

Tentative Translation*

**CUSTOMS ACT,
B.E. 2560 (2017)**

HIS MAJESTY KING MAHA VAJIRALONGKORN BODINDRADEBAYAVARANGKUN;

Given on the 14th Day of May B.E. 2560;

Being the 2nd Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on customs;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows.

Section 1. This Act is called the “Customs Act, B.E. 2560 (2017)”.

Section 2.¹ This Act shall come into force after the expiration of one hundred eighty days as from the date of its publication in the Government Gazette.

Section 3. The following shall be repealed:

- (1) the Customs Act, B.E. 2469 (1926);
- (2) the Customs Amendment Act (No. 1), B.E. 2471 (1928);
- (3) the Customs Amendment Act (No. 2), B.E. 2472 (1929);
- (4) the Customs Amendment Act (No. 3), B.E. 2474 (1931);

* Translated by Associate Professor Dr. Pinai Nanakorn under contract for the Office of the Council of State of Thailand's Law for ASEAN project. – Tentative Version – subject to final authorisation by the Office of the Council of State.

¹ Published in Government Gazette, Vol. 134, Part 53a, dated 17th May 2017.

- (5) the Customs Amendment Act (No. 4), B.E. 2475 (1932);
- (6) the Customs Act (No. 6), B.E. 2479 (1936);
- (7) the Customs Act (No. 7), B.E. 2480 (1937);
- (8) the Customs Act (No. 8), B.E. 2480 (1937);
- (9) the Customs Act (No. 9), B.E. 2482 (1939);
- (10) the Customs Act (No. 10), B.E. 2483 (1940);
- (11) the Customs Act (No. 11), B.E. 2490 (1947);
- (12) the Customs Act (No. 12), B.E. 2497 (1954);
- (13) the Customs Act (No. 13), B.E. 2499 (1956);
- (14) the Notification of the National Executive Council No 329, dated 13th December B.E. 2515 (1972);
- (15) the Emergency Decree Amending the Customs Act, B.E. 2469 (1926), B.E. 2528 (1985);
- (16) the Customs Act (No. 14), B.E. 2534 (1991);
- (17) the Customs Act (No. 15), B.E. 2540 (1997);
- (18) the Customs Act (No. 16), B.E. 2542 (1999);
- (19) the Customs Act (No. 17), B.E. 2543 (2000);
- (20) the Customs Act (No. 18), B.E. 2543 (2000);
- (21) the Customs Act (No. 19), B.E. 2548 (2005);
- (22) the Customs Act (No. 20), B.E. 2548 (2005);
- (23) the Customs Act (No. 21), B.E. 2557 (2014);
- (24) the Customs Act (No. 22), B.E. 2557 (2014).

Section 4. In this Act:

“duties” means the customs duties levied on goods imported into or exported out of the Kingdom under this Act and the law on customs tariffs or other laws under which such duties are provided to be customs duties;

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“importer” shall include the owner or possessor of, or the person having an interest in, any goods as from the time at which such goods enter the Kingdom up to the time at which the customs official duly hands them over outside the custody of the customs official;

“exporter” shall include the owner or possessor of, or the person having an interest in, any goods as from the time at which such goods are brought into the custody of the customs official up to the time at which they are exported from the Kingdom;

“prohibited goods” means the goods prohibited by law from being imported into or exported from the Kingdom or transited through the Kingdom;

“restricted goods” means the goods which are required by law to be subjected to permission or complete compliance with legal requirements in the event of their import into or export from the Kingdom or transit through the Kingdom;

“customs checkpoint” means a port, place or airport used for the import of goods, the export of goods, the transit, the transshipment or other customs affairs, for the purposes of customs clearance;

“border checkpoint” means a checkpoint established at an inland boundary in an approved route for the purpose of examining goods carried by such route;

“vessel” means a water vehicle used in the carriage of goods or people and shall also include fishing vessels;

“master” means a person commanding or controlling a vessel;

“inland boundary” means an inland boundary between the Kingdom and a foreign territory and shall include any waterway which is a boundary of the Kingdom or part thereof;

“approved route” means a route used for the carriage of goods into or from the Kingdom from an inland boundary to a customs checkpoint or from a customs checkpoint to an inland boundary;

“transit” means the carriage of goods across the Kingdom, from one customs checkpoint through which the goods are carried into to another customs checkpoint through which the goods are carried to, under the control of the Customs, where the starting point and the destination of the carriage are outside the Kingdom, regardless of whether such carriage involves any unloading for changing vehicles, storing the goods, changing containers thereof for the purpose of the carriage or changing the mode of carriage of the goods or not, provided that

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no use is made of such goods or no conduct occurs for the purpose of trade in connection with such goods in the Kingdom;

“transshipment” means a transfer of goods from one vehicle which carries the goods into the Kingdom to another vehicle which carries the same from the Kingdom under the control of the Customs at the same customs checkpoint, where the starting point and the destination of the carriage are outside the Kingdom;

“customs official” means:

(1) a person serving the Government at the Customs Department and appointed by the Director-General for performing regular duties or performing any *ad hoc* duties;

(2) a navy official, *Nai Amphoe* or *Palad Amphoe*, specifically appointed by the Director-General for carrying out activities on behalf of the Customs Department;

(3) an official in any other State agency appointed by the Minister for carrying out activities in the capacity as the customs official;

“Director-General” means the Director-General of the Customs Department or the person entrusted by the Director-General;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5. The Minister of Finance shall have charge and control of the execution of this Act and shall have the power to appoint customs officials and issue Ministerial Regulations on the following matters:

(1) designating any port, place or airport in the Kingdom as a customs checkpoint, with or without conditions for customs operations as may be deemed appropriate, together with an indication of the customs jurisdiction of such checkpoint;

(2) designating any place as a border checkpoint, with or without conditions for customs operations as may be deemed appropriate;

(3) prescribing fees not exceeding the rate annexed hereto or exempting fees;

(4) prescribing rules, procedures and conditions for the submission of entry forms and payment of duties on goods imported into or exported from the Kingdom, only in the case where there arises a special nature or necessity;

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(5) prescribing types or kinds of dangerous goods, the storage and loading as well as unloading of dangerous goods located in a customs area and taken from a customs area and procedures for the collection of duties on such dangerous goods;

(6) prescribing other activities in the execution of this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

CHAPTER I GENERAL PROVISIONS

Section 6. In the case of special circumstances for the purpose of the execution of this Act, the Minister shall have the power to issue a Ministerial Regulation exempting an importer or an exporter from compliance with this Act in whole or in part, with or without conditions to be observed.

In the case where special circumstances under paragraph one occur to aircraft and there arises necessity for the purpose of international communication, the Minister has the power to issue a written order exempting, as a matter of a particular case, the importer, the exporter or the controller of any aircraft from compliance with the requirements provided in Chapter III, Import and Export, with or without conditions to be observed.

Section 7. The Director-General may demand the importer, the exporter or the person involved in customs affairs to provide any security for the purpose of confirming that such person shall comply with the rules, procedures and conditions in connection with customs affairs.

The provision of security under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 8. If accounts, documents and evidence in connection with payment of duties or compliance with this Act are prepared in a foreign language, the Director-General may order the person who submits such accounts, documents or evidence to cause the same to be completely translated into the Thai language and furnished within the time as may be deemed appropriate.

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Section 9. In the case where the importer, the exporter or the person concerned requests for customs clearance or any customs services under this Act or under the law on customs tariffs, the requested proceedings may be carried out upon the Director-General's approval.

Section 10. In the case of a request for a copy of a certificate, entry form, account or any other document which is related to customs affairs and is not secretive, the Director-General may, when he deems it appropriate, issue the same at the requester's costs as prescribed in the Notification of the Director-General.

Section 11. Customs proceedings, if performed in the form of a data message, shall be deemed to have the same legal effects as those afforded to paper-based customs proceedings. In this regard, the use of data messages in customs affairs shall be in accordance with the law on electronic transactions.

Section 12. In the case where this Act provides any particular act done in the paper-based form to be an offence and prescribes a penalty therefor, if the act is done in the form of a data message, it shall be deemed to be an offence and carry the penalty in as much the same way as the act done in the paper-based form.

CHAPTER II IMPOSITION OF DUTIES

PART I PAYMENT OF DUTIES

Section 13. In the case where goods are imported into or exported from the Kingdom, duties shall be levied from importers or exporters under this Act and under the law on customs tariffs.

The liability for payment of duties on goods imported into or exported from the Kingdom accrues at the time when the import or export of the goods becomes complete under section 50.

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The importer or the exporter has the duty to pay duties when the entry form has been submitted to the customs official and the customs official has received the same and issued a reference number therefor.

Section 14. Duties for goods imported into the Kingdom shall be calculated by reference to the conditions of the goods, customs prices and customs tariffs at the time when the import thereof is complete, except the following cases:

(1) in the case where goods are stored in a bonded warehouse, duties therefor shall be calculated by reference to the conditions of the goods, customs prices and customs tariffs at the time when the import thereof is complete but the customs rates shall be those in force at the time when such goods are released from the bonded warehouse, whether they are released in their original conditions at the time of import or in any other conditions;

(2) in the case where goods stored in a bonded warehouse are lost or damaged, duties therefor shall be calculated by reference to the conditions of the goods, customs prices and customs tariffs at the time when the goods are brought into such bonded warehouse for storage;

(3) in the case where goods imported into the Kingdom are goods for a transit or transshipment and an application is thereafter made for a change of customs clearance into the one for imported goods within the time specified under section 102 paragraph two, duties therefor shall be calculated by reference to the conditions of the goods, customs prices and customs tariffs at the time when the goods are imported into the Kingdom.

Section 15. Duties for goods exported from the Kingdom shall be calculated by reference to the conditions of the goods, customs prices and customs tariffs at the time when the customs official has received the entry form and issued a reference number therefor.

Section 16. For the purpose of the calculation of duties under this Act, “customs prices” shall mean the following prices:

(1) in the case of the import of goods, it shall mean the price of the goods, for the purpose of levying duties by reference to any of the following prices:

- (a) the sale price of the imported goods;
- (b) the sale price of identical goods;

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- (c) the sale price of similar goods;
- (d) the deducted price;
- (e) the calculated price;
- (f) the reverse price;

(2) in the case of the export of goods, it shall mean the wholesale cash price perceivably obtainable from the sale of the goods of the same category and type at no loss at the time and place at which the goods are exported without any price deduction or price reduction;

(3) in the case of bringing goods out of a duty-free zone or a free zone under the law on the Industrial Estate Authority of Thailand or any other similar zone for use or distribution within the Kingdom, reference shall be made to the customs price under (1) *mutatis mutandis*.

The rules, procedures and conditions for the payment of prices and the determination of customs prices under (1) shall be as prescribed in the Ministerial Regulation.

Section 17. The determination of the customs price in the case of the import of goods shall include the cost of insurance, the cost of carriage, the cost of unloading, the cost of loading and handling costs incidental to the carriage of the imported goods to the customs checkpoint.

In the case where there exists no value of particulars as to the cost of insurance or the cost of carriage of the goods or there is no cost of unloading, the cost of loading or handling costs as provided under paragraph one, the determination of the value of such particulars shall be as prescribed in the Notification of the Director-General.

Section 18. Any person who intends to know the customs price, the origin of the goods or customs tariffs may submit an application to the Director-General for considering the following matters in advance:

- (1) determining the customs price of the goods to be imported into the Kingdom;
- (2) determining the origin of the goods to be imported into the Kingdom under the rules of origin indicated in a contract or international agreements;
- (3) interpreting customs tariffs under the law on customs tariffs for the purpose of the classification of goods at the customs tariffs. (เพื่อจำแนกประเภทแห่งของในพิกัดอัตราศุลกากร)

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The submission, consideration and notification of the result of the consideration of the application shall be in accordance with the rules, procedures and conditions prescribed on the Notification of the Director-General.

The result of the consideration of the application under paragraph one shall be binding only upon the Customs Department and the applicant for a period determined by the Director-General.

PART II ASSESSMENT OF DUTIES

Section 19. When it is found that a person liable to pay duties fails to make payment thereof or makes deficient payment thereof, the customs official shall have the power to assess duties under this Act and under the law on customs tariffs.

The assessment of duties under paragraph one shall be conducted within three years as from the date of submission of an entry form except that in the case of necessity preventing the conduct of assessment of duties within such time, a request shall be made to the Director-General for extension of such time for a period not exceeding two years.

In the case where there appears evidence to the satisfaction of the Director-General that the person liable to pay duties has the intent to defraud on duties, the customs official shall have the power to conduct further assessment of duties within five years as from the expiration of the period of time under paragraph two.

Section 20. Upon duty assessment, the customs official shall furnish the duty assessment notification form to the importer or the exporter within seven days as from the date of completion of the duty assessment, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The importer or the exporter must make full payment of duties within thirty days as from receipt of such duty assessment notification form.

Section 21. The right of the Customs Department to levy unpaid duties or deficiently paid duties is subjected to a ten-year period of prescription as from the date of submission of the entry form, except that the levying of unpaid duties or deficiently paid duties

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on account of incorrect calculation shall be subject to a two-year period of prescription as from the date of submission of the entry form.

In the case where the right to levy deficiently paid duties under paragraph one is exercisable in relation to an amount not exceeding two hundred Baht for an entry form, the Director-General may order omission the levying of such deficiently paid duties if the goods in question leave the customs custody.

Section 22. In the case where the importer or the exporter fails to make payment of duties or makes deficient payment of duties, additional money shall be levied at the rate of one percent per month of the duties required to be paid or additionally paid, without any compounding effect, as from the date on which the goods are taken out of the customs custody or exported from the Kingdom up to the date on which payment is made. Any fraction of a month shall be taken as a month. Additional money to be levied must not exceed the duties required to be paid or additionally paid.

In the case where the importer or the exporter fails to make payment of duties within thirty days as from the date of receipt of the duty assessment notification form under section 20, penalty payment shall be charged in the amount of twenty percent of the duties required to be paid or additionally paid.

Additional money and penalty payment shall be deemed as duties.

Additional money may be reduced in accordance with the rules prescribed in the Ministerial Regulation. Penalty payment may be omitted or reduced in accordance with the Rule prescribed by the Director-General with the approval of the Minister.

Section 23. In the case where payment of duties by the importer or the exporter is in arrears, the Director-General shall have the power to detain goods which are imported or exported by such person and are under customs clearance or under customs supervision until the importer or the exporter makes full payment of the duties in arrears and, failing payment within thirty days as from the date of the detention of such goods, the Director-General shall have the power to order an auction sale thereof.

