

# REPUBLIC OF SOMALILAND



**NOTE: THIS IS AN UNOFFICIAL TRANSLATION OF THE CUSTOMS ACT 2016 PREPARED FOR THE BENEFIT OF ENGLISH-SPEAKING TRADERS AND MOF OFFICIALS. WHILE ALL CARE HAS BEEN TAKEN IN ITS PREPARATION, THE OFFICIAL VERSION OF THE LAW REMAINS THE SOMALI VERSION**

## **THE CUSTOM ACT NO.73/2016**

**AN ACT TO REPEAL ALL PREVIOUS PROVISIONS ADDRESSING CUSTOMS RULES AND PROCEDURES LAW NO. 91/96 AND TO ENACT CUSTOMS ACT OF SOMALILAND**

**PART I – GENERAL PROVISIONS**  
**SCOPE AND BASIC DEFINITIONS**

*Section 1*

*Scope of the Act*

Customs rules shall consist of this Act and the regulations adopted to implement them. The Code shall apply, without prejudice to special rules laid down in other fields related to trade between Somaliland and other countries.

*Section 2*

*Uniform application of customs rules*

1. Save as otherwise provided, either under international conventions or customary practices of a limited geographic and economic scope or under autonomous measures, Somaliland customs rules shall apply uniformly throughout the customs territory of Somaliland.
2. Certain provisions of customs rules may also apply outside the customs territory of Somaliland within the framework of either rules governing specific fields or international conventions.

*Section 3*

*Customs territory*

The customs territory of Somaliland shall include the land, the territorial waters, the inland maritime waters, the sub soil, the airspace and the continental shelf, in accordance with the Somaliland Constitution.

*Section 4*

*Definitions*

For the purposes of this Act, the following definitions shall apply:

(1) 'Person' means:

- a) a natural person,
- b) a legal person,
- c) where the possibility is provided for under the rules in force, an association of persons recognised as having the capacity to perform legal acts but lacking the legal status of a legal person.

(2) 'Persons established in Somaliland' means:

- a) in the case of a natural person, any person who is normally resident there,
- b) in the case of a legal person or an association of persons, any person that has in Somaliland its registered office, central headquarters or a permanent business establishment.

- (3) ‘Customs Authority’ means the Authority responsible for applying customs rules and other rules related to Trade as adopted by Somaliland.
- (4) ‘Customs office’ means any office at which all or some of the formalities laid down by customs rules may be completed.
- (5) ‘Customs office of entry’ means the customs office designated by the customs Authority in accordance with the customs rules to which goods brought into the customs territory of Somaliland must be conveyed without delay and at which they will be subject to appropriate risk-based entry controls.
- (6) ‘Customs office of import’ means the customs office designated by the customs Authority in accordance with the customs rules where the formalities for assigning goods brought into the customs territory of Somaliland to a customs-approved treatment or use, including appropriate risk-based controls, are to be carried out.
- (7) ‘Customs office of export’ means the customs office designated by the customs Authority in accordance with the customs rules where the formalities for assigning goods leaving the customs territory of Somaliland to a customs-approved treatment or use, including appropriate risk-based controls, are to be completed.
- (8) ‘Customs office of exit’ means the customs office designated by the customs Authority in accordance with the customs rules to which goods must be presented before they leave the customs territory of Somaliland and at which they will be subject to customs controls relating to the completion of exit formalities, and appropriate risk-based controls.
- (9) ‘Decision’ means any official act by the customs Authority pertaining to customs rules giving a ruling on a particular case, such act having legal effects on one or more specific or identifiable persons; this term covers, *inter alia*, binding information within the meaning of Section 12.
- (10) ‘Customs status’ means the status of goods as Somaliland or non- Somaliland goods.
- (11) ‘Somaliland goods’ means goods:
- a) wholly obtained in the customs territory of Somaliland under the conditions referred to in Section 22 and not incorporating goods imported from countries not forming part of the customs territory of Somaliland,
  - b) imported from countries or territories not forming part of the customs territory of Somaliland which have been released for free circulation,

c) obtained or produced in the customs territory of Somaliland, either from goods referred to in the second indent alone or from goods referred to in the first and second indents<sup>1</sup>.

(12) ‘Non-Somaliland goods’ means goods other than those referred to under (11) above. Somaliland goods shall lose their status as such when they are actually removed from the customs territory of Somaliland.

(13) ‘Customs debt’ means the obligation on a person to pay the amount of the import duties (customs debt on importation) or export duties (customs debt on exportation) which apply to Specific goods under this Act or other Somaliland provisions in force.

(14) ‘Import duties’ means customs duties and charges having an effect equivalent to Customs duties payable on the importation of goods.

(15) ‘Export duties’ means customs duties and charges having an effect equivalent to customs duties payable on the exportation of goods.

(16) ‘Debtor’ means any person liable for payment of a customs debt.

(17) ‘Supervision by the customs Authority’ means action taken in general by the Authority with a view to ensuring that customs rules and, where appropriate, other provisions applicable to goods subject to customs supervision are observed.

(18) ‘Customs controls’ means specific acts performed by the customs Authority in order to ensure the correct application of customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Somaliland and other countries and the presence of goods that do not have Somaliland status; such acts may include examining goods, verifying declaration data and the existence and authenticity of electronic or written documents, examining the accounts of undertakings and other records, inspecting means of transport, inspecting luggage and other goods carried by or on persons and carrying out official inquiries and other similar acts.

(19) ‘Customs-approved treatment or use of goods’ means:

- a) the placing of goods under a customs procedure;
- b) their re-exportation from the customs territory of Somaliland;
- c) their destruction;
- d) their abandonment to the State.

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<sup>1</sup> References to the first and second “indents” are to paragraphs (a) and (b) respectively of this definition. This will be corrected at a later date

(20) 'Customs procedure' means:

- a) release for free circulation;
- b) transit;
- c) customs warehousing;
- d) inward processing;
- e) processing under customs control;
- f) temporary admission;
- g) outward processing;
- h) exportation.

(21) 'Customs declaration' means the act whereby a person indicates in the prescribed form and manner a wish to place goods under a given customs procedure.

(22) 'Declarant' means the person making the customs declaration in his/her own name or the person in whose name a customs declaration is made.

(23) 'Presentation of goods to customs' means the notification to the customs Authority, in the manner laid down, of the arrival of goods at the customs office or at any other place designated or approved by the customs Authority.

(24) 'Release of goods' means the act whereby the customs Authority makes goods available for the purposes stipulated by the customs procedure under which they are placed.

(25) 'Holder of the procedure' means the person on whose behalf the customs declaration was made or the person to whom the rights and obligations of the above-mentioned person in respect of a customs procedure have been transferred.

(26) 'Holder of the authorisation' means the person to whom an authorisation has been granted.

(27) 'Provisions in force' means the following:

- a) national provisions adopted by Somaliland in accordance with the Somaliland Constitution.
- b) the provisions of any International Trade protocol, Treaty or Agreement ratified by the Somaliland Government.

(28) 'Risk' means the likelihood of an event occurring, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Somaliland and other countries and the presence of goods that do not have Somaliland status, which

- a) prevents the correct application of the provisions in force, or

- b) compromises the financial interests of Somaliland, or
- c) poses a threat to the Somaliland's security and safety, to human, animal or plant health, to the environment or to consumers.

(29) 'Risk management' means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk. This includes activities such as collecting data and information, analysing and assessing risk, prescribing and taking action and regular monitoring and review of the process and its outcomes, based on international and national sources and strategies.

(30) 'Commercial Policy measures' means non-tariff measures established, as part of the Somaliland commercial policy, in the form of provisions in force governing:

- a) the import and export of good, such as surveillance or safeguard measures,
- b) quantitative restrictions or limits, and
- c) import and export prohibitions.

(31) 'customs area' means a place approved under this Act for the deposit of goods subject to customs supervision.

(32) 'Drawback' means a refund of all or part of any import duty paid in respect of goods exported or used in a manner or for a purpose prescribed as a condition for granting drawbacks.

(33) 'Master' includes a person for the time being having or taking charge or command of an aircraft or vessel.

(34) 'Officer' includes any person commissioned in the service of the customs or for the time being performing duties in relation to customs.

(35) 'Port' means a place, whether on the coast or on an inland waterway, designated for the anchorage of vessels and approved by customs for the unloading and loading of goods; and in relation to aircraft, a port means a customs airport.

(36) 'Rebate' means a reduction or diminishment of charge for duty.

(37) 'Refund' means the return or repayment of duties already collected.

(38) 'Remission' means the waiver of duty or refrainment from exacting of duty.

(39) 'Restricted goods' means goods the importation, exportation of which is restricted, save in accordance with conditions regulating it, and goods the importation, exportation of which is in any way regulated by or under the Act or any other provision in force.

(40) 'Smuggling' means the importation, exportation, or the removal from or into the Somaliland Customs territory of goods with intent to defraud the customs, or to evade any prohibition of restriction on regulation or condition as to importation, exportation or removal of goods.

(41) 'Uncustomed goods' includes dutiable goods on which the full duties due have not been paid, and any goods, whether dutiable or not, which are imported, exported in any way dealt with contrary to the provisions of the Act.

(42) 'Vessel' includes every description of conveyance for transport by water of human beings or goods.

## **GENERAL PROVISIONS RELATING IN PARTICULAR TO THE RIGHTS AND OBLIGATIONS OF PERSONS WITH REGARD TO CUSTOMS RULES**

### ***Section 5*** ***Right of representation***

1. Under the conditions set out in Section 62, 2) and subject to the provisions adopted within the framework of Section 186, any person may appoint a representative in his/her dealings with the customs Authority to perform the acts and formalities laid down by customs rules.
2. Such representation may be:
  - a) direct, in which case the representative shall act in the name of and on behalf of another person, or
  - b) indirect, in which case the representatives shall act in his/her own name but on behalf of another person.
3. Save in the cases referred to in Section 62, 2), b) and 3), a representative must be established within Somaliland.
4. A representative must state that he/she is acting on behalf of the person represented, specify whether the representation is direct or indirect and be empowered to act as a representative.
5. A person who fails to state that he/she is acting in the name of or on behalf of another person or who states that he/she is acting in the name of or on behalf of another person without being empowered to do so shall be deemed to be acting in his/her own name and on his/her own behalf.

6. The customs Authority may require any person stating that he/she is acting in the name of or on behalf of another person to produce evidence of his/her powers to act as a representative.

## **DECISIONS RELATING TO THE APPLICATION OF CUSTOMS RULES**

### ***Section 6***

#### ***Requests for a decision***

1. Where a person requests that the customs Authority take a decision relating to the application of customs rules that person shall supply all the information and documents required by the Authority in order to take a decision.
2. Such decision shall be taken and notified to the applicant at the earliest opportunity. Where a request for a decision is made in writing, the decision shall be made within a period laid down in accordance with the existing provisions, starting on the date on which the said request is received by the customs Authority. Such a decision must be notified in writing to the applicant. However, that period may be exceeded where the customs Authority is unable to comply with it. In that case, the Authority shall so inform the applicant before the expiry of the abovementioned period, stating the grounds which justify exceeding it and indicating the further period of time which they consider necessary in order to give a ruling on the request.
3. Decisions adopted by the customs Authority in writing which either reject requests or are detrimental to the persons to whom they are addressed shall set out the grounds on which they are based. They shall refer to the right of appeal provided for in Part VIII.
4. Provision may be made for the first sentence of paragraph 3 to apply likewise to other decisions.

### ***Section 7***

#### ***Operative date of a decision***

Decisions adopted shall be immediately enforceable by the customs Authority.

### ***Section 8***

#### ***Annulment of decisions***

1. A decision favourable to the person concerned shall be annulled if it was issued on the basis of incorrect or incomplete information and:
  - a) the applicant knew or should reasonably 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.



2. The persons to whom the decision was addressed shall be notified of its annulment.
3. Annulment shall take effect from the date on which the annulled decision was taken.

### ***Section 9***

#### ***Failure to fulfill obligations or conditions***

1. A decision favourable to the person concerned, shall be revoked or amended where, in cases other than those referred to in Section 8, one or more of the conditions laid down for its issue were not or are no longer fulfilled.
2. A decision favourable to the person concerned may be revoked where the person to whom it is addressed fails to fulfill an obligation imposed on him/her under that decision.
3. The person to whom the decision is addressed shall be notified of its revocation or amendment.
4. The revocation or amendment of the decision shall take effect from the date of notification. However, in exceptional cases where the interests of the person to whom the decision is addressed so legitimate require, the customs Authority may defer the date when revocation or amendment takes effect.

### ***Section 10***

#### ***Annulment on grounds unconnected with customs legislation***

Sections 8 and 9 shall be without prejudice to the applicable acts which stipulate that decisions are invalid or become null and void for reasons unconnected with customs legislation.

### ***Section 11***

#### ***Request for information***

1. Any person may request information concerning the application of customs legislation from the customs Authority. Such a request may be refused where it does not relate to an import or export operation actually envisaged.
2. The information shall be supplied to the applicant free of charge. However, where special costs are incurred by the customs Authority, in particular as a result of analyses or expert reports on goods, or the return of the goods to the applicant, he/she may be charged the relevant amount.

### ***Section 12***

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

1. The customs Authority shall issue binding tariff information or binding origin information on written request.
2. Binding tariff information or binding origin information shall be binding on the customs Authority as against the holder of the information only in respect of the tariff classification or determination of the origin of goods. Binding tariff information or binding origin information shall be binding on the customs Authority only in respect of goods on which customs formalities are completed after the date on which the information was supplied by them. In matters of origin, the formalities in question shall be those relating to the application of Sections 21 to 25.
3. The holder of such information must be able 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.
4. Binding information shall be valid for a period of six years in the case of tariffs and three years in the case of origin from the date of issue. By way of derogation from Section 8, it shall be annulled where it is based on inaccurate or incomplete information from the applicant.
5. Binding information shall cease to be valid:
  - a) in the case of tariff information:
    - (i) where new legislation is adopted and the information no longer conforms to the rules laid down thereby;
    - (ii) where it is no longer compatible with the interpretation of one of the nomenclatures referred to in Section 19:
      - at national level, by reason of amendments to the explanatory notes to the combined nomenclature or by a judgment of a Court of Justice
      - at international level, by reason of a classification opinion or an amendment of the explanatory notes to the Nomenclature of the Harmonized Commodity Description and Coding System, adopted by the World Customs Organization;
    - (iii) where it is revoked or amended in accordance with Section 9, provided that the revocation or amendment is notified to the holder.

The date on which binding information ceases to be valid for the cases cited in (i) and (ii) shall be the date of publication of the said measures or, in the case of international measures, the date of communication by the WCO.
  - b) in the case of origin information:

(i) where new legislation is adopted or an agreement is concluded by Somaliland and the information no longer conforms to the law thereby laid down;

(ii) where it is no longer compatible with:

- at national level, the explanatory notes and opinions adopted for the purposes of interpreting the rules or with a judgment of a Court of Justice
- at international level, the Agreement on Rules of Origin established in the World Trade Organization (**WTO**) or with the explanatory notes or an origin opinion adopted for the interpretation of that Agreement;

(iii) where it is revoked or amended in accordance with Section 9, provided that the holder has been informed in advance.

The date on which binding information ceases to be valid for the cases referred to in (i) and (ii) shall be the date indicated when the above-mentioned measures are published.

6. The holder of binding information which ceases to be valid pursuant to paragraph 5 a) (ii) or (iii) or (b) (ii) or (iii) may still use that information for a period of six months from the date of publication or notification, provided that he/she concluded binding contracts for the purchase or sale of the goods in question, on the basis of the binding information, before that measure was adopted.

