods and Services Tax or an officer of customs to investigate a suspected offence under the Goods and Services Tax Act or any subsidiary legislation made thereunder.

(2) Any officer of customs or any person employed or engaged in the administration of this Act or any subsidiary legislation made thereunder who makes use of, publishes or permits any other person to see or communicates or discloses to any other person the contents of any such particulars, information or document to any other person otherwise than with such consent or for such purpose as is referred to in subsection (1), shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding one year or to both.

(3) Any person, having possession of any information which to his knowledge has been communicated, disclosed or published in contravention of this section, who publishes or communicates that information to any other person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$6,000 or to imprisonment for a term not exceeding one year or to both.

(4) For the purposes of this section, "Comptroller", in relation to Goods and Services Tax, has the same meaning as in the Goods and Services Tax Act."

5. Section 91 of the Customs Act is repealed and the following section substituted therefor:

Repeal and
re-enactment
of section 91.

“Persons
bound to give
information or
produce
documents.

91.—(1) Every person required by the proper officer of customs to give information or to produce any travel document or any document on any subject into which it is the officer's duty to inquire under this Act and which it is in that person's power to give or produce shall be bound to give such information or to produce such document for inspection.

(2) The proper officer of customs may specify the customs office or station or other place at which that person is required to give information or to produce any document.

(3) For the purposes of subsection (1), “travel document” means a passport furnished with a photograph of the holder or some other similar document establishing to the satisfaction of the proper officer of customs the identity of the holder and his nationality, domicile or place of permanent residence.”.

6. Section 92 (1) of the Customs Act is amended —

Amendment
of section 92.

(a) by deleting the word “or” at the end of paragraph (b); and

(b) by deleting the full-stop at the end of paragraph (c) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:

“(d) by an electronic notice transmitted in accordance with section 90A.”.

7. Section 93 of the Customs Act is amended —

Amendment
of section 93.

(a) by deleting the words “declare all dutiable goods” in the third line of subsection (1) and substituting the words “proceed to the Red Channel to declare all dutiable goods which exceed his duty free allowance, or any goods for which no duty free allowance is granted”; and

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) Any passenger or other person arriving in Singapore who proceeds to the Green Channel with dutiable goods which exceed his duty free allowance, or any goods for which no duty free allowance is granted in his possession, either on his person or in any baggage or in any vehicle shall be presumed, until the contrary is proved, to be in possession of uncustomed goods.”.

Repeal and
re-enactment
of section 96.

8. Section 96 of the Customs Act is repealed and the following section substituted therefor:

“Declarations
to give a full
and true
account.

96.—(1) The declarations referred to in sections 37, 59 and 80 shall, unless the Director-General allows under subsection (2), be made and submitted by an electronic notice in accordance with section 90A and such declaration shall give a full and true account of such particulars as are required by the Director-General.

(2) The Director-General may, in his discretion and subject to such conditions as he may impose, allow any declaration referred to in sections 37, 59 and 80 to be made on a form determined by the Director-General, and such declaration shall give a full and true account of the particulars for which provision is made in the form and shall be in duplicate or in such other number of copies as the person to whom the declaration is required to be made may direct.”.

New
section 103A.

9. The Customs Act is amended by inserting, immediately after section 103, the following section:

“Power to have
access to,
inspect and
check
operation of
computer and
other apparatus.

103A. In connection with the exercise of the powers in section 102 or 103, any senior officer of customs or any Magistrate, as the case may be —

(a) shall be entitled at any time to have access to, and inspect and check the operation of, any computer and any

associated device, apparatus or material which is or has been in use in connection with any data or document to which section 102 or 103 applies; and

(b) may require —

(i) the person by whom or on whose behalf the computer is or has been so used; or

(ii) any person having charge of, or otherwise concerned with the operation of, the computer, device, apparatus or material,

to provide the officer or the Magistrate with such reasonable assistance as he may require for the purposes of paragraph (a).”.