The proceeds obtained from the auction sale under paragraph one shall first be deducted for the purpose of payment of the duties in arrears, duties on the goods sold by auction, costs of storage, cost of relocation, other incumbrances in arrears to the Customs Department

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and taxes as well as duties under other laws. The remaining sum shall be expended in payment of incumbrances payable to the keeper of the goods sold in auction and the carrier who has carried the same into the Kingdom respectively. Any further proceeds remaining after such deductions shall be returned to the owner, provided that if the owner fails to request for a return thereof at the expiration of six months as from the date of the auction sale, such remaining proceeds shall vest in the State.

Section 24. In enforcing duties in arrears, if the Customs Department, after having proceeded under section 23, has not received the duties or has received a deficient amount thereof, the Director-General shall have the power to seize or attach and sell by auction the property of the person liable to pay duties throughout the Kingdom without being required to apply for an order of the Court.

The procedures for the seizure and auction sale of the property shall be in accordance with the Civil Procedure Code *mutatis mutandis*. The procedures for attachment shall be in accordance with the Rule prescribed by the Director-General with the approval of the Minister.

The proceeds obtained from such auction sale shall be deducted in payment of fees, costs incurred in the seizure and the auction sale as well as the duties unpaid or deficiently paid. The remaining proceeds, if any, shall be returned to the owner.

PART III THE RETURN OF DUTIES

Section 25. In the case where it appears that duties have been paid in a greater amount than that required to be paid, any of the following proceedings shall be pursued:

(1) the Director-General shall have the power to return the duties excessively paid only on account of miscalculation without any application for a return thereof, provided that no order for a return shall be made at the expiration of two years as from the date on which the goods are imported into or exported from the Kingdom; or

(2) the importer or the exporter shall have the right to submit an application for a return of the duties within three years as from the date on which the goods are imported into or

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exported from the Kingdom, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 26. In the case where duties have been paid for the export of goods from the Kingdom but such goods have not been exported from the Kingdom, the exporter thereof shall have the right to submit an application for a return of the duties within ninety days as from the date on which the customs official has received the entry form.

The submission of an application for a return of the duties under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 27. In the case where a return of duties or the security for duties must be made by reason that a greater amount has been levied than that required to be paid or additionally paid, the return shall be made together with the interest of zero point six two five percent per month of the amount to be returned without any compounding effect as from the date on which the duties have been last paid or the security for duties has been last placed up to the date on which the return is approved.

In the case of any change of the placement of other security into the placement of security money after the goods in question have been taken out of customs custody or exported from the Kingdom, the interest on the security money required to be returned shall be calculated as from the date on which the security money has been last placed in lieu of the placement of security up to the date on which the return is approved.

The interest payable under paragraph one and paragraph two shall not exceed the amount of the duties or the security money required to be returned.

In calculating the interest payable under paragraph one and paragraph two, a fraction of a month shall be taken as a month and the interest required to be paid shall be deemed to be the duties required to be returned.

Section 28. The importer of goods into the Kingdom who has made payment of duties thereon shall, if such goods are re-exported from the Kingdom or sent as goods for consumption in a vessel or aircraft which leaves the Kingdom, have the right to apply for a return of import duties on such goods in an amount representing the nine-tenths portion, or the portion

exceeding one thousand Baht, of the amount already levied by reference to each export entry form, whichever is higher, in accordance with the following rules:

(1) it must be proved that the goods are the same as those imported into the Kingdom;

(2) the goods are not put into use while they are in the Kingdom except that it is the use for the purpose of their re-export from the Kingdom without any change of the condition or nature thereof;

(3) such goods are re-exported from the Kingdom within one year as from the date of their import into the Kingdom; and

(4) an application for a return of duties must be made within six months as from the date on which such goods are re-exported from the Kingdom.

The application for a return of duties, the proof of goods, the re-export of goods and the return of duties shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 29. The importer into the Kingdom of goods to be used for the production, mixture, assemble, packaging or any operation by any other method, who has made payment of duties thereon shall, if the goods acquired from such operation are re-exported from the Kingdom or sent as goods for consumption in a vessel or aircraft which leaves the Kingdom, have the right to apply for a return of import duties on the goods so imported into the Kingdom, in accordance with the following rules:

(1) it must be proved that the production, mixture, assemble, packaging or any operation by any other method has been made by the use of the goods imported into the Kingdom;

(2) it must be proved that the quantity of the goods used in the production, mixture, assemble, packaging or any operation by any other method does not exceed that prescribed in the Notification of the Director-General;

(3) the goods acquired from such production, mixture, assemble, packaging or operation by any other method have been exported within one year as from the date on which the goods used in the production, mixture, assemble, packaging or any operation by any other method are imported into the Kingdom, except that the Director-General may, in the case where

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there occurs *force majeure* preventing the export of such goods from the Kingdom within one year, grant extension of the period of time for a period not exceeding six months; and

(4) an application for a return of duties must be made within six months as from the date on which the goods are exported from the Kingdom unless the Director-General grants extension of the period of time for a period not exceeding six months.

The application for a return of duties, the proof of goods, the export of goods and the return of duties under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 30. The importer into the Kingdom of goods to be used for the production, mixture, assemble, packaging or any operation by any other method under section 29 for the export from the Kingdom or for sending as goods for consumption in a vessel or aircraft which leaves the Kingdom may apply to the Director-General for the placement of any security in lieu of payment of import duties, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The return of the security placed by the importer in lieu of payment of duties under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 31. The transfer of goods acquired from the production, mixture, assemble, packaging or any operation by any other method under section 29 into a bonded warehouse or the distribution thereof to persons eligible for the exemption of duties under the law on customs tariffs or other laws shall be deemed to be the export of goods from the Kingdom and to be the complete export at the time of the transfer or distribution thereof. In this regard, the provisions of section 92 and section 30 shall apply to a return of duties or other security to the importer *mutatis mutandis*.

The receipt of the goods transferred to distributed under paragraph one shall be deemed to be the import into the Kingdom as from the time of the transfer or distribution thereof and the provisions on the import of goods shall apply *mutatis mutandis*.

The transfer of goods into a bonded warehouse, the distribution of goods to persons eligible for the exemption of duties and the receipt of such goods shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

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PART IV

DUTY RULINGS AND APPEALS AGAINST DUTY ASSESSMENT

Section 32. There shall be the Customs Duty Ruling Commission consisting of the Permanent Secretary for Finance as Chairperson, Secretary-General of the Council of State, Director-General of the Customs Department, Director-General of the Excise Department, Director of the Fiscal Policy Office and not more than three qualified members appointed by the Minister as members.

The Director-General shall appoint one Government official in the Customs Department as a secretary and not more than two as assistant secretaries.

Section 33. A qualified member under section 32 shall hold office for a term of three years and may be re-appointed.

In the case where a member under paragraph one vacates office before the expiration of the term, the appointment of a replacing member shall be made within ninety days as from the date on which the office of the member becomes vacant except that in the case where less than thirty days remain in the term of office of the member, the appointment of a replacing member may be omitted.

In the case where a member under paragraph one vacates office before the expiration of the term, the person appointed to fill the vacancy shall hold office for the remaining term of the member already appointed.

Upon the expiration of the term under paragraph one, if the appointment of new members has not yet been made, the members who vacate office at the expiration of the term shall remain in office in the interest of the continuance of work until the members newly appointed take office.

Section 34. In addition to the vacation of office upon the expiration of the term under section 33, a qualified member under section 32 vacates office upon:

- (1) death;
- (2) resignation;

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(3) being removed by the Minister on the ground of neglect of duties, misbehavior or lack of competence;

(4) being a bankrupt, an incompetent person or a quasi-incompetent person;

(5) being sentenced by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence.

Section 35. At a meeting of the Customs Duty Ruling Commission, the presence of not less than one-half of the total number of members is required to constitute a quorum.

At a meeting of the Customs Duty Ruling Commission, if the Chairperson is not present or is unable to perform the duty, one member shall be elected at the meeting to preside over it.

In performing the duty, if a matter in which the Chairperson or any member has an interest is to be considered, the Chairperson or such member has no right to attend the meeting.

A decision of a meeting shall be by a majority of votes. In casting votes, each member shall have one vote. In the case of an equality of votes, the person presiding over the meeting shall have an additional vote as a casting vote.

Section 36. The Customs Duty Ruling Commission has the powers and duties as follows:

(1) to prescribe the scope of the exercise of powers of customs officials;

(2) to prescribe rules, procedures and the period of time for the examination and assessment of duties;

(3) to give rulings on questions in connection with duties in respect of which the Customs Department seeks consultation;

(4) to give the Minister advice or recommendations on the levying of duties.

When the prescription under (1) and (2) shall be observed by customs officials upon its approval by the Minister and publication in the Government Gazette.

Rulings of the Customs Duty Ruling Commission under (3) shall be final.

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Section 37. The importer or the exporter has the right to appeal against the duty assessment to the Appeal Commission within thirty days as from receipt of the duty assessment notification form.

The submission of appeals and procedures for considering appeals under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 38. An appeal against the duty assessment under section 37 shall have no effect of staying payment of duties as assessed by the customs official unless the appellant is granted permission by the Director-General for awaiting a decision on the appeal or the Court's final decision.

The appellant granted permission for a stay of payment of duties under paragraph one must make full payment of duties within thirty days as from the date of receipt of the notification of the dismissal of the appeal or the decision on the appeal or as from the date of the knowledge of the Court's final decision.

In the case where the appellate decision requires payment of additional duties, the appellant must make payment of duties within the same time as that under paragraph two.

Section 39. There shall be the Appeal Commission consisting of the Director-General of the Customs Department as Chairperson, a representative of the Customs Department, a representative of the Excise Department, a representative of the Office of the Council of State and a representative of the Office of the Attorney-General, as members.

The Director-General shall appoint one Government official within the Customs Department as the secretary and not more than two as assistant secretaries.

Section 40. In the case where there arises necessity and the Minister considers it appropriate, there may be one or more additional Appeal Commissions, the composition of which shall be as provided under section 39.

Section 41. The Appeal Commission shall complete its consideration of an appeal within one hundred eighty days as from the date on which the customs official receives the appeal and has complete documents and evidence pertinent to such appeal.

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In the case of necessity, the Appeal Commission may extend the period of time for the consideration of the appeal, provided that that it must not exceed ninety days.

Section 42. If the Appeal Commission fails to complete its consideration of an appeal within the time under section 41 paragraph one, the importer or the exporter has the right to institute an action before the Court.

In the case where the importer or the exporter institutes an action before the Court, the Appeal Commission shall dismiss the appeal of such importer or exporter.

Section 43. The provisions of section 35 shall apply to a meeting of the Appeal Commission *mutatis mutandis*.

Section 44. The Appeal Commission has the power to appoint a sub-committee for performing any particular act as entrusted.

The provisions of section 35 shall apply to a meeting of the sub-committee under paragraph one *mutatis mutandis*.

Section 45. The Appeal Commission or the sub-committee under section 44 paragraph one has the power to serve a written summons on the appellant or address a written request to the person concerned for giving statements or furnishing any account, document, evidence, information or article pertinent to the matter to which the appeal relates, whatever form it is, provided that such person must be given not less than fifteen days as from the date of receipt of the written summons or the date of receipt of the request.

In the case where any appellant fails to comply with the written summons under paragraph one or fails to give statement without justifiable reason, the Appeal Commission shall dismiss such appeal.

Section 46. In the case where the appellant submits a motion for the withdrawal of the appeal, the Appeal Commission shall dismiss such appeal.

Section 47. A decision of the Appeal Commission shall be final. In this regard, it shall be made in writing and be notified to the appellant.

Section 48. In the case where the appellant is dissatisfied with a decision of the Appeal Commission, the appellant has the right to institute an action before the Court within

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thirty days as from the date on which the notification of the decision on the appeal is received unless the Appeal Commission dismisses the appeal under section 46.

Section 49. A member of the Customs Duty Ruling Commission, a member of the Appeal Commission and a member of a sub-committee appointed by the Appeal Commission shall be the official under the Penal Code.

CHAPTER III IMPORT AND EXPORT OF GOODS

Section 50. The import and export of goods becomes complete in the following cases:

(1) the import of goods by sea shall be deemed to be complete when the vessel carrying such goods enter the area of the port at which the goods are to be unloaded from the vessel or the port named as the port of destination of the goods, while the export of goods by sea shall be deemed to be complete when the vessel which shall carry such goods leaves the last port for leaving the Kingdom;

(2) the import of goods by land shall be deemed to be complete when the vehicle carrying such goods enters the area of the border checkpoint, while the export of goods by land shall be deemed to be complete when the vehicle which shall carry such goods leaves the area of the border checkpoint for leaving the Kingdom;

(3) the import of goods by air shall be deemed to be complete when the aircraft carrying such goods reaches the airport which is the customs checkpoint, while the export of goods by air shall be deemed to be complete when the aircraft which shall carry such goods leaves the last airport which is the customs checkpoint for leaving the Kingdom;

(4) the import of goods by post shall be deemed to be complete when the postal bag is opened, while the export of goods by post shall be deemed to be complete when the postal bag is closed and action for the export has been taken under (1), (2) or (3), as the case may be, provided that the rules, procedures and conditions prescribed in the Notification of the Director-General shall be complied with.

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Section 51. Before taking any goods out of the custody of the Customs or before the export of any goods from the Kingdom, the importer or exporter must completely comply with this Act and other laws relating to customs affairs and must correctly submit an entry form therefor as well as make full payment of duties or place security.

The submission of entry forms, payment of duties and placement of security under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

When the person concerned makes a request and the Director-General considers it necessary to take any goods out of the custody of the Customs or export any goods from the Kingdom urgently, the Director-General has the power to grant permission for taking such goods out of the custody of the Customs or exporting such goods from the Kingdom without having yet to make complete submission of an entry form or full payment of duties. In this regard, the Director-General may also prescribe conditions to be complied with by the requester and, in the case where duties are required to be paid, the requester shall place the duty security in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 52. When the goods are imported into or exported from the Kingdom, the importer or the exporter shall submit an entry form therefor to the customs official in accordance with the form prescribed in the Notification of the Director-General, which must at least contain the following particulars:

- (1) the type of the goods;
- (2) the quantity, weight and quality of the goods;
- (3) the customs price;
- (4) the country of origin or the country of destination.