In the case of paragraph 5, a) i) and b) i), the legislation or agreement may lay down a period within which the first subparagraph shall apply.

7. The classification or determination of origin in binding information may be applied, on the conditions laid down in paragraph 6, solely for the purpose of determining import or export duties.

## **OTHER PROVISIONS**

### *Section 13*

#### *Customs control*

1. The customs Authority may, in accordance with the conditions laid down by the provisions in force, carry out all the controls they deem necessary to ensure that customs rules and other legislation governing the entry, exit, transit, transfer and end-use of goods moved between the Customs territory of Somaliland and other countries and the presence of goods that do not have Somaliland status are correctly applied. Customs controls for the purpose of the correct application of Somaliland legislation may be carried out in a foreign country where an international agreement provides for this.

2. Customs controls, other than spot-checks, shall be based on risk analysis, where available using automated data processing techniques, with the purpose of identifying and quantifying the risks and developing the necessary measures to assess and counter the risks, on the basis of criteria

developed at national, and where available, international level. Somaliland shall establish a computer system for the implementation of risk management.

3. Where controls are performed by authorities other than the customs Authority, such controls shall be performed in close coordination with the customs Authority, wherever possible at the same time and place.

4. In the context of the controls provided for in this Section, customs and other competent authorities, such as veterinary and police authorities, may communicate data received, in connection with the entry, exit, transit, transfer and end-use of goods moved between the customs territory of Somaliland and foreign countries and the presence of goods that do not have Somaliland status, between each other where this is required for the purposes of minimising risk.

Communication of confidential data to the customs Authority and other bodies (e.g. security agencies) of foreign countries shall be allowed only in the framework of an international agreement and provided that the data protection provisions in force are respected.

#### ***Section 14***

#### ***Obligations of economic operators***

For the purposes of applying customs legislation, any person directly or indirectly involved in the operations concerned for the purposes of trade in goods shall provide the customs Authority with all the requisite documents and information, irrespective of the medium used, and all requested assistance by any time limit prescribed.

#### ***Section 15***

#### ***Confidential information***

1. All information which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy.

2. It shall not be disclosed by the competent authorities without the express permission of the person or authority providing it. The communication of information shall, however, be permitted where the competent authorities are obliged to do so pursuant to the provisions in force, particularly in connection with legal proceedings. Any disclosure or communication of information shall fully comply with prevailing data protection provisions.

#### ***Section 16***

#### ***Period for keeping accompanying documentation***

1. The persons concerned shall keep the documents referred to in Section 14 for the purposes of customs controls, for the period laid down in the provisions in force and for at least three calendar years, irrespective of the medium used.

2. That period shall run from the end of the year in which:

- a) in the case of goods released for free circulation in circumstances other than those referred to in b) or goods declared for export, from the end of the year in which the declarations for release for free circulation or export are accepted;
- b) in the case of goods released for free circulation at a reduced or zero rate of import duty on account of their end-use, from the end of the year in which they cease to be subject to customs supervision;
- c) in the case of goods placed under another customs procedure, from the end of the year in which the customs procedure concerned is completed.

#### *Section 17*

#### *Extension of the time limit for applying customs legislation*

Where a period, date or time limit is laid down pursuant to customs legislation for the purpose of applying legislation, such period shall not be extended and such date or time limit shall not be deferred unless specific provision is made in the legislation concerned.

#### *Section 18*

#### *Simplifications*

The Minister of Finance can determine in which cases and under which conditions the application of customs legislation may be simplified.

### **PART II - FACTORS ON THE BASIS OF WHICH IMPORT DUTIES OR EXPORT DUTIES AND THE OTHER MEASURES PRESCRIBED IN RESPECT OF TRADE IN GOODS ARE APPLIED**

#### **A. CUSTOMS TARIFF OF SOMALILAND AND TARIFF CLASSIFICATION OF GOODS**

#### *Section 19*

#### *Customs Tariff*

1. Duties legally owed where a customs debt is incurred shall be based on the Customs Tariff of Somaliland.
2. The other measures prescribed by Somaliland provisions governing specific fields relating to trade in goods shall, where appropriate, be applied according to the tariff classification of those goods.
3. The Customs Tariff of Somaliland shall comprise:

- a) the nomenclature of goods based on the Harmonized Commodity Description and Coding System, adopted by the World Customs Organization;
- b) any other nomenclature which is wholly or partly based on the nomenclature mentioned above or which adds any subdivisions to it, and which is established by the provisions governing specific fields with a view to the application of tariff measures relating to trade in goods;
- c) the rates and other items of charge normally applicable to goods covered by the nomenclatures mentioned under a) and b) above as regards customs duties;
- d) the preferential tariff measures contained in agreements which Somaliland has concluded with certain countries or groups of countries and which provide for the granting of preferential tariff treatment;
- e) preferential tariff measures adopted unilaterally by Somaliland in respect of certain countries, groups of countries or territories;
- f) suspensive measures providing for a reduction in or relief from import duties chargeable on certain goods;
- g) other tariff measures provided for by other Somaliland legislation.

4. Without prejudice to the rules on flat-rate charges, the measures referred to in paragraph 3 d), e) and f) shall apply at the declarant's request instead of those provided for in subparagraph c) where the goods concerned fulfill the conditions laid down by those first-mentioned measures. An application may be made after the event provided that the relevant conditions are fulfilled.

5. Where application of the measures referred to in paragraph 3 d), e) and f) is restricted to a certain volume of imports, it shall cease as soon as the stipulated limit on the volume of imports is reached.

6. The tariff classification of goods shall be the determination, according to the applicable acts, of the subheading of one of the nomenclatures referred to in paragraph 3 a) or b).

### *Section 20*

#### *Favourable treatment due to end-use*

1. The favourable tariff treatment from which certain goods may benefit by reason of their nature or end-use shall be subject to conditions laid down by the applicable acts. Where an authorisation is required Sections 83 and 84 shall apply.

2. For the purposes of paragraph 1, the expression 'favourable tariff treatment' means a reduction in or suspension of an import duty as referred to in Section 4 (14), even within the framework of a tariff quota.

## **B. ORIGIN OF GOODS NON-PREFERENTIAL ORIGIN**

**Section 21**  
***Scope of the non-preferential Origin Rules***

This section defines the non-preferential origin of goods for the purposes of:

- a) applying the Customs Tariff of Somaliland with the exception of the preferential tariff measures referred to in Section 19, 3) d) and e);
- b) applying measures other than tariff measures established by Somaliland provisions governing specific fields relating to trade in goods;
- c) the preparation and issue of certificates of origin.

**Section 22**  
***Goods Wholly Produced or Obtained***

1. Goods originating in a country shall be those wholly obtained or produced in that country.
2. The following goods shall be considered as wholly produced or obtained in a country:
  - a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked, or gathered in its Customs territory;
  - b) live animals born and raised in its customs territory;
  - c) goods obtained from live animals in its customs territory;
  - d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering, or capturing in its customs territory;
  - e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed in its customs territory;
  - f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law, by any vessel registered or recorded with a specific country and entitled to fly the flag of that country;
  - g) goods produced on board any factory ship registered or recorded with a specific country and entitled to fly the flag of that country;
  - h) goods taken from the seabed or beneath the seabed outside the territorial sea provided that that country 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 therein and are fit only for the recovery of raw materials;
  - j) goods produced or obtained solely from products referred to in Subparagraphs a) to i) or from their derivatives.

**Section 23**  
***Substantial transformation rule***

Goods whose production involved more than one country 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.

***Section 24***  
***Proof of origin***

Customs legislation or other legislation in force may provide that a document must be produced as proof of the origin of goods.

**PREFERENTIAL ORIGIN**

***Section 25***  
***Preferential origin rules***

1. The rules on preferential origin shall lay down the conditions governing the acquisition of origin which goods must fulfill in order to benefit from the preferential tariff treatment following agreements which Somaliland has concluded with certain countries or groups of countries.
2. Those rules shall be determined in those agreements.

**C. VALUATION**

***Section 26***  
***Scope of the Chapter***

Somaliland rules on Customs Valuation shall consist of this Chapter and the regulations adopted to implement them. The Chapter shall apply, without prejudice to special rules laid down in other fields related to trade between Somaliland and other countries.

***Section 27***  
***Purpose***

The provisions of this Chapter shall determine the customs value for the purposes of applying the Customs Tariff of Somaliland and non-tariff measures laid down by Somaliland provisions governing specific fields relating to trade in goods.

***Section 28***  
***1<sup>st</sup> valuation method: the transaction value***



1. 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 the customs territory of Somaliland, adjusted, where necessary, in accordance with Sections 31 and 32, provided:

a) that 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 a law or by the public authorities in Somaliland, ii) limit the geographical area in which the goods may be resold, or  
iii) do not substantially affect the value of the goods;

b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with Section 31; and

d) that the buyer and seller are not related, or, where the buyer and seller are related, that the transaction value is acceptable for customs purposes under paragraph 2.

2. a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related shall not in itself be sufficient grounds for regarding the transaction value unacceptable. Where necessary, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the declarant or otherwise, the customs Authority has grounds for considering that the relationship influenced the price, they shall communicate their grounds to the declarant and he/she shall be given a reasonable opportunity to respond. If the declarant so requests, the communication of the grounds shall be in writing.

b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with paragraph 1 wherever the declarant demonstrates that such value closely approximates to one of the following values occurring at or about the same time:

i) The transaction value in sales, between buyers and sellers who are not related in any particular case, of identical or similar goods for export to Somaliland;

ii) The customs value of identical or similar goods, as determined under Section 29, 2) c);

iii) The customs value of identical or similar goods, as determined under Section 29, 2) d).

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Section 30 and costs incurred by the seller in sales in which he/she and the buyer are not related and where such costs are not incurred by the seller in sales in which he/she and the buyer are related.

c) The tests set forth in subparagraph b) are to be used at the initiative of the declarant and only for comparison purposes. Substitute values may not be established under the said subparagraph.

3. 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 and includes all payments made or to be made as a condition of sale of the imported goods by the buyer to the seller or by the buyer to a third party to satisfy an obligation of the seller. 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 instrument and may be made directly or indirectly.
- b) Activities, including marketing activities undertaken by the buyer on his/her own account, other than those for which adjustment is provided in Section 30, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller or have been undertaken by agreement with the seller, and their cost shall not be added to the price actually paid or payable in determining the customs value of imported goods.

### *Section 29*

#### *Valuation methods 2 till 5*

1. Where the customs value cannot be determined under Section 28, it is to be determined by proceeding sequentially through subparagraphs a), b), c) and d) of paragraph 2 to the first subparagraph under which it can be determined, subject to the provision that the order of application of subparagraphs c) and d) shall be reversed if the declarant so requests; it is only when such value cannot be determined under a particular subparagraph that the provisions of the next subparagraph in a sequence established by virtue of this paragraph can be applied.
2. The customs value as determined under this Section shall be:
  - a) the transaction value of identical goods sold for export to Somaliland and exported at or about the same time as the goods being valued;
  - b) the transaction value of similar goods sold for export to Somaliland and exported at or about the same time as the goods being valued;
  - c) the value based on the unit price at which the imported goods for identical or similar imported goods are sold within Somaliland in the greatest aggregate quantity to persons not related to the sellers;
  - d) the computed value, consisting of the sum of:
    - i) the cost or value of materials and fabrication or other processing employed in producing the imported goods,
    - ii) 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 Somaliland,
    - iii) the cost or value of the items referred to in Section 31, 1) e).
3. Any further conditions and rules for the application of paragraph 2 above shall be determined by the Minister of Finance.

### *Section 30*

***Method 6: the fall- back method***

1. Where the customs value of imported goods cannot be determined under Sections 28 or 29, it shall be determined, on the basis of data available in Somaliland, using reasonable means consistent with the principles and general provisions of:
  - a) the agreement on implementation of Section VII of the General Agreement on Tariffs and Trade.
  - b) Article VII of the General Agreement on Tariffs and Trade.
  - c) the provisions of this Chapter.
  
2. No customs value shall be determined under paragraph 1 on the basis of:
  - a) the selling price in Somaliland of goods produced in Somaliland;
  - b) a system which provides for the acceptance for customs purposes 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 which have been determined for identical or similar goods in accordance with Section 29, 2) d);
  - e) prices for export to another country than Somaliland;
  - f) minimum customs values; or
  - g) arbitrary or fictitious values.

***Section 31***  
***Additions***

1. In determining the customs value under Section 28, there shall be added to the price actually paid 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,
    - 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 Somaliland and necessary for the production of the imported goods;
- c) royalties and license 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;
- e) (i) the cost of transport and insurance of the imported goods, and  
(ii) loading and handling charges associated with the transport of the imported goods to the place of introduction into the customs territory of Somaliland.
2. Additions to the price actually paid or payable shall be made under this Section only on the basis of objective and quantifiable data.
  3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Section.
  4. In this Act the term ‘buying commissions’ means fees paid by an importer to his/her agent for the service of representing him/her in the purchase of the goods being valued.
  5. Notwithstanding paragraph 1 c):
    - a) Charges for the right to reproduce the imported goods in Somaliland shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and
    - b) 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 of the goods to Somaliland.

### ***Section 32*** ***Deductions***

1. Provided that they are shown separately from the price actually paid or payable, the following shall not be included in the customs value:
  - a) charges for the transport of goods after their arrival at the place of introduction into the customs territory of Somaliland;
  - b) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation of imported goods such as industrial plant, machinery or equipment;

- c) charges for interest under a financing arrangement entered into by the buyer and relating to the purchase of imported goods, irrespective of whether the finance is provided by the seller or another person, provided that the financing arrangement has been made in writing and where required, the buyer can demonstrate that:
  - i) such goods are actually sold at the price declared as the price actually paid or payable, and
  - ii) the claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time when, the finance was provided;
- d) charges for the right to reproduce imported goods in Somaliland;
- e) buying commissions;
- f) import duties or other charges payable in Somaliland by reason of the importation or sale of the goods.

***Section 33***  
***Customs value of media equipment***

Specific rules shall be laid down by the Minister of Finance to verify the customs value of media equipment used in data processing equipment and bearing data or instructions.

***Section 34***  
***Exchange rates***

1. Where factors used to determine the customs value of goods are expressed in a currency other than Somaliland Shillings the rate of exchange to be used shall be that duly published by the Central Bank of Somaliland.
2. Such rate shall reflect as effectively as possible the current value of such currency in commercial transactions in terms of Somaliland Shilling and shall apply during such period as may be determined by the Minister of Finance.

***Section 35***  
***Exceptions***

1. The provisions of this chapter shall be without prejudice to the specific provisions regarding the determination of the value for customs purposes of goods released for free circulation after being assigned a different customs-approved treatment or use.
2. By way of derogation from Sections 28, 29 and 30, the customs value of perishable goods usually delivered on consignment may, at the request of the declarant, be determined under simplified rules determined by the Minister of Finance.

**Section 36**  
**Regulations under this Chapter**

The Minister of Finance may on the recommendation of the Customs Authority issue regulations implementing the provisions of this Chapter.