10. Section 114 of the Customs Act is amended by deleting the words “, except that a Magistrate’s Court shall not impose a sentence of imprisonment for a term exceeding 2 years” at the end thereof. Amendment of section 114.

11. The Customs Act is amended by inserting, immediately after section 115, the following section: New section 115A.

“Presumptions of possession of dutiable, prohibited or uncustomed goods. 115A.—(1) Any person who is proved to have had in his possession or custody or under his control —

(a) any thing containing any dutiable, prohibited or uncustomed goods;

(b) the keys of any thing containing any dutiable, prohibited or uncustomed goods;

(c) the keys of any place or premises or any part thereof in which any dutiable, prohibited or uncustomed goods are found; or

(d) a document of title relating to any dutiable, prohibited or uncustomed goods or any other document

intended for the delivery of any dutiable, prohibited or uncustomed goods,

shall, until the contrary is proved, be presumed to have had those dutiable, prohibited or uncustomed goods in his possession.

(2) If any dutiable, prohibited or uncustomed goods are found in any ship or aircraft, it shall, until the contrary is proved, be presumed that those dutiable, prohibited or uncustomed goods have been imported in that ship or aircraft with the knowledge of the master or the commander or captain thereof.

(3) If any dutiable, prohibited or uncustomed goods are found in any vehicle, it shall, until the contrary is proved, be presumed to be in the possession of the owner of the vehicle and of the person in charge of the vehicle for the time being.”.

Amendment
of
section 119.

12. Section 119 of the Customs Act is amended by deleting the words “3 years” in the last line and substituting the words “6 years”.

Amendment
of
section 129.

13. Section 129 of the Customs Act is amended —

- (a) by inserting, immediately after the word “information” in the third line of subsection (1), the words “or produce any document”;
- (b) by inserting, immediately after the word “information” in the sixth line of subsection (1), the words “or produce such document”;
- (c) by inserting, immediately after the word “information” in the seventh line of subsection (1), the words “or document”;
- (d) by inserting, immediately after the word “information” in the first line of subsection (2), the words “or any such document”;
- (e) by inserting, immediately after the word “information” in the third line of subsection (2), the words “or such document”;

- (f) by inserting, immediately after the word “furnished” in the fourth line of subsection (2), the words “or produced”; and
- (g) by inserting, immediately after the word “information” in the marginal note, the words “or false document”.

14. Section 130 of the Customs Act is amended —

Amendment
of
section 130.

- (a) by deleting the word “and” at the end of sub-paragraph (i) of subsection (1);
- (b) by deleting the full-stop at the end of sub-paragraph (ii) of subsection (1) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:
 - “(iii) where the goods consist wholly or partly of tobacco products and such tobacco products exceed 2 kilogrammes in weight — on the first conviction to both a fine of not less than 15 times the amount of the customs duty or tax and not more than 20 times the amount of the customs duty or tax or \$10,000, whichever is the greater, and to imprisonment for a term not exceeding 3 years; and
 - (iv) where the goods consist wholly or partly of tobacco products and such tobacco products exceed 2 kilogrammes in weight — on the second or subsequent conviction to both a fine of not less than 30 times the amount of the customs duty or tax and not more than 40 times the amount of the customs duty or tax or \$20,000, whichever is the greater, and to imprisonment for a term not exceeding 6 years.”; and
- (c) by inserting, immediately after subsection (2), the following subsection:
 - “(3) For the purposes of sub-paragraphs (iii) and (iv) of subsection (1), “tobacco product” means any cigarette, cigar, cheroot,

cigarillos or any other form of tobacco including —

- (a) any mixture containing tobacco; and
- (b) any tobacco substitute which is capable of being smoked.”.

New
sections
130A and
130B.

15. The Customs Act is amended by inserting, immediately after section 130, the following sections:

“Evading
duty by
unauthorised
modification of
computer
program or
data.