When the customs official has examined the particulars shown on the entry form and considers that the particulars shown are complete, the customs official shall enter a signature in certification thereof on the entry such or use any other method as prescribed by the Director-General for the purpose of certifying that the particulars shown are complete.

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Section 53. If the goods imported into the Kingdom are a passenger's personal goods worth not exceeding the value prescribed in the Notification of the Director-General, the importer is not required to submit an entry form for such goods.

In the case where the goods under paragraph one are goods which are subject to payment of duties, the importer shall pay duties when the declaration of such goods is made to the customs official or when the customs official discovers, from an inspection, that such goods are subject to payment of duties.

Section 54. In the case where the importer is unable to prepare an entry form for any particular goods by reason that details as to all such goods are unknown, the importer may submit an application for permission for the opening of the goods under the custody of the Customs for an inspection, provided that action shall be taken in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

If, at the expiration of thirty days as from the date on which the imported is granted permission for the opening of the goods for an inspection under paragraph one, the importer fails to submit an entry form and fails to make payment of duties or place security correctly and completely within such period of time, it shall be deemed that the goods in respect of which the opening for the inspection has carried out are overtime goods.

Section 55. In the case where the customs official considers that a question arises as to duties on goods under customs clearance, such goods shall be taken to a customs house or taken to any secure place for storage unless the customs official and the importer or the exporter have agreed to have a sampling of the goods stored for the decision on such question and duties have been paid to cover the amount declared in the entry form and additional money has been placed as security or other security has been placed in the amount fully representing the maximum duties which may be levied on such goods.

When the customs official has assessed payable duties and notified the importer or the exporter to pay duties, the importer or the exporter must make full payment of duties in the notified amount within thirty days as from the date of receipt of the notification, except that in the case where the security money is placed under paragraph one and such money already covers the duties, the customs official shall take such security money as the duties in the amount revealed by the assessment and it shall be deemed that the importer or the exporter has made full payment of the duties.

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Section 56. The controller of a vehicle shall carry, load or unload or perform any operation on the goods which are imported or which shall be exported under supervision of the customs official at the time prescribed in the Ministerial Regulation unless permission is obtained from the Director-General for the carriage or loading or unloading thereof at other times.

Section 57. The loading or unloading of the goods on or from the vehicle, the transfer of goods, the taking of the goods to a checkpoint, the weighing of the goods, the re-assembling, the gathering, the selection or the separation thereof, the marking and the recording of reference numbers or the permission for carrying out such activities or the relocation of the goods for storage in a storing place until the goods are received shall be the duties of the importer of the exporter at his own costs.

Section 58. The loading or unloading of goods imported into or exported from the Kingdom must be carried out in the loading or unloading area only unless permission is obtained from the Director-General for loading or unloading at any other place, in which case the Director-General may require the importer or the exporter, as the case may be, or the owner or occupier of such other place to place security.

Section 59. A package or container of the goods to be imported into or exported from the Kingdom must have a mark or marking number therefor and such mark or marking number must also be displayed in documents pertaining to such goods.

Section 60. Persons concerned with the goods imported into or exported from the Kingdom by post under section 50 (4) shall declare particulars as to such goods.

In the case where an offence occurs in connection with the import or export of the goods under paragraph one, the liability and penalty shall be imposed upon the following persons:

- (1) the person named as the recipient of the imported goods or the recipient of the goods, in the case of the import of the goods; or
- (2) the sender of the goods to be exported or the person who sends the goods at the post office, in the case of the export of the goods.

Section 61. The provisions of section 242, section 243, section 244 and section 245 shall also apply to the goods imported into or exported from the Kingdom by post.

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Section 62. The customs official may inspect a postal parcel imported into or exported from the Kingdom.

In the case of reasonable suspicion, the customs official may detain a letter or a postal parcel until the person who will send the goods or the person who brings the goods for delivery or the person named as the recipient or the recipient has satisfied the customs official that no prohibited goods, restricted goods or goods in respect of which duties remain unpaid are contained in such letter or postal parcel.

Section 63. The importer, the exporter, the carrier and the person concerned as prescribed in the Notification of the Director-General have the duty to keep and maintain accounts, documents, evidence and any other information pertinent to the goods which are under customs clearance or have undergone customs clearance for a period not less than five years as from the date of the import or export of the goods.

In the case where the person under paragraph one ceases the operation of business, such person or the liquidator shall keep and maintain such accounts, documents, evidence and information for another two years as from the date of the cessation thereof.

The keeping and maintenance of the accounts, documents, evidence and information under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

PART I

IMPORT AND EXPORT OF GOODS BY SEA

Section 64. The master of a vessel entering the Kingdom, with the exception of vessels of the Government service, shall have the duty to prepare a report on the arrival of the vessel and submit a list of goods thereon and show the certificate of registry of the vessel to the customs official for inspection.

The preparation of a report on the arrival of a vessel and the submission of a list of goods on the ships under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

In the case where the vessel under paragraph one reaches the port which is a customs checkpoint and contains goods from overseas and intended to be sent from the Kingdom

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or contains goods to be unloaded at any other place within the Kingdom, the master must also declare statements concerning such goods in the report on the arrival of the vessel.

Section 65. The customs official shall have the power to issue an order prohibiting any relocation of the goods in a vessel which are not declared in a report on the arrival of the vessel until a correct report is received from the master or until the master successfully explains reasons for inability to make the declaration thereof in the report on the arrival of the vessel.

Section 66. If the master has reported to the customs official that he has no knowledge as to what goods contained in the package or container carried on the vessel are, the customs official may order the opening of the such package or container for inspection and if it appears that such package or container contains prohibited goods, such goods shall be seized for legal proceeding.

Section 67. A vessel which has a voyage from overseas shall, upon arrival at a port area, halt and stay afloat at the designated checkpoint and the master shall have the duties as follows:

- (1) to render assistance to the custom official in boarding the vessel and entering into the vessel;
- (2) to anchor the vessel upon an order by the customs official;
- (3) to answer any questions, addressed by the customs official, concerning the vessel, the crew, passengers, the voyage and the nature of the goods on the vessel;
- (4) to report on firearms, ammunition, gunpowder and explosives contained on the vessel and hand over the firearms and ammunition to the customs official supervising the checkpoint when so ordered by the customs official and hand over gunpowder and explosives to the customs official specifically entrusted on such particular matter;
- (5) to provide a shelter to the customs official as is reasonable;
- (6) to perform any other activity upon a reasonable order by the customs official in connection with the performance of customs-related official services.

Section 68. At the expiration of ten days as from the arrival of the vessel at the port area which is a customs checkpoint, if the master fails to complete the unloading of the

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goods from the vessel or the importer fails to submit an entry form or fails to take action for the goods to be inspected by the customs official or to be correctly delivered, the customs official may issue an order for the goods to be taken for storage at a place determined by the customs official. In this regard, the master or the importer shall bear the costs incurred in the relocation and storage of such goods.

The customs official may grant permission for a return of the goods stored under paragraph one only when the costs pertinent to such goods have been paid in full.

Section 69. At the expiration of a period of twenty-one days as from the arrival of a vessel at an area of the port which is a customs checkpoint, if the master fails to complete the unloading, the customs official has the power to order the detention of such vessel until the master fully unloads the goods from the vessel. In this regard, the master must bear the costs incurred in guarding such goods and other possible expenses.

The Director-General may exempt collection of expenses under paragraph one if the master has produced reasonable evidence that the delay has resulted by *force majeure* or other inevitable cause.

Section 70. Goods to be exported shall not be carried onto any vessel until the customs official has issued a certificate of inbound clearance for such vessel unless permission is obtained for carrying the goods into such vessel before obtaining a certificate of inbound clearance for the vessel, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 71. Any vessel, with an exception of an official vessel, which leaves the Kingdom from a port which is a customs checkpoint must obtain a certificate of outbound clearance. In this regard, the master shall have the duty to prepare a report of the departure of the vessel and submit a list of goods thereon to the customs official for inspection.

When the customs official has affixed a signature in the report of the departure of the vessel, such report shall be deemed to be a certificate of outbound clearance.

The preparation of a report of the departure of the vessel and the submission of a list of goods on the vessel under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

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Section 72. If the vessel which has obtained a certificate of outbound clearance has left one port which is a customs checkpoint to another port which is a customs checkpoint in the Kingdom, the master shall prepare a report of the departure of the vessel and submit a list of goods loaded thereon to the customs official stationed at such port which is the customs checkpoint and enclose a certificate of outbound clearance subsequently issued with the first certificate of clearance, and the same procedure must be pursued at every port which is a customs checkpoint until a final certificate of outbound clearance is obtained for leaving the Kingdom.

When the customs official has affixed a signature in the report of the departure of the vessel, such report shall be deemed to be a certificate of outbound clearance from the port which is the customs checkpoint in order for the vessel to leave the Kingdom.

The preparation of a report of the departure of the vessel and the submission of a list of goods on the vessel under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 73. In the case where firearms, ammunition, gunpowder and explosives are handed over to the customs official under section 67 (4), such goods shall be returned to the mater when the vessel in question is to leave an area of the port which is the customs checkpoint.

Section 74. Every vessel must reduce its speed when it sails past a checkpoint of the Customs Department for entering the sea and the customs official shall have the power to address to the master questions in connection with the name of the vessel and places to which the vessel will sail.

Section 75. At the expiration of fourteen days as from the date of commencement of the loading of goods to be exported onto the vessel, whether the loading of the goods onto the vessel is complete or not as long as the vessel remains in the area of the port, the customs official may demand the fee for the duties performed on such vessel.

The Director-General may exempt the collection of the fee under paragraph one if the master has produced reasonable evidence that the delay has resulted from *force majeure* or any other inevitable cause.

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The customs official may detain the vessel carrying the goods under paragraph one until the master has made payment of fees and expenses incurred in the detention of such vessel.

Section 76. In the case where the exporter has submitted to the customs official an entry form for the goods to be exported under section 51 but fails to complete the loading of such goods onto the vessel before the vessel's departure, the exporter shall, within three days as from the date of the vessel's departure from the port, notify the customs official of the cause of the inability to complete the loading of such goods onto the vessel. In this regard, the customs official shall record such cause in the entry form for such goods and the goods which are not yet loaded onto the vessel shall be taken to be stored at the place designated by the customs official, provided that the exporter shall be liable for the costs incurred in the storage of such goods.

The exporter shall take any of the following actions vis-à-vis the goods stored under paragraph one:

- (1) making an application for the goods to be returned within thirty days as from the date of the notification of the cause to the customs official; or
- (2) exporting the goods from the kingdom within twenty-one days as from the day on which the vessel named in the original entry form leaves the port.

In the case where it appears that such goods are bonded or are covered by the security, such goods shall be confiscated if the exporter fails to take action as provided under paragraph one or paragraph two.

Section 77. Every vessel, except an official vessel, which is about to leave the port shall fly a Blue Peter flag at a front post until the vessel's departure. If the vessel is to leave in the afternoon, the Blue Peter flag shall be flown since the morning. If the vessel is to leave in the morning, the Blue Peter flag shall be flown since the afternoon of the preceding day.

Section 78. The Director-General has the power to designate areas of outer anchorages in order to enable vessels to perform loading and unloading operations without proceeding to the areas of ports which are customs checkpoints and shall also specify the working time for the use of such outer anchorages.

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In the case of emergency or urgent necessity, the Director-General may grant permission, as a matter of a particular case, for the loading or unloading to be carried out outside the area of an outer anchorage. In this regard, the Director-General may also prescribe conditions to be observed.

Section 79. The master who intends to carry out the loading or unloading in the area of an outer anchorage shall submit an application therefor to the Director-General.

The application and the granting of permission for the loading or unloading in the area of an outer anchorage under paragraph ones shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 80. The master permitted to carry out the loading or unloading in the area of an outer anchorage shall prepare and submit a list of goods to be loaded or unloaded through each conveyor vessel to the customs official in charge of the outer anchorage in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

When the customs official in charge of the outer anchorage has received the list of goods to be loaded or unloaded under paragraph one and affixed a signature in attestation of accuracy of the list of such goods, the list of such goods shall be deemed to be a permit for taking the goods on such conveyor vessel towards the area of the port which is a customs checkpoint.

When the conveyor vessel arrives the port which is a customs checkpoint, the master of the conveyor vessel shall hand over the list of goods to the customs official stationed at such customs checkpoint and then carry out the loading or unloading of the goods as well as proceed to perform customs clearance.

Section 81. Firearms, ammunition, gunpowder, explosives or restricted goods shall not be loaded or unloaded at an outer anchorage unless permission is obtained from the customs official.

Section 82. In the case where the export of goods from the Kingdom requires the loading in the area of an outer anchorage, the exporter must submit an entry form with full payment of duties and encumbrances and shall prepare and submit a list of goods loaded by

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each conveyor vessel to the customs official stationed at a customs checkpoint, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

When the customs official has received the list of goods loaded under paragraph one and affixed a signature in attestation of the accuracy of such list of goods, such list of goods shall be furnished to the conveyor vessel and the master of the conveyor vessel shall, upon its arrival at the area of the outer anchorage, submit the list of goods to the customs official in charge of such outer anchorage.

In the case where the customs official in charge of the outer anchorage finds from an inspection that the particulars indicated in the list of goods do not correspond to the goods carried on such conveyor vessel, the customs official shall have the power to detain the goods carried on the conveyor vessel until the list of goods is corrected to achieve accuracy.

Section 83. In the case where the goods have been brought to the area of the outer anchorage under section 82 but such goods are not loaded onto the vessel or have not fully been loaded thereon, the master or the exporter shall take any of the following actions:

(1) submitting to the customs official in charge of the outer anchorage an application for permission for loading such goods onto another vessel which is in the area of such outer anchorage and will sail to the same foreign port as the one indicated in the entry form;

(2) sending the goods back to the port from which they have been exported; provided that a request must be made for a certificate indicating details as to such goods from the customs official in charge of the outer anchorage for the purpose of submitting the same to the customs official stationed at a customs checkpoint and the goods so sent back shall be brought for storage at a place designated by the customs official, with the exporter be liable for the costs incurred in the storage thereof, and the provisions of section 76 paragraph two and paragraph three shall apply to the goods stored.

The submission of an application for permission under (1) and the request for a certificate under (2) shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 84. Before a vessel leaves the area of an outer anchorage, the master to whom permission has been granted for loading or unloading the goods in the area of the outer anchorage, whether the loading or unloading is carried out vis-à-vis the goods imported into or

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exported from the Kingdom, must take a certificate of clearance from the customs official stationed at a customs checkpoint in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General, with full payment of encumbrances, and hand over such certificate of clearance to the customs official in charge of such outer anchorage.