**PART III - PROVISIONS APPLICABLE TO GOODS BROUGHT INTO THE  
CUSTOMS TERRITORY OF SOMALILAND UNTIL THEY ARE ASSIGNED A  
CUSTOMS-APPROVED TREATMENT OR USE**

**A-ENTRY OF GOODS INTO THE CUSTOMS TERRITORY OF SOMALILAND**

**Section 37**

***Obligation to lodge a summary declaration***

1. Goods brought into the customs territory of Somaliland shall be covered by a summary declaration, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory.
2. The summary declaration shall be lodged at the customs office of entry.
3. The customs Authority may allow the summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available the necessary particulars to the customs office of entry, by electronic way where available.
4. The customs Authority may accept, instead of the lodging of the summary declaration, the lodging of a notification and access to the summary declaration data in an economic operator's computer system.
5. The summary declaration shall be lodged before the goods are brought into the customs territory of Somaliland.
6. The Minister of Finance shall determine:
  - a) the time limit by which the summary declaration is to be lodged before the goods are brought into the customs territory of Somaliland,

- b) the regulations or by-laws for exceptions from, and variations to, the time limit referred to in the first indent<sup>2</sup>, and
- c) the conditions under which the requirement for a summary declaration may be waived or adapted, in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

**Section 38**  
***Format of the summary declaration***

1. The Minister of Finance shall establish a data set and format for the summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.
2. Where available, the summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars.  
The customs Authority may accept paper-based summary declarations, provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.
3. The summary declaration shall be lodged by the person who brings the goods, or who assumes responsibility for the carriage of the goods into the customs territory of Somaliland.
4. Notwithstanding the obligation of the person referred to in paragraph 3, the summary declaration may be lodged instead by:
  - a) the person in whose name the person referred to in paragraph 3 acts; or
  - b) any person who is able to present the goods in question or to have them presented to the competent customs authority; or
  - c) a representative of one of the persons referred to in paragraph 3 or points a) or b).
5. The person referred to in paragraphs 3 and 4 shall, at his/her request, be authorised to amend one or more particulars of the summary declaration after it has been lodged. However, no amendment shall be possible after the customs Authority:
  - a) has informed the person who lodged the summary declaration that they intend to examine the goods; or
  - b) has established that the particulars in questions are incorrect; or
  - c) has allowed the removal of the goods.

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<sup>2</sup> Reference to the first “indent” is to subparagraph (a) of this subsection. This will be corrected at a later date

### ***Section 39***

#### ***Waiver to present a summary declaration***

1. The customs office of entry may waive the lodging of a summary declaration in respect of goods for which, before expiry of the time limit referred to in Section 37 3) or 4), a customs declaration is lodged. In such case, the customs declaration shall contain at least the particulars necessary for a summary declaration and, until such time as the former is accepted in accordance with Section 61, it shall have the status of a summary declaration.
2. The customs Authority may allow the customs declaration to be lodged at a customs office of import different from the customs office of entry, provided that this office immediately communicates or makes available electronically the necessary particulars to the customs office of entry.
3. Where the customs declaration is lodged other than by use of data processing technique, the customs Authority shall apply the same level of risk management to the data as that applied to customs declarations made under a data processing technique.

### ***Section 40***

#### ***Customs supervision***

1. Goods brought into the customs territory of Somaliland shall, from the time of their entry, be subject to customs supervision. They may be subject to customs controls in accordance with the provisions in force.
2. They shall remain under such supervision for as long as necessary to determine their customs status, if appropriate, and in the case of non-Somaliland goods and without prejudice to Section 80, until their customs status is changed or they are re-exported or destroyed in accordance with Section 158.

### ***Section 41***

#### ***Entry of goods***

1. Goods brought into the customs territory of Somaliland shall be conveyed by the person bringing them into Somaliland without delay, by the route specified by the customs Authority and in accordance with their instructions, if any, to the customs office designated by the customs Authority or to any other place designated or approved by the Authority.



2. Any person who assumes responsibility for the carriage of goods after they have been brought into the customs territory of Somaliland, *inter alia* as a result of trans-shipment, shall become responsible for compliance with the obligation laid down in paragraph 1.
3. Paragraph 1 shall not preclude implementation of any provisions in force with respect to tourist traffic, frontier traffic, postal traffic or traffic of negligible economic importance, on condition that customs supervision and customs control possibilities are not thereby jeopardised.
4. Paragraphs 1 to 3 and Sections 37 to 40 and Sections 42 to 53 shall not apply to goods which temporarily leave the customs territory of Somaliland while moving between two points in that territory by sea or air, provided that the carriage is effected by a direct route and by regular air or shipping services without a stop outside the customs territory of Somaliland.
5. Paragraph 1 shall not apply to goods on board vessels or aircraft crossing the territorial sea or airspace of Somaliland without having as their destination a port or airport situated in Somaliland.

***Section 42***  
***Force majeure***

1. Where, by reason of unforeseeable circumstances or force majeure, the obligation laid down in Section 41, 1) cannot be complied with, the person bound by that obligation or any other person acting in his/her place shall inform the customs Authority of the situation without delay. Where the unforeseeable circumstances or force majeure do not result in total loss of the goods, the customs Authority shall also be informed of their precise location.
2. Where, by reason of unforeseeable circumstances or force majeure, a vessel or aircraft covered by Section 41, 5) is forced to put into port or land temporarily in the customs territory of Somaliland and the obligation laid down in Section 41, 1) cannot be complied with, the person bringing the vessel or aircraft into the customs territory of Somaliland or any other person acting in his/her place shall inform the customs Authority of the situation without delay.
3. The customs Authority shall determine the measures to be taken in order to permit customs supervision of the goods referred to in paragraph 1 as well as those on board a vessel or aircraft in the circumstances specified in paragraph 2 and to ensure, where appropriate, that they are subsequently conveyed to a customs office or other place designated or approved by the Authority.

**B-PRESENTATION OF GOODS TO CUSTOMS**

**Section 43**  
***Presentation of goods to customs***

Goods entering the customs territory of Somaliland shall be presented to customs by the person who brings them into Somaliland, if appropriate, by the person who assumes responsibility for carriage of the goods following such entry, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory of Somaliland without a stop within this territory. The person presenting the goods shall make a reference to the summary declaration or customs declaration previously lodged in respect of the goods.

**Section 44**  
***Special cases for presentation***

Section 43 shall not preclude the implementation of rules in force relating to goods:

- a) carried by travellers;
- b) placed under a customs procedure but not presented to customs.

**Section 45**  
***Prior examination***

Goods may, once they have been presented to customs, and with the permission of the customs Authority, be examined or samples may be taken, in order that they may be assigned a customs-approved treatment or use. Such permission shall be granted, on request, to the person authorised to assign the goods such treatment or use.

**Section 46**  
***Unloading of goods presented to customs***

1. Goods shall be unloaded or trans-shipped from the means of transport carrying them solely with the permission of the customs Authority in places designated or approved by the customs Authority.

However, such permission shall not be required in the event of the imminent danger necessitating the immediate unloading of all or part of the goods. In that case, the customs Authority shall be informed accordingly forthwith.

2. For the purpose of inspecting goods and the means of transport carrying them, the customs Authority may at any time require goods to be unloaded and unpacked.

**Section 47**  
***Removal of goods***

Goods shall not be removed from their original position without the permission of the customs Authority.

***Section 48***

***Obligation to assign goods a customs-approved treatment or use***

Non-Somaliland goods presented to customs shall be assigned a customs-approved treatment or use authorised for such non-Somaliland goods.

***Section 49***

***Time limit for assigning goods to a customs-approved treatment or use***

1. Where goods are covered by a summary declaration, the formalities necessary for them to be assigned a customs-approved treatment or use must be carried out within:
  - a) 45 days from the date on which the summary declaration is lodged in the case of goods carried by sea;
  - b) 20 days from the date on which the summary declaration is lodged in the case of goods carried otherwise than by sea.
2. Where circumstances so warrant, the customs Authority may set a shorter period or authorise an extension to the periods referred to in paragraph 1. Such extension shall not, however, exceed the genuine requirements which are justified by the circumstances.

**C-TEMPORARY STORAGE OF GOODS**

***Section 50***

***Status of goods presented to customs***

Until such time as they are assigned a customs-approved treatment or use, goods presented to customs shall, following such presentation, have the status of goods in temporary storage. Such goods shall hereinafter be described as 'goods in temporary storage'.

***Section 51***

***Storage approval***

1. Goods in temporary storage shall be stored only in places approved by the customs Authority under the conditions laid down by the Authority.
2. The customs Authority may require the person holding the goods to provide security with a view to ensuring payment of any customs debt which may arise under Part VII of the Act.

***Section 52***  
***Handling of temporary stored goods***

Without prejudice to the provisions of Section 45, goods in temporary storage shall be subject only to such freight handling as are designed to ensure their preservation in an unaltered state without modifying their appearance or technical characteristics.

***Section 53***  
***Time limit for temporary storage***

1. The customs Authority shall without delay take all measures necessary, including the sale of the goods, to regularise the situation of goods in respect of which the formalities necessary for them to be assigned a customs-approved treatment or use are not initiated within the periods determined in accordance with Section 49.
2. The customs Authority may, at the risk and expense of the person holding them, have the goods in question transferred to a special place, which is under their supervision, until the situation of the goods is regularised.

***Section 54***  
***Non-Somaliland goods which have moved under the transit procedure***

Once non-Somaliland goods which have moved under a transit procedure reach their destination in the customs territory of Somaliland and have been presented to customs in accordance with the rules governing transit, Sections 44 to 53 shall apply.

***Section 55***  
***Destruction of goods presented***

Where the circumstances so require, the customs Authority may have goods presented to customs destroyed.

The customs Authority shall inform the holder of the goods accordingly. The costs of destroying the goods shall be borne by the holder.

***Section 56***  
***Unauthorised entry of goods***

Where the customs Authority find that unauthorised goods have been brought into Somaliland, or unauthorised goods have been seized by the customs Authority, appropriate measures will be taken which include the confiscation of the goods.

**PART IV- CUSTOMS-APPROVED TREATMENT OR USE**  
**A. GENERAL PROVISIONS**

***Section 57***  
***Definitions***

1. Where the term ‘suspensive arrangements’ is used, it is understood as applying, in the case of non-Somaliland goods, to the following arrangements:

- a) transit;
- b) customs warehousing;
- c) inward processing in the form of a system of suspension;
- d) processing under customs control;
- e) temporary importation.

2. Where the term ‘customs procedure with economic impact’ is used, it is understood as applying to the following arrangements:

- a) customs warehousing;
- b) inward processing;
- c) processing under customs control;
- d) temporary importation;
- e) outward processing.

***Section 58***  
***Limitations and prohibitions***

1. Save as otherwise provided, goods may at any time, under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature or quantity, or their country of origin, consignment or destination.

2. Paragraph 1 shall not preclude the imposition of prohibitions or restrictions justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

## **B. CUSTOMS DECLARATIONS**

### ***Section 59***

#### ***Kind of declarations***

The customs declaration shall be made:

- a) in writing; or
- b) using a data-processing technique where provided for by regulations laid down by the Minister of Finance or where authorised by the customs Authority; or
- c) by means of an oral declaration or any other act whereby the holder of the goods expresses his/her wish to place them under a customs procedure, where such a possibility is provided for by the rules adopted by the Minister of Finance.

### ***Section 60***

#### ***Declarations in writing***

1. Declarations in writing shall be made on a form corresponding to the official specimen prescribed for that purpose. They shall be signed and contain all the particulars necessary for implementation of the provisions governing the customs procedure for which the goods are declared.
2. The declaration shall be accompanied by all the documents required for implementation of the provisions governing the customs procedure for which the goods are declared.

### ***Section 61***

#### ***Acceptance of a declaration***

Declarations which comply with the regulations laid down in Section 60 shall be accepted by the customs Authority immediately, provided that the goods to which they refer are presented to customs.

### ***Section 62***

#### ***Conditions for making a declaration***

1. Subject to the rules governing the right of representation, a customs declaration may be made by any person who is able to present the goods in question or to have them presented to the competent customs authority, together with all the documents which are required to be produced for the application of the rules governing the customs procedure in respect of which the goods were declared.

2. However,

- a) where acceptance of a customs declaration imposes particular obligations on a specific person, the declaration must be made by that person or on his/her behalf;
- b) the declarant must be established in Somaliland.

However, the condition regarding establishment in Somaliland shall not apply to persons who:

- a) make a declaration for transit or temporary importation;
- b) declare goods on an occasional basis, provided that the customs Authority considers this to be justified.

3. Paragraph 2, b) shall not preclude the application of bilateral agreements concluded with foreign countries, or customary practices having similar effect, under which nationals of these countries may make customs declarations in the territory of Somaliland, subject to reciprocity.

### ***Section 63*** ***Authorised amendments***

1. The declaration shall, at his/her request, be authorised to amend one or more of the particulars of the declaration after it has been accepted by customs. The amendment shall not have the effect of rendering the declaration applicable to goods other than those it originally covered.

However, no amendment shall be permitted where authorisation is requested after the customs Authority

- a) has informed the declarant that they intend to examine the goods; or,
- b) has established that the particulars in question are incorrect; or,
- c) has released the goods.

2. For the verification of declarations which they have accepted, the customs Authority may:

- a) examine the documents covering the declaration and the documents accompanying it. The customs Authority may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration;
- b) examine the goods and take samples for analysis or for detailed examination.

### ***Section 64*** ***Invalidation of a declaration***

1. The customs Authority shall, at the request of the declarant, invalidate a declaration already accepted where the declarant furnishes proof that goods were declared in error for the customs

procedure covered by that declaration or that, as a result of special circumstances, the placing of the goods under the customs procedure for which they were declared is no longer justified.

2. Nevertheless, where the customs Authority has informed the declarant of their intention to examine the goods, a request for invalidation of the declaration shall not be accepted until after the examination has taken place.
3. The declaration shall not be invalidated after the goods have been released, except in cases defined by the Minister of Finance.
4. Invalidation of the declaration shall be without prejudice to the application of the penal provisions in force.

### ***Section 65***

#### ***Date of acceptance of a declaration***

Save as otherwise expressly provided, the date to be used for the purposes of all the provisions governing the customs procedure for which the goods are declared shall be the date of acceptance of the declaration by the customs Authority.

### ***Section 66***

#### ***Declarations other than in writing***

1. Where the customs declaration is made by means of a data processing technique in accordance with Section 59, b), or by an oral declaration or any other act in accordance with Section 59, c)<sup>3</sup>, Sections 60 to 63 shall apply *mutatis mutandis* without prejudice to the principles set out therein.
2. Where the customs declaration is made by means of a data processing technique, the customs Authority may allow accompanying documents referred to in Section 60, 2) not to be lodged with the declaration. In this case the documents shall be kept at the customs Authority's disposal.

## **C. CONTROL MEASURES**

### ***Section 67***

#### ***Powers for examining goods***

For the verification of declarations which they have accepted, the customs Authority may:

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<sup>3</sup> This section was incorrectly altered in the Somali version which refers to declarations made by a data processing technique in accordance with Section 59 c). Both b) and c) are referred to above in line with the previous English version



- a) examine the documents covering the declaration and the documents accompanying it. The customs Authority may require the declarant to present other documents for the purpose of verifying the accuracy of the particulars contained in the declaration;
- b) examine the goods and take samples for analysis or for detailed examination.

### ***Section 68***

#### ***Customs examination***

1. Transport of the goods to the places where they are to be examined and samples are to be taken, and all the handling necessitated by such examination or taking of samples, shall be carried out by or under the responsibility of the declarant. The costs incurred shall be borne by the declarant.
2. The declarant shall be entitled to be present when the goods are examined and when samples are taken. Where they deem it appropriate, the customs Authority shall require the declarant to be present or represented when the goods are examined or samples are taken in order to provide them with the assistance necessary to facilitate such examination or taking of samples.
3. Provided that samples are taken in accordance with the provisions in force, the customs Authority shall not be liable for payment of any compensation in respect thereof but shall bear the costs of their analysis or examination.