130A.—(1) Any person who, without the authority of the Director-General —

- (a) destroys, damages, erases or otherwise manipulates data stored in, or used in connection with, a computer;
- (b) introduces into, or records or stores in, a computer by any means data for the purpose of —
 - (i) destroying, damaging, erasing or altering other data stored in that computer; or
 - (ii) interfering with, interrupting or obstructing the lawful use of, that computer or the data stored in that computer; or
- (c) otherwise uses a computer,

the purpose or effect of which is to reduce, avoid or evade any liability to customs duty or tax imposed or which would otherwise have been imposed by this Act, or to defeat any provision of this Act or any subsidiary legislation made thereunder, shall be guilty of an offence and shall be liable for any such offence —

- (i) on the first conviction to a fine of not less than 10 times the amount of the customs duty or tax or \$5,000 whichever is the lesser amount, and of not more than 20 times the amount of the customs duty or tax or \$5,000 whichever is the greater and where the amount of customs duty cannot be ascertained, the penalty shall be a fine not exceeding \$5,000; and

- (ii) on the second or subsequent conviction to the fine mentioned in subparagraph (i) or to imprisonment for a term not exceeding 2 years or to both.

(2) For the purposes of subsection (1), “data” includes any computer program or part of a computer program being a program, whether or not approved by the Director-General, for use in relation to the computer service established under section 90A.

Knowingly
advancing or
furnishing
money for
business
comprising
sale, purchase,
etc., of
uncustomed
goods.

130B. Any person who knowingly advances or furnishes money for the purpose of establishing or conducting any business comprising the sale, purchase, hire, receiving, concealment, disposal or dealing of uncustomed goods shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$100,000 and not more than \$1 million and shall also be liable to imprisonment for a term not exceeding 6 years.”.

16. Section 137 of the Customs Act is amended —

Amendment
of
section 137.

- (a) by deleting the word “or” at the end of paragraph (b);
- (b) by deleting the comma at the end of paragraph (c) and substituting the word “; or”, and by inserting immediately thereafter the following paragraph:
- “(d) intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained,”;
- (c) by deleting “\$5,000” in sub-paragraph (i) and substituting “\$10,000”;
- (d) by deleting the words “9 months” in sub-paragraph (i) and substituting the words “18 months”;

- (e) by deleting “\$5,000” in sub-paragraph (ii) and substituting “\$20,000”;
- (f) by deleting the words “18 months” in sub-paragraph (ii) and substituting the words “3 years”; and
- (g) by deleting the words “and rescuing goods” in the marginal note and substituting the words “, rescuing goods, resisting arrest and escaping from custody”.

Amendment
of
section 143.

17. Section 143 (1) of the Customs Act is amended by deleting paragraph (j) and substituting the following paragraph:

- “(j) to prescribe the manner and method of payment of any duty payable or chargeable under this Act or any subsidiary legislation made thereunder;”.

Miscellaneous
amendments.

18. The Customs Act is amended —

- (a) by deleting the words “any rule, regulation” in the third and fourth lines of section 17 (1) and substituting the words “any subsidiary legislation”;
- (b) by deleting the words “any regulations” wherever they appear in the following provisions and substituting in each case the words “any subsidiary legislation”:
 - sections 74 (3), 101 (1) (b), 101 (1) (i), 103 (b);
- (c) by deleting the words “any order or regulation” in section 79 (3) (d) and substituting the words “any subsidiary legislation”; and
- (d) by deleting the words “any order or regulations” wherever they appear in the following provisions and substituting in each case the words “any subsidiary legislation”:
 - sections 92 (1), 101 (1) (c), 101 (1) (i), 103 (c), 110 (1), 112 (1) (a) and (c), 113, 115, 118 (1), 121 (3), 123 (2), 126 (2), 128 (1) (a), (c), (d) and (f), 130 (1) (d), 137 (a), 140, 141 (1) and (2).