In the case where the customs official in charge of the outer anchorage finds from an inspection that there are the goods in respect of which duties, fees or any other expenses required to be fully paid remain unpaid, the customs official shall have the power to seize the certificate of clearance until such payment is made or other security is placed.

Section 85. The provisions of section 71 and section 77 shall also apply to a vessel where the loading or unloading is carried out in the area of an outer anchorage.

PART II

IMPORT AND EXPORT OF GOODS BY LAND

Section 86. The carriage of goods into or from the Kingdom, from an inland boundary to a customs checkpoint or from a customs checkpoint to an inland boundary, must be undertaken along an approved route and within the time prescribed in the Notification of the Director-General.

The carriage of goods along any route other than approved routes or at any time other than that prescribed under paragraph one requires permission from the Director-General in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 87. In the case where the carriage of goods under section 86 is undertaken by a waterway which is an inland boundary, the Director-General shall have the power to, by Notification, designate the area of such waterway which is the inland boundary in order to allow the master to moor and unload or load the goods imported into or exported from the Kingdom.

Section 88. In the carriage of goods across an inland boundary into the Kingdom, the carrier shall take action as follows:

(1) submitting two copies of a list of goods, with an indication of all goods carried, to the customs official stationed at a border checkpoint in accordance with the form prescribed

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in the Notification of the Director-General in order for the goods so carried to be inspected by the customs official stationed at the border checkpoint; provided that when the customs official considers that such goods correctly correspond to the indication made in the list of goods, the customs official shall order a release of the goods and affix a signature in the list of the goods, with one copy being returned to the carrier, and it shall be deemed that such list of goods is a permit for taking the goods across a border checkpoint to a customs checkpoint;

(2) upon receipt of a permit for taking the goods across a border, carrying the goods to a customs checkpoint forthwith along an approved route on the same vehicle as that used in bringing the goods in, unless permission is obtained from the customs official for transshipment or for any other method of carriage, provided that there shall be no alteration of the goods or packages or containers thereof in any manner whatsoever;

(3) submitting the list of goods bearing the signature of the customs official stationed at the border checkpoint to the customs official stationed at the customs checkpoint for inspecting accuracy thereof and further proceeding with customs clearance.

Section 89. In the carriage of goods across an inland boundary to any place outside the Kingdom, the carrier shall take action as follows:

(1) submitting two copies of a list of goods, with an indication of all goods carried, to the customs official stationed at a customs checkpoint in accordance with the form prescribed in the Notification of the Director-General in order for the goods so carried to be inspected by the customs official stationed at the customs checkpoint; provided that when the customs official considers that such goods correctly correspond to the indication made in the list of goods, the customs official shall order a release of the goods and affix a signature in the list of the goods, with one copy being returned to the carrier, and it shall be deemed that such list of goods is a permit for taking the goods across a customs checkpoint to a border checkpoint;

(2) upon receipt of a permit for taking the goods across a customs checkpoint, carrying the goods to a border checkpoint forthwith along an approved route on the same vehicle as that used in bringing the goods in, unless permission is obtained from the customs official for transshipment or for any other method of carriage, provided that there shall be no alteration of the goods, packages or containers thereof in any manner whatsoever;

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(3) submitting the list of goods bearing the signature of the customs official stationed at the customs checkpoint to the customs official stationed at the border checkpoint for inspecting accuracy thereof.

Section 90. In the case where the exporter has submitted to the customs official an entry form for the goods to be exported under section 51 but fails to export such goods within seven days as from the date of clearance (วันตรวจปล่อย), the exporter shall, within ten days as from the date of clearance, notify the customs official of the cause of the inability to export such goods. In this regard, the customs official shall record such cause in the entry form for such goods and the goods which are not yet exported shall be taken to be stored at the place designated by the customs official, provided that the exporter shall be liable for the costs incurred in the storage of such goods.

The exporter shall take any of the following actions vis-à-vis the goods stored under paragraph one:

(1) making an application for the goods to be returned within thirty days as from the date of the notification of the cause to the customs official; or

(2) exporting the goods from the kingdom within fourteen days as from the date of clearance.

In the case where it appears that such goods are bonded or are covered by the security, such goods shall be confiscated if the exporter fails to take action as provided under paragraph one or paragraph two.

Section 91. In the case of the carriage of goods across an inland boundary into the Kingdom or for export from the Kingdom without using any vehicle or with the use of a vehicle run by no machine or with the use of a beast of burden, the carrier must stop at a border checkpoint and the customs official shall have the power to inspect the goods carried as well as the vehicle or beast of burden used in such carriage, and the carrier shall prepare a list of goods so carried, with reasonable details.

PART III

IMPORT AND EXPORT OF GOODS BY AIR

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Section 92. Any aircraft, except official aircraft, which will enter the Kingdom or leave the Kingdom must land on or fly from an airport which is a customs checkpoint.

Section 93. In the case of emergency or utmost necessity resulting in the aircraft entering or leaving the Kingdom by landing on or taking off from any place other than an airport which is a customs checkpoint, the controller of the aircraft shall forthwith report to the customs official or the administrative or police official in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General and the controller of the aircraft shall not permit the carriage of any goods from or onto such aircraft without consent of the customs official.

When the aircraft lands on or takes off from any other airport under paragraph one, the owner or the official stationed at such airport shall forthwith report the landing or taking off of such aircraft to the customs official in charge of the area in which the airport is located and shall not permit the carriage of any goods from or onto such aircraft without consent of the customs official.

When action has been taken as provided under paragraph one, it shall be deemed that such aircraft has landed on or taken off from an airport which is a customs checkpoint.

Section 94. When any aircraft, except official aircraft, enters the Kingdom, the controller of the aircraft shall prepare an aircraft report and submit a list of goods thereon to the customs official stationed at an airport which is a customs checkpoint for inspection.

The preparation of an aircraft report and the submission of a list of goods on the aircraft under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

In the case where the aircraft under paragraph one arrives an airport which is a customs checkpoint and contains thereon goods from overseas with the intention to export the same from the Kingdom, the provisions of sections 64 paragraph three shall apply *mutatis mutandis*.

Section 95. When any aircraft, except official aircraft, enters the Kingdom, the controller of the aircraft shall have the duties as follows:

- (1) to render assistance to the customs official in getting on the aircraft;

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(2) to answer any questions addressed by the customs official in connection with the aircraft, the crew, passengers, the journey and goods carried on such aircraft;

(3) to report on firearms, ammunition, gunpowder or explosives on the aircraft and hand over the firearms and ammunition to the customs official when so ordered by the customs official and hand over gunpowder and explosives to the customs official specifically entrusted on such particular matter.

Section 96. Any aircraft, except official aircraft, which leaves the Kingdom from an airport which is a customs checkpoint must obtain a certificate of aircraft clearance. In this regard, the controller of the aircraft shall have the duty to prepare an aircraft report and submit a list of goods thereon to the customs official stationed at the airport which is the customs checkpoint for inspection.

When the customs official has certified the aircraft report, such report shall be deemed to be a certificate of clearance in order for the aircraft to leave the Kingdom.

The preparation of an aircraft report and the submission of the list of goods on the aircraft under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 97. If the aircraft which has obtained a certificate of aircraft clearance has left one airport which is a customs checkpoint to another airport which is a customs checkpoint in the Kingdom, the controller of the aircraft shall prepare an aircraft report and submit a list of goods thereon to the customs official stationed at such airport which is the customs checkpoint and enclose a certificate of aircraft clearance subsequently issued with the first certificate of aircraft clearance, and the same procedure must be pursued at every airport which is a customs checkpoint until a final certificate of aircraft clearance is obtained for leaving the Kingdom.

When the customs official has affixed a signature on the aircraft report in attestation thereof, such report shall be deemed to be a certificate of aircraft clearance from the airport which is the customs checkpoint in order for the aircraft to leave the Kingdom.

The preparation of a report and the submission of a list of goods on the aircraft under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

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Section 98. In the case where the exporter has submitted to the customs official an entry form for the goods to be exported under section 51 but fails to complete the loading of such goods onto the aircraft before the aircraft's departure, the exporter shall, within three days as from the date of the aircraft's departure from the airport which is a customs checkpoint, notify the customs official of the cause of the inability to complete the loading of such goods onto the aircraft. In this regard, the customs official shall record such cause in the entry form for such goods and the goods which are not yet loaded onto the aircraft shall be taken to be stored at the place designated by the customs official, provided that the exporter shall be liable for the costs incurred in the storage of such goods.

The exporter shall take any of the following actions vis-à-vis the goods stored under paragraph one:

(1) making an application for the goods to be returned within thirty days as from the date of the notification of the cause to the customs official; or

(2) exporting the goods from the Kingdom within seven days as from the day on which the aircraft named in the original entry form leaves the airport which is a customs checkpoint.

In the case where it appears that such goods are bonded or are covered by the security, such goods shall be confiscated if the exporter fails to take action as provided under paragraph one or paragraph two.

PART IV AGENTS

Section 99. Any person who intends to be granted authorisation from importers, exporters, persons taking goods for a transit or persons contemplating transshipment, in order to act as an agent for performing any act in connection with goods imported into or exported from the Kingdom, goods for transit or goods for transshipment or any other matters under this Act must obtain permission from the Director-General in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

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It shall be deemed that the person to whom permission is granted for acting as an agent under paragraph one is also the owner of the goods imported, exported, transited or transshipped.

Section 100. Any person who intends to be granted authorisation from controllers of vehicles in order to act as an agent for performing duties under this Act must obtain permission from the Director-General in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 101. An agent to whom permission is granted under section 99 or section 100 must comply with the rules, procedures and conditions prescribed in the Notification of the Director-General.

In the case where an agent violates or fails to comply with paragraph one, the Director-General shall have the power to suspend or revoke the permission granted to such agent without prejudicing the right to enforce the security placed by the agent in such an amount as deemed appropriate and without discharging such person from criminal liability under this Act or under other laws.

CHAPTER IV

TRANSIT, TRANSSHIPMENT AND OVERTIME GOODS

PART I

TRANSIT AND TRANSSHIPMENT

Section 102. Any person who imports the goods for transit or transshipment in order for them to leave the Kingdom shall submit an entry form in accordance with such form, and comply with such rules, procedures and conditions, as prescribed in the Notification of the Director-General.

The goods under paragraph one shall not be subject to payment of duties if the requirements under paragraph one are complied with and the goods are taken out of the Kingdom within thirty days as from the date on which they are imported into the Kingdom.

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Any transit involving mobility by land shall be permissible upon an international agreement.

Section 103. In the case where the importer of goods for transit or transshipment fails to take the goods out of the Kingdom within the period of time under section 102 paragraph two or makes a request for a change of customs clearance into that for the import and has complied with this Act but fails to pay duties or fails to comply with other laws relating to customs within such period of time, such goods shall vest in the State.

Section 104. In the case where there exists a reasonable cause to believe that the goods imported for transit or transshipment are of any of the following descriptions, the customs official shall have the power to inspect or search such goods without any warrant of search:

- (1) their possession is for use in terrorism or an activity incidental to terrorism;
- (2) their type, carriage or transshipment may have impacts on international security, peace and safety;
- (3) the indication of their origin is false;
- (4) they are against the law relating to transit or transshipment.

The inspection or search under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 105. In the case where there is apparent evidence that any goods are of the description under section 104, such goods shall be confiscated whether any person is sentenced to any penalty by judgment of the Court or not, and the Director-General may order them to be destroyed by a method which is safe for persons, animals, plants, property and the environment or to be sent back forthwith or may order any other action as is reasonable in order to prevent such goods from being reused or in order to enable such goods to be used without being unlawful, provided that the carrier or the controller of the vehicle shall bear the costs incurred therein.

Section 106. The prohibitions of or restrictions on transit under other relevant laws shall apply to the goods imported for the purpose of transit or transshipment, having regard to good morals of the public, public policy, public safety, the protection of lives and health of

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human-beings, animals or plants and the protection of the possession of national heritage in the sphere of arts and culture, history or archeological value or the protection of trade or industrial property and the observance of international obligations by Thailand is bound.

PART II

OVERTIME GOODS

Section 107. The goods which are in custody of the Customs and are of any of the following descriptions shall be overtime goods:

(1) imported goods which are dangerous goods in accordance with the types or kinds prescribed under section 5 (5) and are not taken from the customs area within such period of time as prescribed in the Notification of the Director-General;

(2) imported goods other than those in (1) which are in custody of the Customs for more than thirty days without submission of an entry form therefor and without payment of duties or placement of security for duties levied thereon, whereby the Director-General has given the carrier written notification instructing proper performance of such action but the carrier has failed to take property action within fifteen days as from the date of receipt of the written notification from the Director-General;

(3) imported goods other than those in (1), in respect of which an entry form therefor has been submitted and duties thereon have been deficiently paid or the security for duties thereon has been deficiently placed and which are not taken out of the custody of the Customs within thirty days as from the date of receipt of the written notification from the Director-General.

Section 108. In taking action against the overtime goods, the Director-General shall have the powers as follows:

- (1) to instruct the customs official to sell such goods by auction or destroy them;
- (2) to instruct the importer or carrier to export the goods from the Kingdom and, if the instruction is not complied with, to instruct the customs official to destroy such goods at such person's costs.

The action to be taken against the overtime goods under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the

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Director-General and, in the case of the action to be taken against the overtime goods under section 107 (1), regard shall also be had to possible dangers.

The destruction of the overtime goods under (1) or (2), as the case may be, shall be done by a method which is safe for persons, animals, plants, property and the environment.

If the Director-General considers that the sale by auction under (1) will not generate reasonable proceeds or there exists any other justifiable reason, the Director-General may order a sale by any other method; but in the case where the Director-General the sale by auction or the sale by any other method will not generate reasonable proceeds or benefits or may cause any loss, the Director-General may order that such goods shall be handled in accordance with the method as the Director-General deems appropriate.

Section 109. If the goods not yet taken from the custody of the Customs are in nature perishable and it appears that such goods have become spoiled or gone bad, the Director-General may order that such goods shall be destroyed or handled in accordance with the method as the Director-General deems appropriate at any time, provided that costs thereon may also be demanded from the importer or the carrier.