### ***Section 69***

#### ***Partial examination of goods***

1. Where only part of the goods covered by a declaration is examined, the results of the partial examination shall be taken to apply to all the goods covered by that declaration. However, the declarant may request a further examination of the goods if he/she considers that the results of the partial examination are not valid as regards the remainder of the goods declared.
2. For the purposes of paragraph 1, where a declaration form covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

### ***Section 70***

#### ***Results of the verification***

1. The results of verifying the declaration shall be used for the purposes of applying the provisions governing the customs procedure under which the goods are placed.
2. Where the declaration is not verified, the provisions referred to in paragraph 1 shall be applied on the basis of the particulars contained in the declaration.

**Section 71**  
**Identification measures**

1. The customs Authority shall take the measures necessary to identify the goods where identification is required in order to ensure compliance with the conditions governing the customs procedure for which the said goods have been declared.
2. Means of identification affixed to the goods or means of transport shall be removed or destroyed only by the customs Authority or with their permission unless, as a result of unforeseeable circumstances or force majeure, their removal or destruction is essential to ensure the protection of the goods or means of transport.

**Section 72**  
**Release of goods**

1. Without prejudice to Section 73 where the conditions for placing the goods under the procedure in question are fulfilled and provided the goods are not subject to any prohibitive or restrictive measures, the customs Authority shall release the goods as soon as the particulars in the declaration have been verified or accepted without verification. The same shall apply where such verification cannot be completed within a reasonable period of time and the goods are no longer required to be present for verification purposes.
2. All the goods covered by the same declaration shall be released at the same time. For the purposes of this paragraph, where a declaration form covers two or more items, the particulars relating to each item shall be deemed to constitute a separate declaration.

**Section 73**  
**Incurrence of a customs debt**

1. Where acceptance of a customs declaration gives rise to a customs debt, the goods covered by the declaration shall not be released unless the customs debt has been paid or secured. However, without prejudice to paragraph 2, this provision shall not apply to the temporary importation procedure with partial relief from import duties.
2. Where, pursuant to the provisions governing the customs procedure for which the goods are declared, the customs Authority requires the provision of a security, the said goods shall not be released for the customs procedure in question until such security is provided.

**Section 74**  
**Goods which cannot be released**

Any necessary measures, including confiscation and sale, shall be taken to deal with goods which:

a) cannot be released because:

- i) it has not been possible to undertake or continue examination of the goods within the period prescribed by the customs Authority for reasons only attributable to the declarant; or,
- ii) the documents which must be produced before the goods can be placed under the customs procedure requested have not been produced; or,
- iii) payments or security which should have been made or provided in respect of import duties or export duties, as the case may be, have not been made or provided within the period prescribed; or,
- iv) they are subject to bans or restrictions;

b) are not removed within a reasonable period after their release.

### ***Section 75***

#### ***Post clearance examinations of declarations***

1. The customs Authority may, on their own initiative or at the request of the declarant, amend the declaration after release of the goods.
2. The customs Authority may, after releasing the goods and in order to satisfy themselves as to the accuracy of the particulars contained in the declaration, inspect the commercial documents and data relating to the import or export operations in respect of the goods concerned or to subsequent commercial operations involving those goods. Such inspections may be carried out at the premises of the declarant, of any other person directly or indirectly involved in the said operations in a business capacity or of any other person in possession of the said document and data for business purposes. The Authority may also examine the goods where it is still possible for them to be produced.
3. Where revision of the declaration or post-clearance examination indicates that the provisions governing the customs procedure concerned have been applied on the basis of incorrect or incomplete information, the customs Authority shall, in accordance with any provisions laid down, take the measures necessary to regularise the situation.

### ***Section 76***

#### ***Simplifications***

1. In order to simplify completion of formalities and procedures as far as possible while ensuring that operations are conducted in a proper manner, the customs Authority shall, under conditions laid by the Minister of Finance, grant permission for:

- a) the declaration referred to in Section 60 to omit certain of the particulars referred to in paragraph 1 of that Article for some of the documents referred to in paragraph 2 of that Section not to be attached thereto;
  - b) a commercial or administrative document, accompanied by request for the goods to be placed under the customs procedure in question, to be lodged in place of the declaration referred to in Section 60;
  - c) the goods to be entered for the procedure in question by means of an entry in the records; in this case, the customs Authority may waive the requirement that the declarant presents the goods to customs.
2. The simplified declaration, commercial or administrative document or entry in the records must contain at least the particulars necessary for identification of the goods. Where the goods are entered in the records, the date of such entry must be included.
  3. Except in cases to be determined by the Minister of Finance, the declarant shall furnish a supplementary declaration which may be of a general, periodic or recapitulative nature.
  4. Supplementary declarations and the simplified declarations referred to in subparagraphs 1, a), b) and c), shall be deemed to constitute a single, indivisible instrument taking effect on the date of acceptance of the simplified declarations; in the cases referred to in subparagraph 1, c), entry in the records shall have the same legal force as acceptance of the declaration referred to in Section 60.
  5. Special simplified procedures for the transit procedure shall be determined by the Minister of Finance.

#### **D. CUSTOMS PROCEDURES**

##### **Release for free circulation**

##### *Section 77*

##### *Status of goods*

1. Release for free circulation shall confer on Somaliland goods the customs status of any stage of Somaliland goods.<sup>4</sup>
2. It shall entail application of commercial policy measures, completion of the other formalities laid down in respect of the importation of goods and the charging of any duties legally due.

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<sup>4</sup> This subsection has been incorrectly altered in the Somali version and it is meaningless. It was intended to provide "Release for free circulation shall confer on non-Somaliland goods the customs status of Somaliland goods."

**Section 78**  
**Time of acceptance**

1. Provided that the rate of the duty referred to in Section 4 (14) is reduced after the date of acceptance of the declaration for release for free circulation but before the goods are released, the declarant may request application of the more favourable rate.
2. Paragraph 1 shall not apply where it has not been possible to release the goods for reasons solely attributable to the declarant.

**Section 79**  
**Tariff classification**

Where a consignment is made up of goods falling within different tariff classifications, and dealing with each of those goods in accordance with its tariff classification for the purpose of drawing up the declaration would entail a burden of work and expenses disproportionate to the import duties chargeable, the customs Authority may, at the request of the declarant, agree that import duties be charged on the whole consignment on the basis of the tariff classification of the goods which are subject to the highest rate of import duty.

**Section 80**  
**End-use**

1. Where goods are released for free circulation at a reduced or zero rate of duty on account of their end-use, they shall remain under customs supervision. Customs supervision shall end when the conditions laid down for granting such a reduced or zero rate of duty cease to apply, where the goods are exported or destroyed or where the use of the goods for purposes other than those laid down for the application of the reduced or zero rate of duty is permitted subject to payment of the duties due.
2. Sections 82 and 84 shall apply *mutatis mutandis* to the goods referred to in paragraph 1.

**Section 81**  
**Change of customs status**

Goods released for free circulation shall lose their customs status as Somaliland goods where:

- a) the declaration for release for free circulation is invalidated after release;
- b) the imported duties payable on those goods are repaid or remitted:
  - i) under the inward processing procedure in the form of the drawback system; or

- ii) in respect of defective goods or goods which fail to comply with the terms of the contract; or
- iii) in situations where repayment or remission is conditional upon the goods being exported or re-exported or being assigned an equivalent customs-approved treatment or use.

## **Suspensive arrangements and customs procedures with economic impact**

### **Provisions common to several procedures**

#### ***Section 82*** ***Authorisations***

The use of any customs procedure with economic impact shall be conditional upon authorisation being issued by the customs Authority.

#### ***Section 83*** ***Conditions for granting the authorisation***

1. Without prejudice to the additional special conditions governing the procedure in question, the authorisation referred to in Section 82 and that referred to in Section 96 shall be granted only:
  - a) to persons who offer every guarantee necessary for the proper conduct of the operations;
  - b) where the customs Authority can supervise and monitor the procedure without having to introduce administrative arrangements disproportionate to the economic needs involved.
2. 'Import goods' means goods placed under a suspensive procedure and goods which, under the inward processing procedure in the form of the drawback system, have undergone the formalities for release for free circulation and the formalities provided for in Section 120.
3. 'Goods in the unaltered state' means import goods which, under the inward processing procedure or the procedure for processing under customs control, have undergone no form of processing.

#### ***Section 84*** ***Changing the authorisation***

1. The conditions under which the procedure in question is used shall be set out in the authorisation.

2. The holder of the authorisation shall notify the customs Authority of all factors arising after the authorisation was granted which may influence its continuation or content.

### ***Section 85***

#### ***Security***

The customs Authority may make the placing of goods under a suspensive arrangement conditional upon the provision of security in order to ensure that any customs debt which may be incurred in respect of the goods is paid. Special provisions concerning the provision of security may be laid down in the context of a specific suspensive arrangement.

### ***Section 86***

#### ***Discharge of the procedure***

1. A suspensive arrangement with economic impact shall be discharged when a new customs-approved treatment or use is assigned either to the goods placed under that arrangement or to compensating or processed products placed under it.

2. The customs Authority shall take all the measures necessary to regularise the position of goods in respect of which a procedure has not been discharged under the conditions prescribed.

### ***Section 87***

#### ***Transfer of rights and obligations***

The rights and obligations of the holder of a customs procedure with economic impact may, on the conditions laid down by the customs Authority, be transferred successively to other persons who fulfill any conditions laid down in order to benefit from the procedure in question.

## **TRANSIT**

### ***Section 88***

#### ***Use of the transit procedure***

1. The transit procedure shall allow the movement from one point to another within the customs territory of non-Somaliland goods, without such goods being subject to import duties and other charges or to commercial policy measures.

2. Movement as referred to in paragraph 1 shall take place:

- a) under the Somaliland transit procedure; or

- b) under cover of an ATA carnet used as a transit document; or
- c) by post (including parcel post).

3. The transit procedure shall apply without prejudice to the specific provisions applicable to the movement of goods placed under a customs procedure with economic impact.

***Section 89***  
***Ending of the procedure***

1. The transit procedure shall end and the obligations of the holder shall be met when the goods placed under the procedure and the required documents are produced at the customs office of destination in accordance with the provisions of the procedure in question.

2. The customs Authority shall discharge the procedure when they are in a position to establish, on the basis of a comparison of the data available to the office of departure and those available to the customs office of destination that the procedure has ended correctly.

***Section 90***  
***Guarantees***

1. The principal shall provide a guarantee in order to ensure payment of any customs debt or other charges which may be incurred in respect of the goods.

2. The guarantee shall be either:

- a) An individual guarantee covering a single transit operation; or
- b) A comprehensive guarantee covering a number of transit operations where the principal has been authorised to use such a guarantee by the customs Authority.

3. The authorisation referred to in paragraph 2, b) shall be granted only to persons who:

- a) Are established in Somaliland;
- b) Are regular users of the transit procedure or who are known to the customs Authority to have the capacity to fulfill their obligations in relation to this procedure; and
- c) Have not committed serious or repeated offences against customs or tax laws.

4. Persons who satisfy the customs Authority that they meet higher standards of reliability may be



authorised to use a comprehensive guarantee for a reduced amount or to have a guarantee waiver. The additional criteria for this authorisation shall include:

- a) the correct use of Somaliland transit procedures during a given period;
- b) cooperation with the customs Authority;
- c) in respect of the guarantee waiver, a good financial standing which is sufficient to fulfill the commitments of the said persons.

The detailed rules for authorisations granted under this paragraph shall be determined by the Minister of Finance.

5. The guarantee waiver authorised in accordance with paragraph 4 shall not apply to transit operation involving goods which, as determined by the Minister of Finance, are considered to present increased risks.
6. In line with the principles underlying paragraph 4, recourse to the comprehensive guarantee for a reduced amount may, in the case of transit, be temporarily prohibited by the Minister of Finance as an exceptional measure in special circumstances.
7. In line with the principles underlying paragraph 4, recourse to the comprehensive guarantee may, in the case of transit, be temporarily prohibited by the Minister of Finance in respect of goods which, under the comprehensive guarantee, have been identified as being subject to large-scale fraud.

### ***Section 91*** ***Waiver of guarantee***

Except in cases to be determined where necessary by the Minister of Finance, no guarantee need be furnished for:

- a) journeys by air;
- b) carriage by pipeline or cable;
- c) transport by railway.

### ***Section 92*** ***Responsibilities of the principal***

1. The principal shall be the holder of the transit procedure. He/she shall be responsible for:

- a) Production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs Authority to ensure identification;
- b) Observance of the provisions relating to the transit procedure.

2. Notwithstanding the principal's obligations under paragraph 1, a carrier or recipient of goods who accepts goods knowing that they are moving under transit shall also be responsible for production of the goods intact at the customs office of destination by the prescribed time limit and with due observance of the measures adopted by the customs Authority to ensure the identification of the goods.

***Section 93***  
***Detailed rules and exemptions***

The detailed rules for the operation of the procedure and the exemptions shall be determined by the Minister of Finance.

**E. CUSTOMS WAREHOUSES**

***Section 94***  
***Use of the procedure***

1. The customs warehousing procedure shall allow the storage in a customs warehouse of non-Somaliland goods, without such goods being subject to import duties or commercial policy measures.
2. Customs warehouse means any place approved by and under the supervision of the customs Authority where goods may be stored under the conditions laid down.
3. Cases in which the goods referred to in paragraph 1 may be placed under the customs warehousing procedure without being stored in a customs warehouse shall be determined by the Minister of Finance.

***Section 95***  
***Different types of Customs warehouses***

A customs warehouse may be either a public warehouse or a private warehouse:

- a) 'Public warehouse' means a customs warehouse available for use by any person for the warehousing of goods.

- b) 'Private warehouse' means a customs warehouse reserved for the warehousing of goods by the warehouse keeper.

The warehouse keeper is the person authorised to operate the customs warehouse.

The depositor shall be 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.

### ***Section 96*** ***Authorisations***

1. Operation of a customs warehouse shall be subject to the issue of an authorisation by the customs Authority, unless the Authority operates the customs warehouse themselves.
2. Any person wishing to operate a customs warehouse must make a request in writing containing the information required for granting the authorisation, in particular demonstrating that an economic need for warehousing exists.
3. The authorisation shall lay down the conditions for operating the customs warehouse.
4. The authorisation shall be issued only to persons established in Somaliland.

### ***Section 97*** ***Responsibilities of the warehouse keeper***

The warehouse keeper shall be responsible for:

- a) ensuring that while the goods are in the customs warehouse they are not removed from customs supervision;
- b) fulfilling the obligations that arise from the storage of goods covered by the customs warehousing procedure; and
- c) complying with the particular conditions specified in the authorisation.

### ***Section 98*** ***Responsibilities of the depositor***

1. By way of derogation from Section 97, where the authorisation concerns a public warehouse, it may provide that the responsibilities referred to in Section 97, a) and/or b) devolve exclusively upon the depositor.
2. The depositor shall at all times be responsible for fulfilling the obligations arising from the placing of goods under the customs warehousing procedure.

***Section 99***  
***Transfer of rights and obligations***

The rights and obligations of a warehouse keeper may, with the agreement of the customs Authority, be transferred to another person.

***Section 100***  
***Guarantee***

Without prejudice to Section 85, the customs Authority may demand that the warehouse keeper provide a guarantee in connection with the responsibilities specified in Section 97.

***Section 101***  
***Stock records***

1. The person designated by the customs Authority shall keep stock records of all the goods placed under the customs warehousing procedure in a form approved by the Authority. Stock records are not necessary where a public warehouse is operated by the customs Authority.
2. Subject to the application of Section 83 the customs Authority may dispense with stock records where the responsibilities referred to in Section 97 a) and/or b) lie exclusively with the depositor and the goods are placed under that procedure on the basis of a written declaration forming part of the normal procedure or a commercial or administrative document, accompanied by a request to place the goods under the warehousing procedure.