Section 110. The proceeds of the sale by auction or the sale by any other method under section 108 shall first be deducted for the purpose of paying duties, costs of storage, costs of relocation or other encumbrances which are in arrears to the Customs Department and also duties and taxes under other laws. The remaining sum shall be expended for paying encumbrances payable to the person performing the storage and the carrier respectively. Any remaining sum after such deductions shall vest in the State unless the owner makes a request for a return thereof within six months as from the date of sale of such goods.

CHAPTER V

BONDED WAREHOUSES, DEPOTS, SECURE PLACES AND AUTHORISED PORTS

PART I

ESTABLISHMENT

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Section 111. The establishment of a bonded warehouse shall be permissible for the purposes provided under section 116 in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The establishment of a depot or a secure place shall be permissible for the purpose of using it as a place for inspecting, storing or inspecting and releasing imported or exported goods on which duties are not yet paid.

The establishment of an authorised port shall be permissible for the purpose of the import or export of goods into or from the Kingdom, the transit or the transshipment.

Section 112. Any person who intends to establish a bonded warehouse, depot, secure place or authorised port must obtain a permit from the Director-General.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation and action may be taken in pursuit of the establishment of such bonded warehouse, depot, secure place or authorised port when permission has been granted.

While an application is submitted for permission to be granted for the establishment of a depot, a secure place or an authorised port, if the Director-General considers it necessary, the Director-General may grant permission for the establishment of a temporary depot, secure place or authorised port *pro tempore*. In this regard, the applicant for a permit must indicate a plan as to the location and take action in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 113. In addition to the fee for a permit, the holder of a permit under section 112 must be liable to payment of the annual fee every year.

In the case where the holder of a permit under paragraph one fails to pay the annual fee when payment thereof becomes due, the Director-General shall give a written warning demanding the holder of the permit to make payment within the time specified.

Section 114. In the case where the permit under section 112 is lost, destroyed or damaged substantially, the holder of the permit shall submit an application for a permit substitute within fifteen days as from the date of the knowledge of such loss, destruction or damage.

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The application for a permit substitute and the issuance of a permit substitute shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 115. The holder of a permit under section 112 must display the permit or a permit substitute, as the case may be, at an open and conspicuous place at the place of business of the holder of such permit.

PART II OPERATION

Section 116. A bonded warehouse may be operated for the following activities:

- (1) storing goods in the bonded warehouse;
- (2) exhibiting and selling goods stored in the bonded warehouse;
- (3) producing, mixing, assembling, packaging or operating, by any other method, the goods stored in the bonded warehouse.

Section 117. The Director-General may demand the security from the holder of a permit for the establishment of a bonded warehouse by requiring a bond or other security, as the security for duties or other expenses permissibly collectible by the Customs Department under the law or agreements.

Section 118. The inspection of the goods stored in any bonded warehouse, depot or secure place shall be carried out at such warehouse, depot or secure place.

In the case where it is deemed appropriate, the Director-General may order the inspection of flow-in goods or flow-out goods to be carried out at any particular place other than that specified under paragraph one, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 119. In the case where it is necessary for the conduct of customs clearance, the customs official in charge of an authorised port may order that the goods which have not yet been inspected shall be brought for storage at a depot or a secure place.

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Section 120. The goods to be stored at a depot or a secure place must be stored in their original packaging or container at the time when they are brought in unless permission is obtained from the customs official for the moving of their packaging or container at an authorised port or for their assembly, selection, separation, packaging or repackaging in such depot or secure place, and the customs official shall record particulars of goods so stored.

Any change or relocation of, or any operation against, the goods or their packaging, containers, marks and packaging reference numbers from the place of storage under paragraph one may be carried out upon permission by the customs official or upon authority of the law.

Any goods, packaging or container changed, relocated or operated without complying with the requirements under paragraph two shall all be confiscated.

Section 121. The goods which are not yet inspected shall not be relocated, assembled, selected, separated, packaged or repackaged at an authorised port or a place for unloading from a vehicle unless permission is obtained from the customs official and the customs official is available for supervision and inspection.

The goods relocated, assembled, selected, separated, packaged or repackaged without complying with the requirements under paragraph one shall all be confiscated.

Section 122. The goods stored in one bonded warehouse may be relocated for storage in another bonded warehouse or the goods stored in one depot or secure place may be relocated for storage in another depot or secure place in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 123. The bringing of goods into or the release of goods from a bonded warehouse, depot, secure place and authorised port and the storage of goods, the loading and unloading of goods, the inspection and control of goods thereat shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 124. When the importer or the exporter has submitted an entry form and carried the goods into a bonded warehouse for a storage upon compliance with the law as well as the rules, procedures and conditions prescribed in the Notification of the Director-General, the customs official shall certify the particulars as to such goods and it shall be deemed that the goods so carried for storage have properly been stored in the bonded warehouse.

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The particulars of the goods certified by the customs official under paragraph one shall be used for assessment of duties thereon; but in the case where such goods are used for the production, mixture, assembly, packaging or any operation by any other method in the bonded warehouse, the quantity used shall be calculated in accordance with the rules prescribed in the Notification of the Director-General or approved by the Director-General.

The holder of a permit for the establishment of a bonded warehouse shall prepare and submit a report on the carriage of goods under paragraph one for storage in the bonded warehouse in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 125. In the case where it appears that the goods in a bonded warehouse, depot or secure place are of the quantity which is, without justifiable reason, different from that notified by the holder of the permit to the customs official at the time when such goods were brought in for storage, it shall be deemed that the goods, to the extent of the difference in quantity, have not yet gone through customs clearance.

Section 126. Exemption from import duties and export duties shall be granted to the goods released from a bonded warehouse for export from the Kingdom, whether they are released in the same condition as that in which they were brought in or in any other condition.

In the case where the goods released from a bonded warehouse are transferred to another bonded warehouse or distributed to the importer under section 29 or the person eligible for duty exemption under the law on customs tariffs or any other laws, it shall be deemed that the goods are exported from the Kingdom at the time when they are released from the bonded warehouse, provided that the rules, procedures and conditions prescribed in the Notification of the Director-General shall be complied with.

The receipt of the goods transferred or distributed under paragraph two shall be deemed to be the complete import into the Kingdom or the complete import at the time when such goods are released from the bonded warehouse, provided that the rules, procedures and conditions prescribed in the Notification of the Director-General shall be complied with.

The provisions of paragraph one shall not apply to the bringing of goods in the Kingdom which are subject to export duties into a bonded warehouse, where they are exported from the Kingdom in their original condition.

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Section 127. In the case where any particular goods are provided by law to be granted an exemption or a return of duties upon export from the Kingdom, such goods shall, when brought into a bonded warehouse under section 116 (2) or (3), be granted an exemption or a return of duties. In this regard, such goods shall be deemed to have been exported from the Kingdom at the time of their being brought into the bonded warehouse, provided that the rules, procedures and conditions prescribed in the Notification of the Director-General shall be complied with.

Section 128. The Director-General may grant the importer an exemption or a return of duties on the goods lost or destroyed by *force majeure* or an inevitable accident in the following cases:

(1) the goods under the moving operation for storage in a bonded warehouse, a depot or a secure place at the time when they are moved or brought into the bonded warehouse, depot or secure place;

(2) the goods under the loading or unloading operation at an authorised port;

(3) the goods in respect of which an entry form has been submitted for their storage in a bonded warehouse, at the time when they are stored in a bonded warehouse; or

(4) the goods in respect of which an entry form has been submitted for their being taken from a bonded warehouse.

The exemption of duties and the return of duties under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 129. Any holder of a permit under section 112 who intends to cease the operation shall give prior notification in writing to the Director-General not less than thirty days before the date of the intended cessation thereof.

The notification of the cessation of the operation under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 130. The holder of a permit for the establishment of a bonded warehouse, a depot or a secure place who has given the notification of the cessation of the operation under section 129 must cease the operation for which permission has been granted.

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In the case of a bonded warehouse, the goods stored therein shall be handled in any of the following manners:

(1) notifying the importer to take the goods from the bonded warehouse and make full payment of duties within the period of time specified by the Director-General; or

(2) exporting the goods from the Kingdom or bringing them for storage in a bonded warehouse, a duty-free zone or a free zone under the law on Industrial Estate Authority of Thailand or distributing them to the importer under section 29 or the person eligible for the exemption of duties under the law on customs tariffs or any other law, as the case may be, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

In the case of a depot or a secure place, the goods stored in such depot or secure place shall be deemed to be overtime goods and shall be handled as provided under section 108.

The Director-General may grant the holder of a permit for the establishment of a bonded warehouse, depot or secure place permission for the cessation of the operation only when action has been taken under paragraph two or paragraph three and the permit shall terminate as from the date on which permission is granted for cessation of such operation.

Section 131. In the case where the holder of a permit for the establishment of a bonded warehouse has given the notification of the cessation of the operation under section 129 but fails to comply with section 130 within the period of time specified by the Director-General, the Director-General shall issue an order revoking the permit for the establishment of a bonded warehouse, and the goods in such bonded warehouse shall be the goods which are subject to payment of duties as from the date of the Director-General's order revoking such permit. In this regard, duties shall be calculated under section 14 (1).

PART III

SUSPENSION AND REVOCATION OF PERMITS

Section 132. In the case where any holder of a permit under section 112 fails to comply with or incorrectly complies with this Act, a Ministerial Regulation or a Notification issued under this Act or conditions in the permit, the Director-General shall give a written warning

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requiring compliance or correct compliance within the period of time specified. If such person fails to comply therewith, the Director-General shall order suspension of the permit.

The holder of a permit which is under suspension must cease the operation under the permit for the time being within such time as specified by the Director-General.

Section 133. The Director-General has the power to cancel the order suspending the permit under section 132 before the due time if it appears that the person whose permit is suspended has correctly complied with this Act, the Ministerial Regulation or Notification issued under this Act or the conditions in the permit.

Section 134. The Director-General has the power to revoke a permit under section 112 when the holder of the permit commits any of the following acts:

(1) failing to operate within ninety days as from the date on which the permit is granted or ceasing to operate for more than one hundred eighty days consecutively without notifying it to the Director-General, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General;

(2) having had the permit suspended on at least two occasions upwards;

(3) violating or failing to comply with the order suspending the permit;

(4) failing to pay the annual fee within the period of time specified by the Director-General under section 113 paragraph two.

Section 135. An order suspending a permit or an order revoking a permit under section 132 or section 134 shall be made in writing and notified to the holder of the permit and the written notification of the suspension of such permit or revoking such permit shall be posted at an open place at the place of business of the holder of the permit.

The provisions of section 130 and section 131 shall apply to the holder of the revoked permit *mutatis mutandis*.

CHAPTER VI DUTY-FREE ZONES

PART I

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ESTABLISHMENT OF DUTY-FREE ZONES

Section 136. Any person who intends to establish a duty-free zone in the interest of customs duties in the operation of industry, commerce or other undertakings which are beneficial to national economy must obtain permission from the Director-General.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation, and action may be taken in pursuit of the establishment of such duty-free zone when permission has been granted.

Section 137. The goods brought into a duty-free zone shall be granted the exemption from or a return of duties as provided by law.

Section 138. An applicant for a permit for the establishment of a duty-free zone must possess the qualifications and must not be under the prohibitions as follows:

- (1) being a State enterprise established under specific law or being a limited company or public limited company;
- (2) holding ownership or a possessory right or a right to manage the land or the area to which the establishment relates;
- (3) not being a person whose permit for the establishment of a duty-free zone has been suspended;
- (4) not having had a permit for the establishment of a duty-free zone revoked unless the permit has been revoked for more than three years prior to the date of submission of the application for a permit;
- (5) having other qualifications and not being under other prohibitions as prescribed in the Ministerial Regulation.

Section 139. In addition to the fee for a permit for the establishment of a duty-free zone, the holder of a permit for the establishment of a duty-free zone must be liable to payment of the annual fee every year.

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In the case where the holder of a permit under paragraph one fails to pay the annual fee when payment thereof becomes due, the Director-General shall give a written warning demanding the holder of the permit to make payment within the time specified.

Section 140. In the case where a permit for the establishment of a duty-free zone is destroyed or damaged substantially, the holder of the permit shall submit an application for a permit substitute within fifteen days as from the date of the knowledge of such loss, destruction or damage.

The application for a permit substitute and the issuance of a permit substitute shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 141. The holder of a permit for the establishment of a duty-free zone must display the permit or a permit substitute, as the case may be, at an open and conspicuous place at the place of business of the holder of such permit.

Section 142. The holder of a permit for the establishment of a duty-free zone who intends to cease the operation shall give prior notification in writing to the Director-General not less than ninety days before the date of the intended cessation thereof.

The notification of the cessation of the operation under paragraph one shall be in

Section 143. The holder of a permit for the establishment of a duty-free zone who has given the notification of the cessation of the operation under section 142 must cease the operation for which permission has been granted and notify a holder of a permit for operating business in a duty-free zone to take any action as follows:

(1) taking the goods from the duty-free zone and make full payment of duties within the period of time specified by the Director-General; or

(2) exporting the goods from the Kingdom or bringing them for storage in a bonded warehouse, a duty-free zone or a free zone under the law on Industrial Estate Authority of Thailand or distributing them to the importer under section 29 or the person eligible for the exemption of duties under the law on customs tariffs or any other law, as the case may be, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

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The Director-General may grant the holder of a permit for the establishment of a duty-free zone permission for the cessation of the operation only when action has been taken under paragraph one and the permit shall terminate as from the date on which permission is granted for cessation of such operation.

Section 144. In the case where the holder of a permit for the establishment of a duty-free zone has given the notification of the cessation of the operation under section 142 but fails to comply with section 143 within the period of time specified by the Director-General, the Director-General shall issue an order revoking the permit for the establishment of a duty-free zone and rights as well as benefits pertaining to the goods which are in such duty-free zone shall terminate accordingly and the goods which are in such duty-free zone shall be the goods which are subject to payment of duties as from the date of the Director-General's order revoking such permit. In this regard, duties shall be calculated under section 154.

Section 145. The provisions of section 132, section 133, section 134, section 135 paragraph one, section 143 and section 144 shall apply to the suspension and revocation of a permit for the establishment of a duty-free zone *mutatis mutandis*.

PART II

APPLICATION FOR PERMISSION FOR THE OPERATION OF BUSINESS IN A DUTY-FREE ZONE

Section 146. Any person who intends to operate business in a duty-free zone must obtain permission from the Director-General.