***Section 102***  
***Storage of goods***

1. Where an economic need exists and customs supervision is not adversely affected thereby, the customs Authority may allow:
  - a) Somaliland goods to be stored on the premises of a customs warehouse;
  - b) Non-Somaliland goods to be processed on the premises of a customs warehouse under the inward processing procedure, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined by the Minister of Finance;
  - c) Non-Somaliland goods to be processed on the premises of a customs warehouse under the procedure for processing under customs control, subject to the conditions provided for by that procedure. The formalities which may be dispensed with in a customs warehouse shall be determined by the Minister of Finance.

2. In the cases referred to in paragraph 1, the goods shall not be subject to the customs warehousing procedure.
3. The customs Authority may require the goods referred to in paragraph 1 to be entered in the stock records provided for in Section 101.

***Section 103***  
***Entry into the stock records***

Goods placed under the customs warehousing procedure shall be entered in the stock records provided for in Section 101 as soon as they are brought into the customs warehouse.

***Section 104***  
***Time limitation***

There shall be no limit to the length of time goods may remain under the customs warehousing procedure. However, in exceptional cases, the customs Authority may set a time limit by which the depositor must assign the goods a new customs-approved treatment or use.

***Section 105***  
***Usual forms of handling***

1. Import goods may undergo the usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.
2. The forms of handling provided for in paragraph 1 must be authorised in advance by the customs Authority, which shall lay down the conditions under which they may take place.
3. The forms of handling provided for in paragraph 2 shall be established by the Minister of Finance.

***Section 106***  
***Temporary removal of goods***

Where circumstances allow, goods placed under the customs warehousing procedure may be temporarily removed from the customs warehouse. Such removal must be authorised in advance by the customs Authority.

While they are outside the customs warehouse the goods may undergo the forms of handling referred to in Section 105 on the conditions set out therein.

***Section 107***  
***Transfer of goods***

The customs Authority may allow goods placed under the customs warehousing procedure to be transferred from one customs warehouse to another.

***Section 108***  
***Incurrence of a customs debt***

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 said goods have undergone the usual forms of handling within the meaning of Section 105, the nature of the goods, the customs value and the quantity to be taken into account in determining the amount of import duties 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. However, derogations from this provision may be adopted by the Minister of Finance.

3. Where import goods are released for free circulation by means of an entry in the records, whereby the customs Authority may waive the requirement that the declarant presents the goods to customs, the nature of the goods, the customs value and the quantity to be taken into account when a customs debt arises shall be those applicable to the goods at the time when they were placed under the customs warehousing procedure. The declarant may request that this assessment is made at the time when the customs debt is incurred.

**F. INWARD PROCESSING**

***Section 109***  
***Use of the procedure***

1. Without prejudice to Section 110, the inward processing procedure shall allow the following goods to be used in the customs territory of Somaliland in one or more processing operations:

- a) Non-Somaliland goods intended for re-export from the customs territory of Somaliland in the form of compensating products, without such goods being subject to import duties or commercial policy measures;
- b) Goods released for free circulation with repayment or remission of the import duties chargeable on such goods if they are exported from the customs territory of the Somaliland in the form of compensating products.

2. The following expressions shall have the following meanings:

- a) Suspension system: the inward processing relief arrangements as provided for in paragraph 1, a);
- b) Drawback system: the inward processing relief arrangements as provided for in paragraph 1, b);
- c) Processing operations:
  - the working of goods, including erecting or assembling them or fitting them to other goods,
  - the processing of goods, and
  - the repair of goods, including restoring them and putting them in order;
  - the use of certain goods defined by the Minister of Finance which are not to be found in the compensating products, but which allow or facilitate the production of those products, even if they are entirely or partially used up in the process;
- d) Compensating products: all products resulting from processing operations;
- e) Equivalent goods: Somaliland goods which are used instead of the import goods for the manufacture compensating products;
- f) Rate of yield: the quantity or percentage of compensating products obtained from the processing of a given quantity of import goods.

### ***Section 110***

#### ***Use of equivalent goods***

1. Where the conditions laid down in paragraphs 2 and 4 are fulfilled, the customs Authority shall allow:
  - a) compensating products to be obtained from equivalent goods;
  - b) compensating products obtained from equivalent goods to be exported from Somaliland before importation of the import goods.
2. Equivalent goods must be of the same quality and have the same characteristics as the import goods.

However, in specific cases determined by the Minister of Finance, equivalent goods may be allowed to be at a more advanced stage of manufacture than the import goods.
3. Where paragraph 1 applies, the import goods shall be regarded for customs purposes as equivalent goods and the latter as import goods.

4. Measures aimed at prohibiting, imposing certain conditions for or facilitating recourse to paragraph 1 may be adopted by the Minister of Finance.

5. Where paragraph 1, b) is applied and the compensating products would be liable to export duties if they were 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 not be imported within the period prescribed.

***Section 111***  
***Application for an authorisation***

The authorisation shall be issued at the request of the person who carries out processing operations or who arranges for them to be carried out.

***Section 112***  
***Granting of an authorisation***

The authorisation shall be granted only:

- a) to persons established in Somaliland. However, the authorisation may be granted to persons established outside Somaliland in respect of imports of a non-commercial nature;
- b) where, without prejudice to the use of the goods referred to in the last indent of Section 109, 2) c), the import goods can be identified in the compensating products or, in the case referred to in Section 110, 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 that the essential interests of Somaliland producers are not adversely affected (economic conditions). The cases in which the economic conditions are deemed to have been fulfilled may be determined by the Minister of Finance.

***Section 113***  
***Time for re-exportation***

1. The customs Authority shall specify the period within which the compensating products must have been exported or re-exported until a new decision is reached.
2. For non-Somaliland goods, the customs Authority may decide the duration that the goods will be in customs stores where it will be simplified for the owner of the goods.
3. Where Section 110, 1, b) applies, the customs Authority shall specify the period within which the non-Somaliland goods must be declared for the procedure. That period shall run from the date



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

4. Specific time limits may be laid down by the Minister of Finance procedure for certain processing operations or for certain import goods.

***Section 114***  
***Rate of yield***

1. The customs Authority shall set either the rate of yield of the operation or where appropriate, the method of determining such rate. The rate of yield shall be determined on the basis of the actual circumstances.
2. Where circumstances allow, standard rates of yield may be set on the basis of actual data previously ascertained.

***Section 115***  
***Goods in an unaltered state***

The cases in which and the conditions under which goods in the unaltered state or compensating products shall be considered to have been released for free circulation may be determined by the Minister of Finance.

***Section 116***  
***Incurrence of a customs debt***

1. Subject to Section 119, where a customs debt is incurred, the amount of such debt shall be determined on the basis of the taxation elements appropriate to the import goods at the time of acceptance of the declaration of placing of these goods under the inward processing procedure.
2. If at the time referred to in paragraph 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 of release for free circulation.

***Section 117***  
***Compensating products***

By way of derogation from Section 116, compensating products:

- a) shall be subject to the import duties appropriate to them where they are released for free circulation and appear on the list adapted by the Minister of Finance, to the extent that they are in

proportion to the exported part of the compensating products not included in that list. However, the holder of the authorisation may ask for the duty on those products to be assessed in the manner referred to in Section 116;

b) shall be subject to import duties calculated in accordance with the rules applicable to the customs procedure in where they have been placed under a suspensive arrangement; However,

i) the person concerned may request that duty be assessed in accordance with Section 116;

ii) in cases where the compensating products have been assigned a customs-approved treatment or use referred to above other than processing under customs control, the amount of the import duty levied shall be at least equal to the amount calculated in accordance with Section 116;

c) may be made subject to the rules governing assessment of duty laid down under the procedure for processing under customs control where the import goods could have been placed under that procedure;

d) shall enjoy favourable tariff treatment owing to the special use for which they are intended, where provision is made for such treatment in the case of identical imported goods;

e) shall be admitted free of import duty where such duty-free provision is made in the case of identical goods imported under a relief regime.

### ***Section 118***

#### ***Temporary exportation***

1. Some or all of the compensating products or goods in the unaltered state may be temporarily exported for the purpose of further processing outside the customs territory of Somaliland if the customs Authority so authorises, in accordance with the conditions laid down in the outward processing provisions.

2. Where a customs debt is incurred in respect of re-imported products, the following shall be charged:

a) import duties on the compensating products or goods in the unaltered state referred to in paragraph 1, calculated in accordance with Sections 116 and 117; and

b) import duties on products re-imported after processing outside the customs territory of Somaliland, the amount of which 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 exported under the latter procedure been released for free circulation before such export took place.

### **Special provisions relating to the drawback system**

#### ***Section 119***

#### ***The drawback system***

1. The drawback system may be used for all goods. It shall not, however, be usable where, at the time the declaration of release for free circulation is accepted:
  - a) the import goods are subject to quantitative import restrictions,
  - b) a tariff measure within quotas is applied to the import goods, or
  - c) an export refund or tax has been set for the compensating products.
2. Moreover, no reimbursement of import duties under the drawback system shall be possible if, at the time the export declaration for the compensating products is accepted, an export refund or tax has been set for them.
3. Derogations from paragraphs 1 and 2 may be adopted by the Minister of Finance.

***Section 120***  
***Particulars to be mentioned***

1. The declaration of release for free circulation shall indicate that the drawback system is being used and shall provide particulars of the authorisation.
2. At the request of the customs Authority, the said authorisation shall be attached to the declaration of release for free circulation.

***Section 121***  
***Exceptions within the drawback system***

Under the drawback system, Section 110, 1, b), 3 and 5, Section 113, 3, Sections 115 and 116, Section 117 c), and Section 124 shall not apply.

***Section 122***  
***Temporary exportation within the drawback system***

Temporary exportation of compensating products carried out as provided for in Section 118, 1 shall not be considered to be exportation except where such products are not re-imported into Somaliland within the period prescribed.

***Section 123***  
***Repayment or remission***

1. The holder of the authorisation may ask for the import duty to be repaid or remitted where he/she can establish to the satisfaction of the customs Authority that import goods released for free circulation under the drawback system in the form of compensating products or goods in the unaltered state have been either a) exported, or

b) placed, with a view to being subsequently re-exported, under the transit procedure, the customs warehousing procedure, the temporary importation procedure or the inward-processing procedure (suspensive arrangement), provided that all conditions for use of the procedure have also been fulfilled.

2. For the purposes of being assigned a customs-approved treatment or use referred to in the second indent<sup>5</sup> of paragraph 1, compensating products or goods in the unaltered state shall be considered to be non- Somaliland goods.

3. The period within which the application for repayment must be made shall be determined by the Minister of Finance.

4. Without prejudice to point b) of Section 116<sup>6</sup>, where compensating products or goods in the unaltered state placed under a customs procedure in accordance with paragraph 1 are released for free circulation, the amount of import duties repaid or remitted shall be considered to constitute the amount of the customs debt.

5. For the purpose of determining the amount of import duties to be repaid or remitted, Section 117 shall apply *mutatis mutandis*.

#### ***Section 124*** ***Export duties exemption***

The inward processing procedure, applying the suspension system shall also apply in order that the compensating products may qualify for exemption from the export duties to which identical products obtained from Somaliland goods instead of import goods would be liable.

#### **Processing under customs control**

#### ***Section 125*** ***Use of the procedure***

The procedure for processing under customs control shall allow non-Somaliland goods to be used in the customs territory of Somaliland in operations which alter their nature or state, without their being subject to import duties or commercial policy measures, and shall allow the products resulting from such operations to be released for free circulation at the rate of import duty appropriate to them. Such products shall be termed processed products.

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<sup>5</sup> Reference to the second “indent” of paragraph 1 is to subparagraph (b) of paragraph 1 of this section. This will be corrected at a later date

<sup>6</sup> The correct reference is paragraph (b) of Section 117. This will be corrected at a later date

**Section 126**  
**Specific conditions**

The cases in and specific conditions under which the procedure for processing under customs control may be used shall be determined by the Minister of Finance.

**Section 127**  
**The authorisation**

Authorisation for processing under customs control shall be granted at the request of the person who carries out the processing or arranges for it to be carried out.

**Section 128**  
**Granting of the authorisation**

Authorisation shall be granted only:

- a) to persons established in Somaliland;
- b) where the import goods can be identified in the processed products;
- c) where the goods cannot be economically restored after processing to their description or state as it was when they were placed under the procedure;
- d) where use of the procedure cannot result in circumvention of the effect of the rules concerning origin and quantitative restrictions applicable to the imported goods;
- e) where the necessary conditions for the procedure to help create or maintain a processing activity in Somaliland without adversely affecting the essential interests of Somaliland producers of similar goods (economic conditions) are fulfilled. The cases in which the economic conditions are deemed to have been fulfilled may be determined by the Minister of Finance.

**Section 129**  
**Period of discharge**

Section 113, 1, 2 and 4 and Section 114 shall apply *mutatis mutandis*.

**Section 130**  
**Incurrence of a Customs debt**

Where a customs debt is incurred in respect of goods in the unaltered state or of products that are at an intermediate stage of processing as compared with that provided for in the authorisation, the amount of that debt shall be determined on the basis of the items of charge elements appropriate to the import goods at the time of acceptance of the declaration relating to the placing of the goods under the procedure for processing under customs control.

***Section 131***  
***Preferential treatment***

1. Where the import goods qualify for preferential tariff treatment when they were placed under the procedure for processing under customs control, and such preferential tariff treatment is applicable to products identical to the processed products released for free circulation, the import duties to which the processed products are subject shall be calculated by applying the rate of duty applicable under that treatment.
2. If the preferential tariff treatment referred to in paragraph 1 in respect of the import goods is subject to tariff quotas or tariff ceilings, the application of the rate of duty referred to in paragraph 1 in respect of the processed products shall also be subject to the condition that the said preferential tariff treatment is applicable to the import goods at the time of acceptance of the declaration of release for free circulation. In this case, the quantity of import goods actually used in the manufacture of the processed products released for free circulation shall be charged against the tariff quotas or ceilings in force at the time of acceptance of the declaration of release for free circulation and no quantities shall be counted against tariff quotas or ceilings opened in respect of products identical to the processed products.

**Temporary importation**

***Section 132***  
***Use of the procedure***

Temporary importation procedure shall allow the use of goods entered in the customs territory of Somaliland, total or partial relief from import duties and without their being subject to commercial policy measures.

***Section 133***  
***The authorisation***

Authorisation for temporary importation shall be granted at the request of the person who uses the goods or arranges for them to be used.

***Section 134***  
***Identification of the goods***

The customs Authority shall refuse to authorise use of the temporary importation procedure where it is impossible to ensure that the import goods can be identified. However, the customs Authority may authorise use of the temporary importation procedure without ensuring that the goods can be

identified, 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.

### ***Section 135***

#### ***Time for re-exportation***

1. The customs Authority shall determine the period within which import goods must have been reexported or assigned a new customs-approved treatment or use. Such period must be long enough for the objective of authorised use to be achieved.
2. Without prejudice to the special periods laid down in accordance with Section 136, the maximum period during which goods may remain under the temporary importation procedure shall be 24 months. The customs Authority may, however, determine shorter periods with the agreement of the person concerned.
3. However, where exceptional circumstances so warrant, the customs Authority may, at the request of the person concerned and within reasonable limits, extend the periods referred to in paragraphs 1 and 2 in order to permit the authorised use.

### ***Section 136***

#### ***Conditions for total relief***

The cases and the special conditions under which the temporary importation procedure may be used with total relief from import duties shall be determined by the Minister of Finance.

### ***Section 137***

#### ***Partial relief***

1. Use of the temporary importation procedure with partial relief from import duties shall be granted in respect of goods which are not covered by the provisions adopted in accordance with Section 136 or which are covered by such provisions but do not fulfill all the conditions laid down therein for the grant of temporary importation with total relief.
2. The list of goods in respect of which the temporary importation procedure with partial relief from import duties may not be used and the conditions subject to which the procedure may be used shall be determined by the Minister of Finance.

### ***Section 138***

#### ***Duties payable in case of partial relief***

1. The amount of import duties payable in respect of goods placed under the temporary importation procedure with partial relief from import duties shall be set at 3%, for every month or

fraction of a month during which the goods have been placed under the temporary importation procedure with partial relief, of the amount of duties which would have been payable on the said goods had they been released for free circulation on the date on which they were placed under the temporary importation procedure.

2. The amount of import duties to be charged shall not exceed that which would have been charged if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation procedure, leaving out of account any interest which may be applicable.

3. Transfer of the rights and obligations deriving from the temporary importation procedure pursuant to Section 87 shall not mean that the same relief arrangements must be applied to each of the periods of use.

4. Where the transfer referred to in paragraph 3 is made with partial relief for both persons authorised to use the procedure during the same month, the holder of the initial authorisation shall be liable to pay the amount of import duties due for the whole of that month.

### ***Section 139***

#### ***Incurrence of a customs debt***

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 their placing under the temporary importation procedure. However, where the provisions of Section 136 so provide, the amount of the debt shall be determined on the basis of the taxation elements appropriate to the goods in question at the time that customs conclude that the goods are in a situation in which a customs debt is incurred. However, where the information available to the customs Authority enables them to establish that the customs debt was incurred prior to the time when they reached that conclusion, the amount of the import duty or export duty payable on the goods in question shall be determined on the basis of the rules of assessment appropriate to the goods at the earliest time when existence of the customs debt arising from the situation may be established from the information available.
2. Where, for a reason other than the placing of goods under the temporary importation procedure with partial relief from import duties, a customs debt is incurred in respect of goods placed under the said procedure, the amount of that debt shall be equal to the difference between the amount of duties calculated pursuant to paragraph 1 and that payable pursuant to Section 138.

### **Outward processing**

#### ***Section 140***



### *Use of the procedure*

1. The outward processing procedure shall, without prejudice to the provisions governing specific fields relating to the standard exchange system laid down in Sections 149 to 154 or to Section 118, allow Somaliland goods to be exported temporarily from the customs territory of Somaliland in order to undergo processing operations and the products resulting from those operations to be released for free circulation with total or partial relief from import duties.
2. Temporary exportation of Somaliland goods shall entail the application of export duties, commercial policy measures and other formalities for the exit of Somaliland goods from the customs territory of Somaliland.
3. The following definitions shall apply:
  - a) ‘Temporary export goods’ means goods placed under the outward processing procedure;
  - b) ‘Processing operations’ means the operations referred to in Section 109, 2) c), first, second and third indents;
  - c) ‘Compensating products’ means all products resulting from processing operations;
  - d) ‘Rate of yield’ means the quantity or percentage of compensating products obtained from the processing of a given quantity of temporary export goods.

### *Section 141 Conditions*

1. The outward processing procedure shall not be open to Somaliland goods:
  - a) whose export gives rise to repayment or remission of import duties,
  - b) which, prior to export, were released for free circulation with total relief from import duties by virtue of end use, for as long as the conditions for granting such relief continue to apply,
  - c) whose export gives rise to the granting of export refunds.
2. However, derogations from the second indent<sup>7</sup> of paragraph 1 may be determined by the Minister of Finance.

### *Section 142 The Authorisation*

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<sup>7</sup> Reference to the second “indent” of paragraph 1 is to subparagraph (b) of paragraph 1 of this section. This will be corrected at a later date

1. Authorisation to use the outward processing procedure shall be issued at the request of the person who arranges for the processing operations to be carried out.
2. By way of derogation from paragraph 1, authorisation to use the outward processing procedure may be granted to another person in respect of goods of Somaliland origin, where the processing operation consists in incorporating those goods into goods obtained outside Somaliland and imported as compensating products, provided that use of the procedure helps to promote the sale of export goods without adversely affecting the essential interests of Somaliland producers of products identical or similar to the imported compensating products. The cases in which and the arrangements under which the preceding subparagraph shall apply shall be determined by the Minister of Finance.

***Section 143***  
***Granting of the authorisation***

An authorisation shall be granted only:

- a) to persons established in Somaliland;
- b) where it is considered that it will be possible to establish that the compensating products have resulted from processing of the temporary export goods. The cases in which derogations from this subparagraph may apply and the conditions under which such derogations shall apply shall be determined by the Minister of Finance;
- c) where authorisation to use the outward processing procedure is not liable to seriously harm the essential interests of Somaliland processors (economic conditions).

***Section 144***  
***Time limit for re-importation***

1. The customs Authority shall specify the period within which the compensating products must be reimported into the customs territory of Somaliland. They may extend that period on submission of a duly substantiated request by the holder of the authorisation.
2. The customs Authority shall set either the rate of yield of the operation or, where necessary, the method of determining that rate.

***Section 145***  
***Relief from import duties***

1. The total or partial relief from import duties provided for in Section 146, 1 shall be granted only where the compensating products are declared for release for free circulation in the name of or on behalf of:
  - a) the holder of the authorisation, or

b) any other person established in Somaliland provided that that person has obtained the consent of the holder of the authorisation and the conditions of the authorisation are fulfilled.

2. The total or partial relief from import duties provided for in Section 146 shall not be granted where one of the conditions or obligations 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.

### *Section 146* *Calculation of the relief*

1. The total or partial relief from import duties provided for in Section 142<sup>8</sup> shall be effected by deducting from the amount of the import duties applicable to the compensating products released for free circulation the amount of the import duties that would be applicable on the same date to the temporary export goods if they were imported into the customs territory of Somaliland from the country in which they underwent the processing operation or last processing operation.

2. The amount to be deducted pursuant to paragraph 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 release for free circulation of the compensating products. The value of the temporary export goods shall be that taken into account for those goods in determining the customs value of the compensating products in accordance with Section 31,1 b) i) or, if the value cannot be determined in that way.

3. The difference between the customs value of the compensating products and the processing costs.

However, where, prior to being placed under the outward processing procedure, the temporary export goods were released for free circulation at a reduced rate by virtue of their end use, and for as long as the conditions for granting the reduced rate continue to apply, the amount to be deducted shall be the amount of import duties actually levied when the goods were released for free circulation.

4. Where temporary export goods could qualify on their release for free circulation for a reduced or zero rate of duty by virtue of their end use, that rate shall be taken into account provided that the goods underwent operations consistent with such an end-use in the country where the processing operation or last such operation took place.

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<sup>8</sup> The correct reference here should be Section 145. This will be corrected at a later date

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

6. This Section shall be without prejudice to the application of provisions, adopted or liable to be adopted in the context of trade between Somaliland and other countries, which provide for relief from import duties in respect of certain compensating products.

### ***Section 147***

#### ***Repair***

1. Where the purpose of the processing operation is the repair of the temporary export goods, they shall be released for free circulation with total relief from import duties where it is established to the satisfaction of the customs Authority that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.
2. Paragraph 1 shall not apply where account was taken of the defect at the time when the goods in question were first released for free circulation.

### ***Section 148***

#### ***Calculation of duties in case of repair***

Where the purpose of the processing operation is the repair of temporary export goods and such repair is carried out in return for payment, the partial relief from import duties provided for in Section 140 shall be granted by establishing the amount of the duties applicable on the basis of the taxation elements pertaining to the compensating products on the date of acceptance of the declaration of release for free circulation of those products and taking into account as the customs value an amount equal to the repair costs, provided that those costs represent the only consideration provided by the holder of the authorisation and are not influenced by any links between that holder and the operator. By way of derogation from Section 146, the Minister of Finance may determine the cases in and specific conditions under which goods may be released for free circulation following an outward processing operation, with the cost of the processing operation being taken as the basis for assessment for the purpose of applying the Customs Tariff of Somaliland.

***Section 149***  
***The standard exchange system***

1. Under the conditions laid down in this Part which are applicable in addition to the preceding provisions, the standard exchange system shall permit an imported product, hereinafter referred to as a 'replacement product', to replace a compensating product.
2. The customs Authority shall allow the standard exchange system to be used where the processing operation involves the repair of Somaliland goods.
3. Without prejudice to Section 154, the provisions applicable to compensating products shall also apply to replacement products.
4. The customs Authority shall, under the conditions they lay down, permit replacement products to be imported before the temporary export goods are exported (prior importation). In the event of prior importation of a replacement, security shall be provided to cover the amount of the import duties.

***Section 150***  
***Replacement goods***

1. Replacement products shall have the same tariff classification, be of the same commercial quality and possess the same technical characteristics as the temporary export goods had the latter undergone the repair in question.
2. Where the temporary export goods have been used before export, the replacement products must also have been used and may not be new products. The customs Authority may, however, grant derogations from this rule if the replacement product has been supplied free of charge either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.

***Section 151***  
***Conditions for using the standard exchange system***

The standard exchange shall be authorised only where it is possible to verify that the conditions laid down in Section 150 are fulfilled.

***Section 152***  
***Prior importation***

1. In the case of prior importation, the export goods shall be temporarily exported within a period of two months from the date of acceptance by the customs Authority of the declaration relating to the release of the replacement products for free circulation.
2. However, where exceptional circumstances so warrant, the customs Authority may, at the request of the person concerned, extend within reasonable limits the period referred to in paragraph 1.

***Section 153***  
***Date for calculating the deductions***

In the case of prior importation and where Section 147 is applied, the amount to be deducted shall be determined on the basis of the items of charge applicable to the temporary export goods on the date of acceptance of the declaration placing them under the procedure.

***Section 154***  
***Exceptions***

Section 142, 2 and Section 143, b) shall not apply in the context of standard exchange.

***Section 155***  
***Commercial policy measures***

The procedures provided for within the framework of outward processing shall also be applicable for the purposes of implementing non-tariff commercial policy measures.

**EXPORT**

***Section 156***  
***Use of the procedure***

1. The export procedure shall allow Somaliland goods to leave the customs territory of Somaliland.  
Exportation shall entail the application of exit formalities including commercial policy measures and, where appropriate, export duties.
2. With the exception of goods placed under the outward processing procedure, all Somaliland goods intended for export shall be placed under the export procedure.
3. The case in which and the conditions under which goods leaving the customs territory of Somaliland are not subject to an export declaration shall be determined by the Minister of Finance.

4. The export declaration must be lodged at the customs office responsible for supervising the place where the exporter is established or where the goods are packed or loaded for export shipment. Derogations shall be determined by the Minister of Finance.

***Section 157***  
***Release for export***

Release for export shall be granted on condition that the goods in question leave the customs territory of Somaliland in the same condition as when the export declaration was accepted.

**G. OTHER CUSTOMS APPROVED TREATMENT OR USES**

***Section 158***  
***Re-exportation, destruction and abandonment***

1. Non-Somaliland goods may be:
  - a) re-exported from the customs territory of Somaliland;
  - b) destroyed;
  - c) abandoned to the state.
2. Re-exportation shall, where appropriate, involve application of the formalities laid down for goods leaving including commercial policy measures.

Cases in which non-Somaliland goods may be placed under a suspensive arrangement with a view to non-application of commercial policy measures on exportation may be determined by the Minister of Finance.
3. Save in cases determined by the Minister of Finance destruction shall be the subject of prior notification to the customs Authority. The customs Authority shall prohibit re-exportation should the formalities or measures referred to in the first subparagraph of paragraph 2 so provide. Where goods are placed under an economic customs procedure when on Somaliland customs territory they are intended for re-exportation, a customs declaration shall be lodged.

In such cases, the provisions laid down for the export procedure shall apply. Abandonment shall be put into effect in accordance with national provisions.
4. Destruction or abandonment shall not entail any expense for the state.
5. Any waste or scrap resulting from destruction shall be assigned a customs-approved treatment or use prescribed for non-Somaliland goods. It shall remain under customs supervision until their customs status is changed.

## **PART V - GOODS LEAVING THE CUSTOMS TERRITORY OF SOMALILAND**

### ***Section 159***

#### ***Obligation to lodge a declaration***

1. Goods leaving the customs territory of Somaliland, with the exception of goods carried on means of transport only passing through the territorial waters or the airspace of the customs territory without a stop within this territory, shall be covered either by a customs declaration or, where a customs declaration is not required, a summary declaration.
2. The Minister of Finance shall determine:
  - a) the time limit by which the customs declaration or a summary declaration is to be lodged at the customs office of export before the goods are brought out of the customs territory of Somaliland;
  - b) the rules for exceptions from and variations to the time limit referred to above;
  - c) the conditions under which the requirement for a summary declaration may be waived or adapted; and
  - d) the cases in which and the conditions under which goods leaving the customs territory of Somaliland are not subject to either a customs declaration or a summary declaration, in accordance with the specific circumstances and for particular types of goods traffic, modes of transport and economic operators and where international agreements provide for special security arrangements.

### ***Section 160***

#### ***Place for lodging the summary declaration***

1. Where goods leaving the customs territory of Somaliland are not assigned to a customs-approved treatment or use for which a customs declaration is required, a summary declaration, referred to as exit summary declaration shall be lodged at the customs office of exit before the goods are to be brought out of the customs territory of Somaliland.
2. The customs Authority may allow the exit summary declaration to be lodged at another customs office, provided that this office immediately communicates or makes available, electronically if available, the necessary particulars to the customs office of exit.
3. The customs Authority may accept, instead of the lodging of an exit summary declaration, the lodging of a notification and access to the summary declaration data in an economic operator's computer system.

### ***Section 161***

#### ***Format of the summary declaration***



1. The Minister of Finance shall set a common data and format for the exit summary declaration, containing the particulars necessary for risk analysis and the proper application of customs controls, primarily for security and safety purposes, using, where appropriate, international standards and commercial practices.

2. Where available, the exit summary declaration shall be made using a data processing technique. Commercial, port or transport information may be used, provided that it contains the necessary particulars. The customs Authority may accept paper-based summary declarations provided that they apply the same level of risk management as that applied to summary declarations made using a data processing technique.

***Section 162***  
***Customs supervision***

Goods leaving the customs territory of Somaliland shall be subject to customs supervision. They may be the subject of checks by the customs Authority in accordance with the provisions in force. They shall leave the said territory using, where appropriate, the route determined by the customs Authority and in accordance with the procedures laid down by the Authority.

**PART VI**  
**RELIEF REGIMES**

***Section 163***  
***Relief from Customs Duties***

The Minister of Finance shall determine the cases in which, on account of special circumstances, relief from import duties or export duties shall be granted where goods are released for free circulation or exported.

***Section 164***  
***Returned goods***

1. Somaliland goods which, having been exported from the customs territory of Somaliland, are returned to that territory and released for free circulation within a period of three years shall, at the request of the person concerned, be granted relief from import duties.

2. However, the three-year period may be exceeded in order to take account of special circumstances.

3. The relief from import duties provided for in paragraph 1 shall not be granted in the case of goods exported from the customs territory of Somaliland under the outward processing procedure unless those goods remain in the state in which they were exported.

***Section 165***  
***State of the returned goods***

The relief from import duties provided for in Section 163 shall be granted only if goods are re-imported in the state in which they were exported. The circumstances in which and the conditions under which this requirement may be waived shall be determined by the Minister of Finance.

***Section 166***  
***Return of compensating products***

Sections 164 and 165 shall apply *mutatis mutandis* to compensating products originally exported or re-exported subsequent to an inward processing procedure.

The amount of import duty legally owed shall be determined on the basis of the rules applicable under the inward processing procedure, the date of re-export being regarded as the date of release for free circulation.

**PART VII - CUSTOMS DEBT**

**A. INCURRENCE OF A CUSTOMS DEBT**

***Section 167***  
***Duty payment at the point of declaration***

1. All goods imported in or exported out of the customs territory of Somaliland may be liable, *inter alia*, to import or export duties and taxes at the time of the entry for a customs-approved treatment or use.