The application for permission and the granting of permission under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation, and the operation of business in such duty-free zone may commence when permission has been granted.

Section 147. An applicant for a permit for the operation of business in a duty-free zone must possess the qualifications and must not be under the prohibitions as follows:

- (1) being a juristic person;
- (2) having obtained from the holder of a permit for the establishment of a duty-free zone consent to the operation of business;

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(3) not being a person whose permit for the operation of business in a duty-free zone has been suspended;

(4) not having had a permit for the operation of business in a duty-free zone revoked unless the permit has been revoked for more than three years prior to the date of submission of the application for a permit;

(5) having other qualifications and not being under other prohibitions as prescribed in the Ministerial Regulation.

Section 148. The provisions of section 139, section 140, section 141, section 142, section 143, section 144 and section 145 and the penalties concerned shall apply to the holder of a permit for the operation of business in a duty-free zone *mutatis mutandis*.

Section 149. The holder of a permit for the operation of business in a duty-free zone must operate the business to which permission relates, provided that the business must be consistent with the purposes for the establishment such duty-free zone.

In the case where the holder of a permit for the operation of business in a duty-free zone intends to change, increase or reduce the type of business to be operated, such person must apply to the Director-General for permission in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General and may continue the operation of the business when permission has been granted.

Section 150. For the purpose of exercising control over a duty-free-zone, the Director-General shall have the power to issue Notifications prescribing categories or types of goods to be brought into or released from a duty-free zone and prescribing relevant rules, procedures and conditions as may be deemed appropriate.

PART III

RIGHTS AND BENEFITS IN A DUTY-FREE ZONE

Section 151. Goods imported to the Kingdom for being brought into a duty-free zone shall be granted exemption from import duties in the following cases:

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(1) machines, equipment, tools and devices and accessories thereof as necessary for the operation of business, including the goods used for the construction, assembly or installation of a plant or a building in a duty-free zone;

(2) goods imported to be used in the industry, commerce or any other business beneficial to national economy; or

(3) goods released from any other duty-free zone.

Exemption from export duties shall be granted to goods released from a duty-free zone for the export from the Kingdom.

The exemption from import duties and export duties under paragraph one and paragraph two shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.

Section 152. In the case where goods are imported into the Kingdom or raw materials within the Kingdom are brought into a duty-free zone for the production, mixture, assemble, packaging or any operation by any other method together with such goods for the purpose of the export from the Kingdom, such goods shall be exempt from the application of law insofar as it deals with the control of standards or qualities and the affixing of seals or any marks on such goods.

In the case of bringing of goods or raw materials as provided under paragraph one into a duty-free zone, such goods shall be exempt from the application of law insofar as it deals with the control of import into the Kingdom, the export from the Kingdom and the possession or use of such goods only in the areas prescribed in the Ministerial Regulation.

The release of goods to which exemption is granted under paragraph one and paragraph two from a duty-free zone for use or distribution in the Kingdom shall be in compliance with the law insofar as it deals with the control of the import thereof into the Kingdom or the possession or use thereof, the control of standards or qualities and the affixing of seals or any marks on such goods as from the date on which they are taken from the duty-free zone. In this regard, such goods shall be taken as if they had been imported into the Kingdom on the date of their being taken out of the duty-free zone.

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The import and the release of the goods from a duty-free zone under paragraph one, paragraph two and paragraph three shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 153. In the case where any law grants exemption of duties or a return of duties on any particular goods upon their export from the Kingdom, if such goods are brought into a duty-free zone, such goods shall be granted exemption of duties or a return of duties. In this regards, they shall be deemed to be exported from the Kingdom at the time when they are brought into the duty-free zone, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 154. The calculation of duties on the goods released from a duty-free zone for the import into the Kingdom, whether such goods are imported from outside the Kingdom or from within the Kingdom, shall be made by reference to the nature of the goods, the customs price and the customs tariff at the time when such goods are released from the duty-free zone.

In the case where the goods which are in the Kingdom are brought into a duty-free zone, such goods shall not be subject to any calculation of duties, when they are not eligible for exemption of duties or return of duties upon their export or no right to exemption of duties or a return of duties is exercised for them.

The calculation of duties under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 155. The bringing of the goods from a duty-free zone for use or distribution within the Kingdom or for a transfer to a bonded warehouse or distribution to the importer under section 29 or the person eligible for the exemption of duties under the law on customs tariffs or any other law shall be deemed to be the import into the Kingdom and the complete import at the time when such goods are brought from the duty-free zone, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The bringing of the goods in a duty-free zone for use for any purpose other than those of the establishment of a duty-free zone or the operation of business in a duty-free zone shall be deemed to be the bringing of the goods from a duty-free zone unless it is the bringing therefrom for the purpose of getting rid of or destroying the damaged goods, useless goods or

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unused goods which are in a duty-free zone upon permission from the Director-General, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

Section 156. The bringing of the goods into, the release of the goods from, the relocation of the goods and the inspection and control of the goods in a duty-free zone shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

CHAPTER VII CUSTOMS OFFICIALS

Section 157. In the case where there is a reasonable cause to suspect that there occurs the violation of or failure to comply with the provisions of this Act or any other law relating to customs, the customs official appointed by the Director-General shall have the powers as follows:

(1) to enter a place of business or any other place in connection with the operation of business of the importer, the exporter, the carrier or an agent of such person or the person concerned as prescribed in the Notification of the Director-General from sunrise to sunset or during office hours of such place; provided that, in this connection, the custom official has the power to instruct such person or the person who stays at such place to perform reasonable action for the purpose of inspection;

(2) to arrest an offender under this Act without any warrant of arrest if it appears that there occurs a fraudulent offence or there occurs any other cause as provided by the Criminal Procedure Code, for the purpose of referring the offender to the inquiry official for further proceeding;

(3) to seize or attach accounts, documents, evidence, information or any other article which may be used for proof of an offence under this Act or any other law relating to customs;

(4) to summons the importer, the exporter, the carrier or an agent of such person or the person concerned with the import or export of the goods to give statements or provide facts or prepare written explanations or furnish accounts, documents, evidence or any other

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necessary article for assisting the consideration, provided that such person must be given not less than seven days as from the date of receipt of such order.

Section 158. The customs official shall have the power to inspect the goods which are under customs clearance or under superintendence and supervision of the Customs and take samples of the goods for inspection or assessment of prices or for any other official use as is necessary without compensation; provided that action must be taken by a means which causes the owner the smallest loss or burden and the remaining goods, if any, shall be returned to the owner without delay.

Section 159. The exercise of powers of the customs official appointed by the Director-General under section 157 or the customs official under section 158 shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The customs official shall have the power to enter a place of business for inspecting or calling accounts, documents, evidence and any other information relating to the goods which are under customs clearance or have undergone customs clearance within the period not exceeding five years as from the date of their import, export or transit across the Kingdom.

Section 160. When there is a reasonable cause to believe that any vehicle is used for bringing or taking goods on which duties have not yet been paid, prohibited good, restricted goods or goods which have not yet undergone customs clearance into the Kingdom or sending or taking such goods from the Kingdom, the customs official shall have the power to order the vehicle to stop or inspecting or searching it or persons therein.

Section 161. The customs official may inspect or search packaging of passengers entering or leaving the Kingdom if it is found that it contains goods on which duties have not yet been paid, prohibited good, restricted goods or goods which have not yet undergone customs clearance. The customs official shall have the power to seize such packaging or goods.

Section 162. The customs official shall have the power to enter a place of business, any other place or a vehicle for inspecting goods as requested by the importer, the exporter or the person concerned.

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Section 163. The Director-General has the power to establish a checkpoint for inspecting incoming and outgoing vessels and may entrust the customs official to be stationed on any vessel at the time when it is in the area of Thai waters.

Every vessel sailing past a checkpoint must also have the customs official stationed on board the vessel unless permission is granted from the customs official in charge of the checkpoint, and when such vessel is to leave the area of the port, it shall halt and stay afloat at the checkpoint for allowing the customs official to alight from the vessel.

Section 164. When there is a reasonable cause to believe that any vessel is the vessel to be seized or inspected under this Act, the customs official shall have the power to order the master of such vessel to halt and stay afloat or to proceed to any place. If the master violates the order, the customs official shall give the master a warning requiring the compliance with the order and, if the master violates such warning, the customs official shall have the power to take any action for compelling compliance therewith or for taking the vessel or preventing an escape.

Section 165. If a vessel bearing the carriage capacity not exceeding two hundred fifty gross tons, any vehicle other than aircraft, any packaging, container or article is used or possessed for use in moving, concealing or carrying the goods on which duties have not yet been paid, prohibited good, restricted goods or goods which have not yet undergone customs clearance, it shall all be confiscated, whether any person is sentenced to any penalty by judgment of the Court or not.

If the vessel which is used or possessed for use in the commission of an act under paragraph one bears the carriage capacity exceeding two hundred fifty gross tons, the Court shall have the power to order such vessel to be confiscated as is suitable to the commission of the offence.

Section 166. The goods on which duties have not yet been paid, prohibited good, restricted goods or goods which have not yet undergone customs clearance are the goods required to be confiscated under this Act.

Section 167. The customs official, the administrative official or the police official shall have the power to seize or attach any article which is required to be confiscated or suspected to be required to be confiscated under this Act.

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If the inspection reveals that the article so attached is not the goods required to be confiscated, such attachment thereof shall be withdrawn; but if the article is the goods required to be confiscated, the customs official, the administrative official or the police official shall have the power to conduct seizure thereof.

If the article so seized is the vehicle used in the commission of an offence and the owner or the eligible person fails to make a request for a return thereof within sixty days or, if the article so seized is any other article, within thirty days as from the date of the seizure, the article shall be deemed to have no owner and shall vest in the State.

Section 168. In the case where the article capable of confiscation on account of the commission of an offence under this Act does not belong to the offender, the Court shall have the power to order confiscation thereof if the owner knew or had a reasonable cause to believe that the commission of the offence occurred or would occur but took no action for preventing the commission of the offence or preventing such commission from achieving its result or failed to take care to prevent such article from being involved in the commission of the offence.

Section 169. If the customs official finds that any person has in possession any article required to be confiscated under this Act, the fact found by the customs official shall be noted down for an evidentiary purpose. In this regard, it shall *prima facie* be presumed that the fact so noted down in the record is correct and such person has unlawfully imported such article or has imported the same without having gone through customs clearance, unless it is proved to the contrary.

The provisions of paragraph one shall also apply to the commission of an offence under the law on the export and import of goods from or into the Kingdom and the law on currency exchange control.

Section 170. All goods or articles seized under this Act or any law relating to customs must be handed over to the customs official for further legal proceedings.

The goods or articles which are seized and vest in the State or which are ordered by the Court to be confiscated under this Act or any other law relating to customs shall be distributed in accordance with the Rule prescribed by the Director-General.

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Section 171. If the goods seized are perishable or their delay involves a risk of damage or expenses incurred in their storage and maintenance are unreasonably high, the Director-General may order them to be sold by auction or by any other method before the goods vest in the State, in accordance with the Rule prescribed by the Director-General.

The proceeds from the sale of the goods under paragraph one, after the deduction of expenses and encumbrances, shall be held in lieu of the goods.

Section 172. In the performance of duties of the customs official, persons concerned shall render assistance as is reasonable.

Section 173. In the performance of duties under this Act, the customs officials shall show their identification card to persons concerned.

The identification card shall be in accordance with the form prescribed in the Notification of the Director-General.

Section 174. In the case where an offence under this Act has occurred in a territorial sea, when the customs official has arrested the offender and referred the offender to the inquiry official at any locality, the inquiry official of such locality shall be the responsible inquiry official and the period of time consumed in an ordinary travel by which the offender is taken to the inquiry official shall not be computed as the time in which the alleged offender is put into custody by the inquiry official under the Criminal Procedure Code.

CHAPTER VIII

CUSTOMS JURISDICTION IN SPECIFIC AREAS

PART I

CUSTOMS CONTROL ZONES

Section 175. In the interest of the prevention and suppression of offences relating to customs in any locality, the area of such locality shall be, by Royal Decree, designated as the customs control zone.

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Within the customs control zone designated under paragraph one, the customs official shall have the power to inspect or search a building, a place, a vehicle or any person, whether during the daytime or the night time, without any warrant of search, provided that the customs official must also indicate a justifiable reason before the exercise of such power.

In the case where there is a reasonable cause to suspect that the person under inspection or search under paragraph two has committed an offence under this Act or any other law relating to customs and such person is unable to indicate a justifiable reason, the customs official shall have the power to arrest such person without any warrant of arrest for referring the person to the inquiry official for further proceeding.

Section 176. Subject to section 175 paragraph one, the Director-General has the power to issue the Notification prescribing the categories or types of the goods in respect of which traders within a customs control zone are required to prepare a list indicating particulars of such goods, in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

The customs official shall have the power to inspect the list and the goods indicated in the list under paragraph one. If it is found that such goods have a different amount or quantity from that indicated in the list without any justifiable reason being able to be shown, it shall be presumed that the goods which have such different amount or quantity are the goods possessed or acquired without the duties thereon having been paid.

Section 177. Within a customs control zone, the Director-General has the power to designate, by Notification, a special area for the purpose of controlling any moving of goods in such area. In this regard, there shall also be annexed to such Notification a map displaying the boundary and indicating localities which are in such special area.

The moving of goods into, from or within the special area must be carried out upon permission from the customs official in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

PART II

JOINTLY CONTROLLED AREAS

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Section 178. In this Part:

“jointly controlled area” means the area designated the jointly controlled area under the law on the facilitation of border carriage;

“agreement” means an agreement between the Government of Thailand and a foreign Government in connection with cross-border transport facilitation.

Section 179. The Customs Department shall have all customs jurisdiction in a jointly controlled area in as much the same way as in a customs zone.

Section 180. The performance of duties of the customs official in a jointly controlled area outside the Kingdom shall be deemed to be the performance of duties in the Kingdom.