2. For the purposes of paragraph 1 goods shall be deemed to be entered when the declaration, made and signed by the declarant in accordance with Section 60, is accepted and signed by customs and any duty due or deposit under this act in respect of the imported or exported goods has been paid, or security has been given for compliance with this Act.

***Section 168***  
***Short levy of duty***

1. Where any duty has been short levied or erroneously refunded, then the person who should have paid the amount short levied or to whom the refund has erroneously been made shall, on demand by the customs authority, pay the amount short levied or repay the amount erroneously refunded as the

case may be, and any such amount is a debt, and may be recovered as if it were duty to which those goods were liable.

2. Where a request is made for any amount pursuant to paragraph 1, the amount shall be deemed to be due from the person liable to it on the date on which the request is served upon him or her, if payment is not made within thirty (30) days pursuant to of the date of such service, or such further period as Customs may allow, a further duty of a sum equal to five (5%) percent of the amount requested shall be due and payable by the person by way of a penalty and a subsequent penalty of two (2%) per month in which he or she defaults.

3. Customs shall not make any request after three (3) years from the date of the short levy or erroneous refund, as the case may be, unless the short levy or erroneous refund had been caused by fraud on the part of the person who should have paid the amount short levied or to whom the refund was erroneously made, as the case may be.

## **B. RECOVERY OF A CUSTOMS DEBT**

### *Section 169*

#### *Entry into the accounts*

Each and every amount of import or export duty and tax resulting from a customs debt shall be calculated by the customs Authority as soon as the necessary particulars are available, and entered by the Authority in its accounting system.

1. Paragraph 1 shall not apply:
  - a) where a provisional anti-dumping or countervailing duty has been introduced;
  - b) where the amount of duty legally due exceeds that determined on the basis of binding information;
  - c) where the provisions in force waive the requirement for the customs Authority to enter in the accounts amounts of customs debt below a given level.
2. Further provisions with regards to the entry into the accounts of a customs debt shall be determined by the Minister of Finance.

### *Section 170*

#### *Recovery of duty by distress*

1. Where goods are liable to duty, then such duty shall constitute a civil debt due to Customs authority of Somaliland, be charged in respect on the goods to which duty is payable; and such duty

shall be payable by the owner of the goods and be without prejudice recoverable by any other means of recovery, and be recovered summarily by legal proceedings of the state.

2. Goods under Customs control which belong to any person from whom duty is due, and any goods afterwards imported or entered for export by that person, shall be subject to a lien for such debt and may be detained by Customs until such duty is paid and the claim of whatever nature of any other person upon the goods and the goods may be sold to meet the duty due if the duty is not paid within two (2) months after the goods are detained.

3. Where any duty is payable to Customs under paragraph 1 or as penalty under this Act is not paid within one month after the due date, Customs may authorise distress to be levied upon the following items:

- a) Goods, chattels and effects;
- b) Material for manufacturing or plant of a factory;
- c) Premises, vehicles or other property;
- d) Animals, which are in the possession or custody of:
  - (i) that person;
  - (ii) his or her agents;
  - (iii) any other person on his or her behalf thereof.

4. The warrant of distress to be issued by Customs shall be determined by the Minister of Finance.

5. A person authorised to distrain under paragraph 3 may, if necessary, break open any building or place during daytime with assistance from a police officer or other person who can lawfully give assistance.

6. A person authorised to distrain shall keep the item distrained at the expense of the owner for fourteen (14) days from the date of distress or until the amount due, together with the cost and any other charges are paid in full before the end of the fourteen (14) days. If payment is not effected within that period the person authorised to distrain may sell the item.

7. Where an item is sold under paragraph 6 the proceeds of the sale shall be applied as follows:

- a) Payment of the tax due to the Customs;
- b) Payment to any fine imposed for non-payment of the tax, if any;
- c) Payment of expenses or other charges for levying of distress and for the sale.

8. The balance of the proceeds after payment under paragraph 7, if any, shall be paid to the owner of the goods, or where Customs fails to effect such refund, and on application, refund for such

amount with interest at the current market rate shall without prejudice be payable to the owner of the goods within twelve months from the date of the sale of the items distrained.

## **C. SECURITY**

### *Section 171*

#### *Security on property for unpaid duty*

Where a person, being the owner of land or building and other chattel situated in Somaliland, fails to pay any duty or other sum or money due payable under this Act, Customs may by notice in writing inform that person of its intention to apply to the land registration authority for the person's property to be subject of security for the duty or any other amount specified in the notice, in accordance with the provisions in force.

## **D. EXTINCTION OF A CUSTOMS DEBT**

### *Section 172*

#### *Effect of an obligation to pay debt*

1. Where any obligation has been incurred, whether by bond or otherwise, for payment of any debt, then such obligation shall be deemed to be an obligation to pay all duties which are or may be payable or recoverable under the provisions of this Act.
2. Where it is established that the whole or any part of duty or tax due under this Act cannot effectively be recovered by any reason of:
  - a) Impossibility or undue difficult, or
  - b) Excessive cost of recovery,

Customs shall notify the Minister of Finance in writing, stating the reasons for their request to write off the debt in whole or in part.

## **E. DRAWBACK, REMISSION, REBATE AND REFUND**

### *Section 173*

#### *Drawback of duty*

1. Drawback of import duty may be allowed on exportation in respect of such goods, such amount, and on such conditions, as prescribed by customs.
2. Where the owner of any goods claims, or proposes to claim, drawback in respect of goods, he or she shall, as a condition to the grant of such drawback:

- a) declares such goods in the prescribed manner and produce them for examination by customs exporting the goods or performing further conditions upon which drawback is allowed;
  - b) make and subscribe a declaration on the prescribed form or manner to the effect that the conditions under which drawback may be allowed have been fulfilled and
    - (i) that the goods have actually been exported
    - (ii) that the goods have not been re-imported and are not intended to be re-imported into Somaliland; and
    - (iii) that the owner was, and continues to be, entitled to drawback at the time of the declaration of the goods; and
  - c) present his or her claim for drawback within a period of twelve months from the date of the exportation of the goods or the performance of the conditions on which drawback may be allowed.
3. Drawback shall not be allowed in respect of any goods where-
- a) the value of such goods for home consumption is less than the amount of the duty drawback which may be allowed; and
  - b) the import duty on the goods was less than one hundred thousand Somaliland Shillings.

#### ***Section 174***

#### ***Remission of duty***

Where any goods are lost or destroyed by accident before the goods are released by customs, customs may remit the duty paid in respect of the goods, subject to the provisions of Section 160 paragraph 5<sup>9</sup>.

#### ***Section 175***

#### ***Rebate of duty***

Where any goods imported into Somaliland are damaged before their release by customs the provisions of Section 174 apply, mutatis mutandis, subject to the valuation rules as defined in Section 28.

#### ***Section 176***

#### ***Repayment of Customs duty when goods are returned***

1. Subject to section 177 and to such conditions as Customs may impose, repayment of customs duty shall be granted where it is shown to the satisfaction of Customs that goods were imported in pursuance of a contract of sale and that the description, quality, state or condition of the goods was

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<sup>9</sup> The correct reference here should be to Section 173. This will be corrected at a later date

not in accordance with the contract, or that the goods were damaged before the goods were released by customs.

2. Repayment of duty shall not be granted under paragraph 1 unless the person claiming the repayment presents a claim within a period of twelve months from the date of the payments of the duty.

### *Section 177*

#### *Refund of duty paid in error*

1. Customs shall refund any Customs duty at import and export paid in error.
2. Refund of import or export duty or part thereof, shall not be granted under paragraph 1 unless the person claiming such refund presents such claim within a period of twelve months from the date of the payment of the duty.

## **PART VIII**

### **CUSTOM OFFENCES**

#### *Section 178*

#### *Offences by or in relation to officers*

- 1) An officer who -
  - a) directly or indirectly asks for, or takes, in connection with any of his/her duties a payment or other reward whatsoever, whether pecuniary or otherwise, or a promise or security for any such payment or reward, not being a payment or reward which he/she is lawfully entitled to claim or receive; or
  - b) enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal, or connive at, any act or thing whereby the customs is or may be defrauded, or which is contrary to the provisions of this Act or the proper execution of the duty of that officer; or
  - c) discloses, except for the purposes of this Act or when required to do so as a witness in a court or with the approval of the Minister, information acquired by him/her in the performance of his/her duties relating to a person, firm or business of any kind, shall be guilty of an offence and liable to imprisonment:
    - i) for a term not exceeding three years,
    - ii) subject to the penal provisions in force.
- 2) A person who dishonestly -
  - a) directly or indirectly offers or gives to an officer a payment or reward whatsoever, whether pecuniary or otherwise, or a promise or security for any such payment or reward; or

b) proposes or enters into an agreement with an officer, in order to induce him/her to do, abstain from doing, permit, conceal, or connive at, any act or thing whereby the customs is or may be defrauded, or which is contrary to the provisions of this Act or the proper execution of the duty of that officer,

shall be guilty of an offence and liable to a fine up to ten (10) times the amount of the duties involved, and in cases where no amount of duties can be calculated, up to an amount of three (3) times the assessed value of the goods, or imprisonment:

- i) for a term not exceeding three years, or
- ii) subject to the penal provisions in force.

### *Section 179*

#### *Use of Violence by a Person*

1. A person who -

- a) maliciously shoots at a means of transport in the service of the customs;
- b) maliciously shoots at, aims or wounds an officer while in the execution of his/her duty; or
- c) commits with violence any of the offences referred to in paragraph 4,

shall be guilty of an offence and liable to imprisonment for a term not exceeding twenty years or subject to the penal provisions in force.

2. A person who:

- a) while committing an offence under the Act is armed with a firearm or other offensive weapon; or
  - b) while being so armed, is found with goods liable to forfeiture under the Act,
- shall be guilty of an offence and liable to imprisonment for a term:
- (i) not exceeding ten years
  - (ii) subject to the penal provisions in force.

3. A person who:

- a) while committing an offence under the Act is disguised in any way; or
  - b) while being so disguised, is found with goods liable to forfeiture under the Act,
- shall be guilty of an offence and liable to imprisonment for a term:
- (i) not exceeding three years
  - (ii) subject to the penal provisions in force.

4. A person who:

- a) staves, breaks, destroys or throws overboard from a means of transport any goods for the purpose of preventing the seizure thereof; or



- b) rescues, staves, breaks, destroys or throws overboard from a means of transport any goods for the purpose of preventing the securing of those goods after they have been seized; or
- c) rescues a person arrested for any offence under the Act; or
- d) in any way obstructs an officer in the execution of his/her duty,

shall be guilty of an offence.

5. For the purposes of this section "violence" means any criminal force or harm to a person, or any criminal mischief to property, or any threat or offer of that force, harm or mischief, or the carrying or use of any dangerous or offensive weapon so that terror is likely to be caused to any person, or conduct as is likely to cause in any person a reasonable apprehension of criminal force, harm or mischief, to him/her or to his/her property.

### *Section 180*

#### *Attempt to Commit offences*

A person who attempts to commit an offence under the Act shall be guilty of an offence and liable to be punished as though he/she had actually committed the offence.

### *Section 181*

#### *Offence towards a customs officer*

1. A person who, with intent to obstruct an officer in the execution of his/her duty, warns, or does any action for the purpose of warning, another person engage in the commission of an offence under the Act, whether or not that other person is in a position to take advantage of the warning or act, shall be guilty of an offence and liable to imprisonment for a term:

- (a) not exceeding six years, or
- (b) subject to the penal provisions in force, or to a fine as determined under Section 178, 2, or to both.

2. Where a person is charged with an offence under this section.<sup>10</sup>

3. A person is protecting another person by giving a warning and for that purpose may enter a workplace and shall not thereby be liable to legal proceedings.<sup>11</sup>

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<sup>10</sup> This subsection was incorrectly shortened in the Somali version. It was intended to read "Where a person is charged with an offence under this section, the burden of proving that anything done to him/her was not done with that intent shall be upon that person."

<sup>11</sup> This subsection was incorrectly shown in the Somali version and is contrary to subsection 1. It was intended to read "A person may prevent another person from giving any such warning and for that purpose may enter upon land and shall not thereby be liable to legal proceedings."

### ***Section 182***

#### ***Offence to assume character of officer***

A person, not being an officer, who takes or assumes the name, designation, character or appearance of an officer for the purpose of:

- a) obtaining admission to an aircraft, vessel, vehicle, premises or place; or
- b) doing or procuring to be done an act which he/she would not be entitled to do or procure to be done on his/her own authority; or
- c) doing any unlawful act,

shall be guilty of an offence and liable to imprisonment for a term:

- (i) not exceeding three years, or
- (ii) subject to the penal provisions in force,

in addition to any other punishment to which he/she may be liable for the commission of the unlawful act.

### ***Section 183***

#### ***Master of vessel, etc., used for smuggling or evasion guilty of offence***

A master of an aircraft or vessel, and a person in charge of a vehicle, which is within Somaliland and -

- a) which has a secret or disguised place adapted for concealing goods, or a device adapted for smuggling goods; or
- b) which has in it, or in any manner attached to it, or which is conveying, or has conveyed in any manner goods imported, carried coastwise or intended for exportation contrary to the Act; or
- c) from or in which any part of the cargo of the aircraft, vessel or vehicle has been thrown overboard, broken, rescued, destroyed or staved in order to prevent seizure

shall be guilty of an offence and liable:

- (i) in the case of the master of an aircraft or of a vessel, to a fine as determined under Section 178,2, and the aircraft or vessel in respect of which the offence has been committed may be seized and detained until the fine paid or security therefore given, and any goods in respect of which the offence has been committed shall be liable to forfeiture;
- (ii) in the case of the person in charge of a vehicle, to a fine as determined under Section 178,2, and the vehicle and goods in respect of which the offence has been committed shall be liable to forfeiture.

### ***Section 184***

#### ***Offence in respect of prohibited restricted and uncustomed goods***

1. A person who -

- a) Imports
- (i) Prohibited goods, whether or not those goods are unloaded; or
  - (ii) Restricted goods contrary to any conditions regulating the importation of those goods, whether or not those goods are unloaded;
- b) Unloads after importation
- (i) Prohibited goods; or
  - (ii) Restricted goods which have been imported or carried coastwise contrary to any condition regulating their importation
- c) Exports, or puts on board an aircraft, vessel or vehicle, or brings to a customs airport, customs area or place be so put on board, for exportation or use as stores
- (i) Prohibited goods; or
  - (ii) Restricted goods contrary to any condition regulating the exportation or use as stores of those goods
- d) Acquires, has in possession, keeps or conceals, or procures to be kept or concealed, goods which he/she knows, or ought reasonably to have known to be -
- (i) Prohibited goods; or
  - (ii) Restricted goods which have been imported or contrary to any condition regulating their importation; or
  - (iii) Uncustomed goods,
- shall be guilty of an offence and liable to imprisonment for a term:
- (i) not exceeding five years
  - (ii) subject to the penal provisions in force (iii) a fine as determined under Section 178, 2
  - (iv) to both such fine and imprisonment.

2. Any person who, being the owner of any premises, allows any person to use such premises for the storage or sale of uncustomed goods shall be guilty of an offence and liable to a fine as determined under Section 178, 2.

### *Section 185*

#### *Offence to import or export concealed goods*

A person who imports or exports goods:

- a) which are concealed in any way; or
- b) which are packed in a package (whether or not together with other goods) in a manner likely to deceive an officer; or

- c) which are contained in a package of which the entry or application for shipment does not correspond with the goods, shall be guilty of an offence.