Section 181. The performance of activities in the case where the commission of an offence under this Act or any other law relating to customs is found in a jointly controlled area in the Kingdom shall be in accordance with the rules and procedures as follows:

(1) in the case where it is the commission of an offence under Thai law, the customs official of the Government of Thailand shall take further proceeding under the law;

(2) in the case where it is the commission of an offence under the law of the country which is a party to the agreement and a request is made by the official of the Government of the country which is a party to the agreement, the customs official of the Government of Thailand shall send persons, animals, plants, goods and the vehicle, the controller of the vehicle and persons on the vehicle used in the carriage of such goods to the country which is a party to the agreement; provided that the Director-General may grant exemption of duties required to be paid or a return of duties already paid on the goods imported in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General;

(3) in the case where it is the commission of an offence under both Thai law and the law of the country which is a party to the agreement, the customs official of the Government of Thailand shall proceed in accordance with Thai law and shall, upon completion of such proceeding, report the result of the proceeding to the official of the country which is a party to the agreement, and if a request is made by the official of the Government of the country which is a party to the agreement, the customs official of the Government of Thailand may send persons,

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animals, plants, goods and the vehicle, the controller of the vehicle and persons on the vehicle used in the carriage of such goods to the country which is a party to the agreement when proceeding under Thai law has been completed.

Section 182. In the case where the commission of an offence under this Act or any other law relating to customs is found in a jointly controlled area outside the Kingdom, the customs official of the Government of Thailand shall make a request to the official of the Government of the country which is a party to the agreement for sending persons, animals, plants, goods and the vehicle, the controller of the vehicle and persons on the vehicle used in the carriage of such goods to the Kingdom for further proceeding under this Act or any other law relating to customs.

In the case where the commission of an offence under both Thai law and the law of the country which is a party to the agreement on cross-border transport is found in a jointly controlled area outside the Kingdom, the customs official of the Government of Thailand may make a request to the official of the Government of the country which is a party to the agreement for sending persons, animals, plants, goods and the vehicle, the controller of the vehicle and persons on the vehicle used in the carriage of such goods to the Kingdom for further proceeding under this Act or any other law relating to customs.

Section 183. The Director-General shall have the power to prescribe the Rules and practices in connection with customs in a jointly controlled area.

PART III COASTING TRADE

Section 184. Coasting trade means the carriage of goods by sea from one port in the Kingdom to another port in the Kingdom with a view to remuneration for the carriage of goods and the sale of goods so carried.

The Director-General shall have the power to prescribe, by Notification, the form and description of the coasting trade under paragraph one.

Section 185. The master of a vessel used for coasting trade shall prepare a list of goods indicating particulars of the goods on the vessel for submission to the customs official in

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accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General.

When the customs official has received the list of goods under paragraph one and affixed a signature in certification of the accuracy thereof, such list of goods shall be deemed to be a certificate of clearance of the goods and the vessel.

When the vessel which carries out coasting trade arrives another port, the master of the vessel shall, within twenty hours as from the arrival of the vessel, show the certificate of the goods and the vessel to the customs official in charge of the area which the vessel arrives for the purpose of inspecting whether the goods loaded or carried on such vessel correspond to the list of goods loaded or carried from the port of origin.

In the case where it is found that the goods loaded or carried on the vessel are of the type, category or quantity which is different from that on the list of goods, it shall be presumed that the goods which are of such different type, category or quantity are the goods imported or exported without the duties thereon having been paid.

Before unloading the goods from the vessel, the master must submit the certificate of clearance of the goods and the vessel to the customs official. When permission from the customs official is obtained, the unloading may be carried out, and the same procedure shall be pursued at every port at which the vessel arrives.

Section 186. The master shall keep the list of goods under section 185 for every voyage of the vessel in such vessel for a period of three months in order for the customs official to inspect it and record the inspection in such list of goods.

Section 187. During the voyage, goods shall not be unloaded from the vessel carrying out coasting trade unless there is an inevitable cause and a notification of such cause is given to the customs official in charge of the area where such vessel arrives.

PART IV CONTIGUOUS ZONE

Section 184. Every vessel which enters or halts and stays afloat or is moored in a contiguous zone must respond to questions addressed by the customs official in connection

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with the vessel, the crew, passengers, the voyage, the natures of the goods on the vessel and articles carried on the vessel and must comply with reasonable orders of the customs official.

Section 189. A vessel which is in a contiguous zone shall not load or unload any goods without any reasonable cause or without permission from the customs official.

Any goods which are connected with the commission of an offence under this section shall all be confiscated, whether any person is sentenced to any penalty by judgment of the Court or not.

Section 190. The provisions of section 66, section 67, section 157 (2), section 160, section 164, section 165, section 167, section 169 and section 170 shall apply to acts committed in a contiguous zone and the penalties in connection with such provisions, including the penalties under section 212, section 217, section 219 and section 241, shall also apply.

Section 191. In the case where there is a reasonable cause to believe that customs smuggling occurs or shall occur or there occurs the commission of an offence under this Act in a contiguous zone, the customs official shall have the power to order the master to halt and stays afloat or take the vessel to any place for inspection, an arrest or legal proceedings.

When the customs official has arrested the offender and referred the offender to the inquiry official at any locality, the inquiry

When the customs official has arrested the offender and referred the offender to the inquiry official at any locality, the inquiry official of such locality shall have the power to conduct inquiries while awaiting an order appointing the responsible inquiry official from the Attorney-General or the person acting as the Attorney-General under the Criminal Procedure Code; provided that the period of time consumed in an ordinary travel by which the offender is taken to the inquiry official shall not be computed as the time in which the alleged offender is put into custody by the inquiry official under the Criminal Procedure Code.

PART V

JOINT DEVELOPMENT AREA

Section 192. In this Part:

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“Joint Development Area” means the Joint Development Area under the law on Malaysia-Thailand Joint Authority;

“goods approved by the Customs” means the goods on which duties are exempted under the law of both the Kingdom of Thailand and Malaysia relating to customs.

Section 193. The organisation of the moving of the goods imported into or exported from the Joint Development Area shall be in accordance with the rules, procedures and conditions prescribed in the Notification of the Director-General with the approval of the Council of Ministers.

Section 194. Subject to section 195, section 196 and section 199 (4), the Customs Department continues to exercise all customs powers in connection with the goods imported into or exported from the Joint Development Area.

Section 195. The moving of any goods into or from the Joint Development Area shall be in accordance with the rules as follows:

(1) any goods taken into the Joint Development Area from:

(a) any country other than the Kingdom of Thailand or Malaysia, any warehouse for which a permit is granted or a bonded area of the Kingdom of Thailand or Malaysia, shall be deemed to be imported goods;

(b) the Kingdom of Thailand or Malaysia, shall be deemed to be the goods moved domestically; provided that such goods must be the goods approved by the Customs, tools or devices and materials for use in the Joint Development Area;

(2) the goods produced in the Joint Development Area which enter Thailand or are taken to Malaysia or a third country shall be deemed to be exported goods;

(3) the goods which are moved into the Joint Development Area under (1) (b) and subsequently enter the Kingdom of Thailand or Malaysia shall be subject to the law of the Kingdom of Thailand or Malaysia, as the case may be.

Section 196. Any goods which are in the list of the prohibited goods under the laws of the Kingdom of Thailand and Malaysia shall not be permitted to be brought into the Joint Development Area except in the case where it is necessary for granting exemption in respect of

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any particular import, in which case such exception may be granted upon an agreement between competent agencies of the Kingdom of Thailand and Malaysia.

Section 197. The import, export and internal moving of the goods in the Joint Development Area shall be made by the use of the form prescribed in the Notification of the Director-General.

Section 198. The customs official shall have the powers in connection with customs clearance and the collection of duties on matters provided in this Act and exercise such powers within the Joint Customs Office.

The “Joint Customs Office” means the Office of the Joint Customs Committee established in the Head Office of the Joint Authority for the purpose of the co-ordination in connection with the execution of law on customs and excise in the Joint Development Area.

The “Joint Customs Committee” means the Committee consisting of customs officials and authorities of customs and excise agencies of Malaysia established for the purpose of the co-ordination in connection with the execution of law on customs and excise in the Joint Development Area.

Section 199. For the act committed in the Joint Development Area:

(1) if such act is an offence under the law on customs of either the Kingdom of Thailand or Malaysia, the country of which the law is claimed to have been violated shall have the right to exercise jurisdiction over such offence;

(2) if such act is an offence under the laws on customs of the Kingdom of Thailand and Malaysia, the country of which the official makes the first arrest or seizure in connection with such offence shall have the right to exercise jurisdiction over such offence;

(3) if such act is an offence under the laws on customs of the Kingdom of Thailand and Malaysia and the arrest or seizure is concurrently conducted by the Customs Department and customs and excise agencies of Malaysia in connection with such offence, the country which shall have the right to exercise jurisdiction over such offence shall be determined by discussion between the Customs Department and the customs and excise agencies of Malaysia;

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(4) the proceeds from the sale of the goods which are the products of the Joint Development Area and confiscated shall be equally shared between the Kingdom of Thailand and Malaysia.

Section 200. For the purpose of this Part, the word “Kingdom” in this Act shall means the “Joint Development Area”.

Section 201. The Central Tax Court, Songkhla *Changwat* Court or Criminal Court shall have the jurisdiction to try and adjudicate customs cases in connection with the Joint Development Area.

CHAPTER IX PENALTIES

Section 202. Any person who submits or causes another person or allows another person to submit to the customs official an entry form, document or information in connection with the payment of duties or the compliance with this Act, in an incorrect or incomplete manner likely to cause misunderstanding in any particular shown in such entry form, document or information shall be liable to a fine not exceeding five hundred thousand Baht.

Section 203. Any person who provides information, gives statements or answers questions with falsity or fails to answer questions of the customs official required by this Act to be answered shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand Baht or to both.

Section 204. Any person who forges or modifies any document used in the execution of this Act or alters a document officially issued for the purpose of the execution of this Act or forges a seal, signature or any other mark of the customs official as used for any purpose in connection with this Act shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand Baht or to both.

Any person who uses the document, seal, signature or mark which results from the commission of the offence under paragraph one shall be liable to the same penalty.

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Section 205. Any exporter who submits an outbound entry form for the purpose of a return of duties with the declaration of incorrect information on the goods shall be, when the customs official finds that such goods do not correspond to the declaration so made or are of a smaller quantity than that declared or no export has been made as declared, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five hundred thousand Baht or to a fine four times the amount of duties requested to be return, whichever is greater, or to both, and such goods shall be confiscated.

Section 206. Any importer who requests for a return of duties under section 28 or section 29 by means of falsity, by fraud or a deceitful trick or by any other similar means with a view to a return of duties in excess of the amount actually eligible shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand Baht or to a fine four times the amount of duties requested to be returned in excess of the actually eligible amount, whichever is greater, or to both.

Section 207. Any person who violates or fails to comply with the rules in connection with the storage or loading or unloading of dangerous goods prescribed in the Ministerial Regulation shall be liable to a fine not exceeding one hundred thousand Baht.

Section 208. Any importer or exporter who violates or fails to comply with section 51 shall be liable to a fine not exceeding fifty thousand Baht.

Section 209. Any controller of a vehicle who violates or fails to comply with section 56 shall be liable to a fine not exceeding fifty thousand Baht.

Section 210. Any person who loads or unloads the goods which are imported into or shall be exported from the Kingdom outside the loading or unloading area under section 58 without permission from the Director-General shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand Baht or to a fine three times the value of the goods, whichever is greater, or to both, and such goods shall be confiscated.

Section 211. Any importer or exporter who fails to prepare a mark or reference number for the packaging or container of the goods or fails to display a mark or reference number

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on the document relating to such goods shall be liable to a fine not exceeding fifty thousand Baht.

Section 212. Any controller of a vehicle who controls the vehicle containing the goods with the packaging or container of the size or description contrary to the law or without a mark or label required by law shall be liable to a fine not exceeding five hundred thousand Baht, and such goods shall be confiscated.

Section 213. Any person who violates or fails to comply with section 63 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 214. Any master who violates or fails to comply with section 64, section 71, section 85 in conjunction with section 71 or section 163 paragraph two shall be liable to a fine not exceeding one hundred thousand Baht.

Section 215. Any master who violates or fails to comply with section 65 shall be liable to a fine not exceeding fifty thousand Baht.

Section 216. Any master of a vessel or controller of aircraft who violates or fails to comply with section 67 or section 95 shall be liable to a fine not exceeding one hundred thousand Baht.

Section 217. Any person other than the master, a crew member, a passenger and a person with the duty to be performed on the vessel who enters on board the vessel for a voyage aboard while it is in the Kingdom without permission from the customs official shall be liable to a fine not exceeding fifty thousand Baht.

Section 218. Any master who controls the vessel carrying the goods in the area of the customs-checkpoint port shall be, when it appears that such vessel becomes lighter without the master being able to prove that the goods have been lawfully unloaded, liable to a fine not exceeding one million Baht, and the Court shall have the power to confiscate such vessel.

Section 219. Any master or controller of an inland vehicle who commits any of the following acts shall be liable to a fine not exceeding five hundred thousand Baht:

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(1) controlling the vessel or inland vehicle equipped with a hiding part, a concealing part or any deceitful device for customs smuggling, unless it is proved that care has been exercise for preventing such hiding part, concealing part or deceitful device; or

(2) conniving at the construction, making, placing or using a hiding part, a concealing part or any deceitful device for customs smuggling.

The place or deceitful device under paragraph one shall be destroyed or rendered to be the goods not possessed for the commission of an offence under this Act.

Section 220. Any person who violates or fails to comply with the rules, procedures and conditions prescribed under section 70 or section 176 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

Section 221. Any master who violates or fails to comply with section 72, section 74, section 77, section 80, section 82 paragraph two, section 84 paragraph one, section 85 in conjunction with section 77 or section 185 shall be liable to a fine not exceeding fifty thousand Baht.

Section 222. Any exporter who violates or fails to comply with section 76 paragraph two, section 90 paragraph two or section 98 paragraph two shall be liable to a fine not exceeding ten thousand Baht.

Section 223. Any master who violates or fails to comply with section 79 shall be liable to a fine not exceeding five hundred thousand Baht, and the goods connected with the commission of such offence shall be confiscated.

Section 224. Any exporter who violates or fails to comply with section 81, section 92, section 120 or section 121 shall be liable to a fine not exceeding fifty thousand Baht.

Section 225. Any exporter who violates or fails to comply with section 82 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

Section 226. Any master or exporter who violates or fails to comply with section 83 shall be liable to a fine not exceeding fifty thousand Baht.

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Section 227. Any person who violates or fails to comply with section 86 shall be liable to imprisonment for a term of three months to ten years or to a fine of the amount four times the value of the goods inclusive of duties thereon or to both, and the goods connected with the commission of such offence shall be confiscated, whether any person is sentenced to any penalty by judgment of the Court or not.