***Section 186***

***Offence to make or use false documents***

A person who, in any matter relating to the customs -

- a) makes an entry which is false or incorrect in any particular;
- b) makes or causes to be made a declaration, certificate, application, return, estimate, account or other document which is false or incorrect in any particular;
- c) when required in accordance with the Act to answer any question put to him/her by an officer, refuses to answer the question or makes a false or incorrect statement in reply thereto;
- d) makes a false statement or false representation in order to obtain remission, rebate, drawback or refund of duty;
- e) obtains any drawback, rebate, remission or refund of duty which to his/her knowledge he/she is not entitled to obtain;
- f) in any way is knowingly concerned in a fraudulent evasion of the payment of duty;
- g) except by authority moves, alters or in any way interferes with any goods subject to customs control;
- h) brings into Somaliland or has in his/her possession, without lawful excuse, any blank or incomplete invoice, bill head or other similar document capable of being filled up and used as an invoice for imported goods; or
- i) counterfeits or in any way falsifies, or knowingly uses when counterfeited or in any way falsified, any document required or issued by, or used for the purposes of, the customs,

shall be guilty of an offence and liable to imprisonment for a term:

- (i) not exceeding three years
- (ii) subject to the penal provisions in force
- (iii) to a fine as determined under Section 178, 2, or to both a fine and imprisonment.

**Section 187**  
***Refusal to produce documents***

A person who, when required in accordance with the Act:

- a) to produce a book, document or other goods in his/her possession or under his/her control; or
- b) to perform an act or make a return, refuses or fails to do so

shall be guilty of an offence.

**Section 188**  
***Offence to use false measures***

A person who:

- a) Uses, keeps or provides false or unjust scales, weighing or measuring instruments, weights or measures; or
- b) By any means prevents, or contrives to prevent, the proper officer from taking a just and true account of, or making proper examination of, any goods or materials,

shall be guilty of an offence; and any such scales, instruments weights, measures, goods and materials in respect of which the offence was committed shall be liable to forfeiture.

**Section 189**  
***Offence to interfere with customs property***

A person who cuts away, casts adrift, destroys, damages, defaces or in any way interferes with an aircraft, vessel, vehicle, buoy, anchor, chain, rope, mark or other goods used by customs shall be guilty of an offence and liable to a fine as determined under Section 178, 2.

**Section 190**  
***Uncustomed goods found to be reported***

A person who, on finding uncustomed goods on land or floating upon or sunk in the sea, fails to report the discovery to the nearest officer shall be guilty of an offence and liable to a fine as determined under Section 178, 2, and any goods in respect of which the offence has been committed shall be liable to forfeiture.

**Section 191**  
***Goods offered on pretence of being smuggled***

Where goods are offered for sale under the pretence that they are uncustomed goods, then those goods, whether or not they are in fact uncustomed goods, shall be liable to forfeiture.

***Section 192***  
***Aiders, abettors, etc***

1. A person who aids, abets, counsels or procures the commission of an offence under this Act or authorises other persons so to do shall be liable to be charged and, if convicted, punished as though he/she had actually committed the offence.
2. Where an offence under the Act is committed by a private person employed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was acting or purporting to act in that capacity, shall also be guilty of the offence unless he/she proves that the offence was committed without his/her consent or knowledge and that he/she exercised the due diligence to prevent the commission of the offence that he/she ought to have exercised having regard to the nature of his/her functions in that capacity and in all the circumstances.

***Section 193***  
***Sale of adulterated petroleum products prohibited***

1. No person shall –
  - (a) mix, or cause to be mixed, any refined petroleum products; or
  - (b) possess or offer for sale, any mixture of refined petroleum products, or any refined petroleum product which does not meet the Somaliland Standard declared under any provision in force regarding standard quality of identical or similar goods.
2. A person who contravenes the provisions of paragraph 1 shall be guilty of an offence and liable to a fine as determined under Section 178, 2, or to imprisonment for a term:
  - (i) not exceeding three years,
  - (ii) subject to the penal provisions in force, or to both, and the products in respect of which the offence is committed shall be liable to forfeiture.

***Section 194***  
***General penalty***

1. A person guilty of an offence under the Act for which no specific penalty is provided shall be liable to a fine as determined under Section 178, 2.

2. Where, on conviction for an offence under the Act, a person becomes liable to a fine as determined under Section 178, 2, for the purpose of assessing the value of those goods:

- (a) the Customs Authority shall cause the goods to be appraised by the proper officer in accordance with the valuation rules mentioned under Sections 28 to 34,
- (b) a certificate of the appraised value given by the Customs Authority shall be *prima facie* evidence of the value of those goods.

### ***Section 195***

#### ***Goods liable to forfeiture.***

In addition to any other circumstances in which goods are liable to forfeiture under this Act, the following goods shall be liable to forfeiture:

- (a) prohibited goods;
- (b) restricted goods which are dealt with contrary to any condition regulating their importation or exportation;
- (c) uncustomed goods;
- (d) abnormal goods;
- (e) goods which are imported, exported or carried coastwise concealed in any manner, or packed in a package (whether with or without other goods) in a manner appearing to be intended to deceive the Customs authority;
- (f) goods which are imported, exported or contained in a package of which the entry application for shipment or application to unload does not correspond with the goods;
- (g) goods subject to customs control which are moved, altered or in any way interfered with, except with the authorisation of the Customs authority;
- (h) goods in respect of which, in any matter relating to the customs, an entry, declaration, certificate, application or other document, answer, statement or representation, which is knowingly false or knowingly incorrect in any particular has been delivered, made or produced;
- (i) goods in respect of which drawback, rebate, remission or refund of duty has been unlawfully obtained.

## ***Section 196***

### ***Power to seize goods liable to forfeiture***

1. A customs officer or police officer may seize an aircraft, vessel, vehicle, goods, animal or other goods liable to forfeiture under the Act or which he/she has reasonable grounds to believe is liable to forfeiture; and any such aircraft, vessel, vehicle, goods, animal or other goods may be seized whether or not a prosecution for an offence under this Act which rendered it liable to forfeiture has been, or will be, taken.
2. An aircraft, vessel, vehicle, goods, animal or other goods seized and detained under this Act shall be taken to a customs warehouse or to such other place of security as the Customs Authority may consider appropriate.
3. The Customs authority may, at any time prior to the commencement of proceedings under this Act relating to an aircraft, vessel, vehicle, goods, animal or other goods which have been seized under the Act, release it and return it to the person from whom it was seized, if the authority is satisfied that it was not liable to seizure.
- 4) No officer shall be liable to legal proceedings for any action taken in good faith in accordance with this section.

## ***Section 197***

### ***Procedure on seizure***

1. Where goods have been seized under the Act, then, unless the goods were seized in the presence of the owner thereof, or, in the case of an aircraft or vessel, of the master thereof, the officer effecting the seizure shall, within one month of the seizure, give notice in writing of the seizure and of the reasons therefore to the owner thereof or, in the case of an aircraft or vessel, to the master thereof, provided that:
  - a) no notice of seizure shall be given where a person has, within the period of one month, been prosecuted for the offence by reason of which the goods has been seized, or the offence has been compounded under Section 202 and if, after the notice has been given but before condemnation of the goods in accordance with the Act:
    - (i) a prosecution is brought, then the goods shall be dealt with in accordance with section 198 as if no notice had been given;
    - (ii) the offence is so compounded, then the goods shall be dealt with in accordance with this Part as if no notice had been given;



- b) where the goods have been seized in the presence of a person coming within the definition of owner for the purposes of this Act, then it shall not be necessary for the officer effecting the seizure to give notice thereof to any other person coming within that definition;
- c) a notice given to a person coming within the definition of owner shall be deemed to be notice to all other persons coming within that definition;
- d) where no person coming within the definition of owner is known, then it shall not be necessary for the officer effecting the seizure to give notice thereof to any person.

2. Where goods which are of a perishable nature or animals are seized, the Customs Authority may direct that the goods shall be sold forthwith, either by public auction or by private treaty, and that the proceeds of sale shall be retained and dealt with as if they were the goods.

3. Where any goods liable to forfeiture under the Act have been seized, then:

- a) if a person is being prosecuted for the offence by reason of which the goods were seized, the goods shall be detained until the determination of such prosecution and dealt with in accordance with Section 198,
- b) in any other case, the goods shall be detained until one month after the date of the seizure, or the date of the notice given under paragraph 1, as the case may be; and if no claim is made therefore as provided in paragraph 4 within the period of one month, the goods shall thereupon be deemed to be condemned.

4. Where any goods liable to forfeiture under this Act have been seized, then, subject to paragraph 1 a) and to paragraph 3 a), the owner thereof may, within one month of the date of the seizure or the date of the notice given under paragraph 1, as the case may be, by notice in writing to the Customs Authority claim goods.

5. Where a notice of claim has been given in accordance with paragraph 4, then the goods seized shall be detained by Customs to be dealt with in accordance with the Act provided that the Customs Authority may permit the goods to be delivered to the person making the claim (hereinafter in this Part referred to as the claimant) subject to the claimant giving security for the payment of the value thereof, as determined by Customs in the event of its condemnation.

### ***Section 198***

#### ***Effects of conviction, etc., on goods liable to forfeiture***

- 1. Where a person is prosecuted for an offence under the Act and any goods are liable to forfeiture by reason of the commission of that offence, the conviction of that person of that offence shall, without further order, have effect as the condemnation of the goods.

2. Where a person is prosecuted for an offence under this Act and any goods are liable to forfeiture by reason of the commission of that offence, then, on the acquittal of that person, the court may order the goods either -
- (a) to be released to the person from whom it was seized or to the owner thereof; or (b) to be abandoned to the state.

***Section 199***  
***Procedure after notice of claim***

1. Subject to paragraph 2, where the owner of any goods seized claims them by notice to the Customs authority pursuant to Section 197, the owner may, within two months of the date of the notice, institute proceedings for recovery of the goods seized: Provided that where no proceedings are instituted under this section within the period specified, the goods seized shall be condemned, where:
- (a) The owner of any goods seized is charged with an offence by reason of which the goods are seized; and
- (b) The charges preferred are subsequently withdrawn for any reason,

The period specified in paragraph 1 shall begin to run on the date such charges are withdrawn.

2. Where proceedings are instituted under paragraph 1, any goods seized shall be condemned if:
- (a) The court is satisfied that the goods:
- (i) is liable to forfeiture under the Act; or
- (ii) comprise prohibited or restricted goods which have been imported or attempted to be exported in contravention of any law;
- (b) The court is not satisfied that the claimant is the owner of, or is entitled to possession of, the goods.
3. If any goods seized are not condemned under paragraph 3, the court shall release it to the owner subject to the payment of any applicable duty.

***Section 200***  
***Provision relating to condemnation***

1. Where any goods have been seized under the Act, or any other provisions as being liable to forfeiture, then the condemnation of the goods shall in no way be affected by the fact that an owner

of the goods was in no way concerned with the offence or the act which rendered it liable to forfeiture.

2. Where any goods are condemned under the Act, then:
  - a) subject to any provisions in force, the goods shall be forfeited and may be sold, destroyed or otherwise disposed of as the Customs authority may deem fit;
  - b) condemnation of the goods shall have effect as from the date when the liability to forfeiture arose;
  - c) condemnation shall, subject to any appeal in proceedings which resulted in condemnation, be final and, save as provided in Section 201 no application or proceedings for restoration or in detinue by any person shall lie.
  
3. Where goods have been condemned and are in the possession of some authority other than the customs they shall be returned to the customs for disposal under paragraph 2.

***Section 201***  
***Restoration of seizures***

1. Where any goods have been seized under the Act, the Minister of Finance may, on application by the person from whom the goods were seized, whether or not such goods have been condemned, direct that they be released to the applicant upon such terms and conditions as he/she may think fit.
  
2. An application under paragraph 1 shall be in writing and shall be forwarded to the Minister through the Customs.

***Section 202***  
***Administrative Settlement of cases by the Customs Authority***

1. The Customs Authority may, where he/she is satisfied that a person has committed an offence under this Act in respect of which a penalty of a fine is provided, or in respect of which any goods are liable to forfeiture, compound the offence and may order that person to pay such sum of money, not exceeding the amount of the fine to which he/she would have been liable if he/she had been prosecuted and convicted for the offence, as he/she may think fit; and he/she may order any goods liable to forfeiture in connection therewith to be condemned: Provided that the Customs Authority shall not exercise his/her powers under this section unless the person in writing admits that he/she has committed the offence and requests to deal with the offence under this section.
  
2. Where the Customs Authority makes an order under this section –
  - a) The order shall be put into writing and shall have attached to it the request of the person to the Customs Authority to deal with the matter; and

- b) The order shall specify the offence which the person committed and the penalty imposed by the Customs Authority; and
- c) A copy of the order shall be given to the person if he/she so requests.

## **PART IX – APPEALS**

### ***Section 203***

#### ***Application for review of decision***

1. Any person directly or indirectly affected by a decision or omission of Customs on matters relating to Customs may lodge an application for review of the decision or omission within a period of thirty days of the date of the decision or omission.
2. The application referred to under paragraph 1 shall be lodged in writing stating the grounds upon which it is lodged.
3. In case of unforeseen circumstances, duly evidenced to the satisfaction of customs, Customs may extend the period for lodging an appeal mentioned in paragraph 1.
4. Within a period of thirty days of the receipt of the application under paragraph 2 and any further information Customs may require from the person lodging the application, Customs shall communicate its decision in writing to the person lodging the application, stating the reasons for the decision.
5. Where Customs have not communicated its decision to the person concerned within the time specified in paragraph 4, Customs shall be deemed to have accepted the application.
6. During the pendency of an application lodged under this section Customs may, at the request of the person concerned, release any goods in respect of which the application has been lodged upon payment of duty as determined by Customs or provision of sufficient security for the duties that may be payable as determined.
7. Lodging of an appeal shall not involve any penalty for the applicant.

### ***Section 204***

#### ***Appeal to Tax tribunal***

1. A person dissatisfied with the decision of Customs under Section 203 may appeal to the Tax Tribunal established in accordance with Section 205.

2. An appeal under paragraph 1 shall be lodged within forty-five days after the person concerned was served with the decision, mentioned under paragraph 4 of Section 203, and Customs shall be notified of the appeal.

### ***Section 205***

#### ***Establishment of a Tax Tribunal***

Subject to the legal provisions in force in Somaliland, there shall be established a Tax Appeals Tribunal inter alia for purposes of hearing appeals against decisions of Customs.

## **PART X - FINAL PROVISIONS**

### ***Section 206***

#### ***Implementing provisions***

The provisions required for the implementation of this Act shall be adopted by the Minister of Finance.

### ***Section 207***

#### ***Appointment of customs area***

1. The Minister of Finance, upon consultation with the Customs Authority may appoint and affix the customs limits of:

- a) ports;
- b) airports; and
- c) border and inland stations.

2. An appointment made under Section 207, 1 may be subject to such conditions, the Customs Authority may deem fit, such as make provision of accommodation for officers.

### ***Section 208***

#### ***Repeal of Acts and Regulations***

The following Acts and Regulations are hereby repealed:  
CUSTOMS RULES AND PROCEDURES LAW NO 91/96

### ***Section 209***

#### ***Somali Text to Prevail***

1. As it is necessary to ensure consistent application and interpretation of this law which includes widely used specialist financial terminology, it is hereby confirmed, in line with Article 6 Of the Constitution, that the Somali and English language versions of this Law shall both be the official versions of this law.
2. In the event of any inconsistency or conflict between the Somali and the English language versions of this Law, the Somali language version shall prevail.

***Section 210***  
***Entry into force***

This Act will come into force on its approval by Parliament and its signing by the President of the Republic of Somaliland (published in the official bulletin).