Section 228. Any master who moors or loads or unloads the goods which are imported into or exported from the Kingdom at a place other than the area of the waterway which is the inland boundary as prescribed in the Notification of the Director-General under section 87 shall be liable to a fine not exceeding fifty thousand Baht.

Section 229. Any person who violates or fails to comply with section 88 or section 89 shall be liable to a fine not exceeding one hundred thousand Baht, and the goods connected with the commission of such offence shall be attached until correct performance is pursued.

Section 230. Any controller of aircraft who violates or fails to comply with the rules, procedures or conditions prescribed under section 93 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

Any owner or official of an airport who violates or fails to comply with section 93 paragraph two shall be liable to a fine not exceeding fifty thousand Baht.

Section 231. Any controller of aircraft who violates or fails to comply with section 94 or section 96 shall be liable to a fine not exceeding one hundred thousand Baht, and the goods connected with the commission of such offence shall be attached until correct performance is pursued.

Section 232. Any controller of aircraft who violates or fails to comply with section 97 shall be liable to a fine not exceeding fifty thousand Baht.

Section 233. Any holder of a permit under section 112 who violates or fails to comply with section 115 or section 129 shall be liable to a fine not exceeding fifty thousand Baht.

Any holder of a permit for the establishment of a bonded warehouse, a depot or a secure place who, when the notification of the cessation of the business has been given under

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section 129, violates or fails to comply with section 130 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

Section 234. Any person who violates or fails to comply with an order of the customs official in charge of an authorised port under section 119 shall be liable to a fine not exceeding fifty thousand Baht.

Section 235. Any person who violates or fails to comply with the rules, procedures or conditions prescribed under section 122 shall be liable to a fine not exceeding one hundred thousand Baht and the goods connected with the commission of such offence shall be confiscated.

Section 236. Any person who violates or fails to comply with section 123 or section 172 or violates or fails to comply with the rules, procedures or conditions prescribed under section 156 shall be liable to a fine not exceeding ten thousand Baht.

Section 237. Any person who secretly opens a bonded warehouse, a depot or a secure place or gains access to the goods stored in such bonded warehouse, depot or secure place without any lawful cause shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 238. Any holder of a permit for the establishment of a duty-free zone who violates or fails to comply with section 141 or section 143 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

Section 239. Any person who obstructs the performance of duties or fails to comply with an order of the customs official entrusted by the Director-General under section 157 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Section 240. Any person who violates or fails to comply with an order of the customs official or obstructs the performance of duties of the customs official under section 160 shall be liable to a fine not exceeding fifty thousand Baht.

Section 241. Any master who violates or fails to comply with the warning of the customs official or obstructs the performance of duties of the customs official under section 164

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shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand Baht or to both.

Section 242. Any person who imports into or exports from the Kingdom the goods which have not yet undergone customs clearance or moves the goods from a vehicle, a bonded warehouse, a depot, a secure place, an authorised port or a duty-free zone without permission from the customs official shall be liable to imprisonment for a term not exceeding ten years or to a fine in an amount four times the value of the goods inclusive of the duties or to both and such goods shall be confiscated, whether any person is sentenced to any penalty by judgment of the Court or not.

Any person who aids and abets the commission of the offence under paragraph one shall be liable to the same penalty.

Section 243. Any person who imports into the Kingdom the goods which have undergone customs clearance or are which are under customs clearance or exports such goods from the Kingdom by means of evading or attempting to evade duties with the intent to commit fraud on duties required to be paid on such goods shall be liable to imprisonment for a term not exceeding ten years or to a fine in an amount from one-half times but not exceeding four times the additional duties required to be paid or to both and the Court may order confiscation of such goods, whether any person is sentenced to any penalty by judgment of the Court or not.

Any person who aids and abets the commission of the offence under paragraph one shall be liable to the same penalty.

Section 244. Any person who imports into the Kingdom the goods which have undergone customs clearance or are which are under customs clearance or exports such goods from the Kingdom or imports the goods for transit or transshipment by means of circumventing the limitations or prohibitions in connection with such goods shall be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding five hundred thousand Baht or to both and the Court may order confiscation of such goods, whether any person is sentenced to any penalty by judgment of the Court or not.

Any person who aids and abets the commission of the offence under paragraph one shall be liable to the same penalty.

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Section 245. Any person who instigates or aids and abets or connives at the commission of the offence under section 242, section 243 or section 244 shall be liable to the same penalty as that to be inflicted upon the principal for such offence.

Section 246. Any person who provides assistance by concealing, distributing or taking away, purchasing, taking a pledge of or accepting in any manner the goods knowingly that they are the goods connected with the offence under section 242 shall be liable to imprisonment for a term not exceeding five years or to a fine in an amount four times the value of the goods inclusive of the duties or to both.

If the offence under paragraph one is committed knowingly that the goods are connected with the offence under section 243, the offender shall be liable to imprisonment for a term not exceeding five years or to a fine in an amount from one-half times but not exceeding four times the additional duties required to be paid or to both.

If the offence under paragraph one is committed knowingly that the goods are connected with the offence under section 244, the offender shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand Baht or to both.

Section 247. Any person who loads onto or unloads from a vehicle prohibited goods, restricted goods or goods which have not yet undergone customs clearance or allows another person to do so shall be liable to the penalty provided under section 242 or section 244, as the case may be.

Section 248. In the case where the commission of the offence under section 242 occurs on a vessel bearing the carrying capacity exceeding two hundred fifty gross tons or on aircraft, the master of such vessel or the controller of such aircraft, if he fails to exercise due care in preventing the commission of such offence, shall be liable to a fine not exceeding five hundred thousand Baht.

Section 249. Any person who violates or fails to comply with the rules, procedures or conditions prescribed under section 177 paragraph two or violates or fails to comply with section 187 shall be liable to a fine not exceeding one hundred thousand Baht.

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Section 250. Any master who fails to answer questions or fails to comply with an order of the customs official under section 188 shall be liable to a fine not exceeding ten thousand Baht.

Section 251. Any person who violates or fails to comply with section 189 shall be liable to imprisonment for a term not exceeding one year to a fine not exceeding fifty thousand Baht or to a fine in an amount two times the value of the goods, whichever is greater or to both.

Section 252. In the case of the commission of the offence under section 202, section 242 or section 244, the offender shall be liable even if the offence is committed without any intent.

Section 253. In the case where the offender is a juristic person, if the commission of the offence by such juristic person has resulted from the instruction or an action of a director or a manager or any person responsible for the operation of such juristic person or in the case where such person has the duty to give instructions or take action and refrains from giving instructions or taking action, thereby leading to the commission of the offence by such juristic person, such person shall also be liable to the penalty as provided for such offence.

Section 254. The assessment of the price of the goods for the purpose of determining a fine under this Act shall be made by reference to the price of the goods of the same type in respect of which full payment of duties has been made as sold at or near the time of the commission of such offence, except that, in the absence of such price, reference shall be made to the price determined by the Director-General.

Section 255. The Director-General shall have the power to order payment of rewards and prizes in accordance with the Rule prescribed by the Director-General with the approval of the Minister in the following cases:

(1) in the case of offences under section 242, section 244 insofar as it is concerned with the circumvention of the prohibitions, and section 246, deductions in the amount of forty percent shall be made from the proceeds of the sale of the exhibit for the purpose of paying the reward and the prize, provided that twenty percent thereof shall be deducted for the payment of the reward and twenty percent thereof shall be deducted for the payment of the prize; but in

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the case where the exhibit is not confiscated or the exhibit is unable to be sold, deductions shall be made from the fine;

(2) in the case of offences under section 202, section 243 and section 244 insofar as it is concerned with the circumvention of the prohibitions, deduction in the amount of twenty percent shall be made from the proceeds of the sale of the exhibit for the purpose of paying the prize; but in the case where the exhibit is not confiscated or the exhibit is unable to be sold, the deduction shall be made from the fine;

(3) in the case of deficient collection of duties and the official who examines duties discovers it thereby leading to the demand of additional duties, a prize shall be paid in the amount of ten percent of the duties additionally collectible by the Customs Department.

With respect to rewards and prizes under (1) and (2), deductions may be made in payment of rewards in an amount not exceeding five million Baht for each case and may be made in payment of prizes in an amount not exceeding five million Baht for each case, and with respect to those under (3), deductions may be made in payment of prizes in an amount not exceeding five million Baht for each finding.

Section 256. Subject to section 257, for all offences under this Act, if the person concerned agrees to pay the fine or has made an agreement or a bond or provided security as the Director-General deems appropriate, the Director-General may suspend the institution of an action and the case shall be deemed to have been extinguished under the provisions of the Criminal Procedure Code.

In the case where the Director-General deems it appropriate to institute an action against any person under this Act, the reasons therefor shall also be recorded.

Section 257. The offences under section 227, section 242, section 243, section 244 and section 247, if the value of the exhibit inclusive of the duties exceeds four hundred thousand Baht, may be settled, by way of payment of a fine, by the Settlement Committee.

The Settlement Committee under paragraph one consists of a representative of the Customs Department, a representative of the Ministry of Finance and a representative of the Royal Thai Police Bureau.

When the Settlement Committee has conducted settlement in any case and the alleged offender has made payment of the fine or made an agreement or a bond or provided security

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as required for the settlement within the period of time specified by the Settlement Committee, the case shall be deemed to have been extinguished under the provisions of the Criminal Procedure Code.

TRANSITORY PROVISIONS

Section 258. The qualified members of the Customs Duty Ruling Commission under the Customs Act, B.E. 2469 (1926) holding office on the date prior to the date on which this Act come into force shall continue to be the qualified members of the Customs Duty Ruling Commission under this Act until the appointment of qualified members of the Customs Duty Ruling Commission under this Act has been made, provided that this must not exceed one hundred eighty days as from the date on which this Act comes into force.

Section 259. When this Act comes into force:

(1) bonded warehouses, secure places and duty-free zones as established under the Customs Act, B.E. 2469 (1926) and in operation on the date prior to the date on which this Act come into force shall be warehouses, secure places and duty-free zones under this Act;

(2) quays as established under the Customs Act, B.E. 2469 (1926) and in operation on the date prior to the date on which this Act come into force shall be authorised ports under this Act;

(3) warehouses and depots as established under the Customs Act, B.E. 2469 (1926) and in operation on the date prior to the date on which this Act come into force shall be depots under this Act.

The persons having established bonded warehouses, warehouses, depots, secure places quays and duty-free zones under paragraph one and the operators of business in duty-free zones shall continue the operation, provided that they must comply with the rules and pay fees as provided in this Act, as the case may be.

In the case where the operators under paragraph two violate or fail to comply with the rules or fail to pay fees as provided in this Act, the Director-General shall revoke the establishment of such business. In this regard, the provisions of section 134 and section 135 shall apply.

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Section 260. The provisions on the periods of time for the export of goods from the Kingdom under section 102 paragraph two and section 103 shall not apply to the case where there exists a binding international agreement.

Section 261. The Director-General shall continue to have the power to consider and order payment of rewards or prizes in the case where the commission of an offence or deficient collection of duties is found prior to the date on which this Act comes into force at the rates provided under section 102 *ter* of the Customs Act, B.E. 2469 (1926) as amended by the Customs Act (No. 12), B.E. 2497 (1954).

Section 262. All Royal Decrees, Ministerial Regulations, Rules, Regulations, Notifications or orders issued under the Customs Act, B.E. 2469 (1926), the Customs Act (No. 7), B.E. 2480 (1937), the Customs Act (No. 8), B.E. 2480 (1937), the Customs Act (No. 9), B.E. 2482 (1939) or the Customs Act (No. 12), B.E. 2497 (1954), as the case may be, as in force on the date prior to the date on which this Act comes into force shall continue to be in force insofar as they are not contrary or inconsistent with this Act until Royal Decrees, Ministerial Regulations, Rules, Notifications or orders to be issued under this Act come into force.

The issuance of Royal Decrees, Ministerial Regulations, Rules, Notifications or orders under paragraph one shall be completed within one hundred eighty days as from the date on which this Act comes into force. If their completion cannot be achieved, the Minister shall report the reasons therefor to the Council of Ministers for information.

Countersigned by:

General Prayut Chan-o-cha
Prime Minister

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RATES OF FEES

(1) Permits	
(a) Establishment of a bonded warehouse	10,000 Baht each
(b) Establishment of a depot	10,000 Baht each
(c) Establishment of a secure place	10,000 Baht each
(d) Establishment of an authorised port	10,000 Baht each
(e) Establishment of a duty-free zone	10,000 Baht each
(d) Operation of business in a duty-free zone	5,000 Baht each
(2) Annual fees	
(a) Establishment of a bonded warehouse, a depot, a secure place, an authorised port and a duty-free zone	450,000 Baht a year
(b) Operation of business in a duty-free zone	45,000 Baht a year
(3) Customs clearance	
(a) Submission of an entry form for the goods	200 Baht a copy
(b) Request for the electronic recording of data onto an information system	100 Baht a copy
(4) Operation out of official times prescribed under section 56	
(a) Application for a special office at a customs house	400 Baht for each occasion
(b) Performance of duties on an inbound or outbound vessel or a conveyor vessel	500 Baht a day for each vessel
(c) Performance of duties at a bonded warehouse, a depot, a secure place, an authorised port or a customs house for inspecting and releasing the goods	200 Baht for each entry form
(d) Performance of duties at a customs house or any place other than in (a), (b) or (c)	200 Baht for each occasion
(5) Certificate of clearance of an outbound vessel or outbound aircraft	
(a) in the case of leaving the Kingdom	200 Baht for each vessel or aircraft
(b) in the case of leaving for another customs-checkpoint port or airport	100 Baht for each vessel or aircraft
(6) Certificate of clearance of the goods and a vessel under section 185	100 Baht for each vessel
(7) Performance of duties on a vessel under section 75	100 Baht a day for each vessel

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- (8) Inspection of the goods at a place of business, any other place
Concerned or any vehicle under section 162
- (a) Travel expenses 20 Baht a kilometer
but not less than 100 Baht
 - (b) Daily fee 400 Baht per person
- (9) Application for considering matters in advance under section 18
- (a) Determination of the customs price 2,000 Baht each
 - (b) Determination of the origin of the goods 2,000 Baht each
 - (c) Interpretation of customs tariffs 2,000 Baht each
- (10) Costs incurred in guarding the goods under section 69 200 Baht a day per packaging
or per container
- (11) Fee for services rendered by the Customs in connection with
the transit under section 102 2,000 Baht per each vehicle

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