

NOTE

UNOFFICIAL ENGLISH TRANSLATION

CHECK AGAINST DELIVER OF THE FINAL DARI VERSION

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CHAPTER 1:GENERAL PROVISIONS.....	1
ARTICLE 1 (CONSTITUTIONAL AUTHORITY).....	1
ARTICLE 2 (RESPONSIBLE AUTHORITY).....	1
ARTICLE 3 (DEFINITIONS).....	1
ARTICLE 4 (UNIFORM APPLICATION OF CUSTOMS LAW)	6
ARTICLE 5 (THE CUSTOMS TERRITORY OF THE COUNTRY)	6
ARTICLE 6 (CUSTOMS AREAS).....	6
ARTICLE 7 (SCOPE OF WORK OF CUSTOMS).....	6
CHAPTER 2: CUSTOMS ADMINISTRATION.....	7
ARTICLE 8 (ORGANIZATION)	7
ARTICLE 9 (SERVICE UNIFORM AND CONDITIONS OF SERVICE).....	7
ARTICLE 10 (MOVEMENT OF GOODS)	8
ARTICLE 11 (RESPONSIBILITIES OF CUSTOMS)	8
ARTICLE 12 (PROVIDING INFORMATION)	10
ARTICLE 13 (CONFIDENTIALITY).....	10
ARTICLE 14 (CUSTOMS CONTROLS OUTSIDE OF CUSTOMS OFFICES).....	11
ARTICLE 15(RIGHTS AND OBLIGATIONS OF IMPORTERS AND EXPORTERS).	11
ARTICLE 16 (BROKERAGE)	11
ARTICLE 17 (TAKING OF DECISIONS).....	12
ARTICLE 18 (REVIEW OF CUSTOMS DECISIONS)	12
CHAPTER 3: TAKING CARE OF AN OBJECTION.....	13
ARTICLE 19 (ARBITRATION)	13
ARTICLE 20 (OPINION).....	13
ARTICLE 21(THE FINALITY OF AN OPINION)	14
ARTICLE 22(METHOD OF EXECUTIONS).....	14

CHAPTER 4: CUSTOMS TARIFF AND VALUATION OF GOODS.	14
ARTICLE 23 (THE CUSTOMS TARIFF)	14
ARTICLE 24 (VALUATION OF GOODS)	15
ARTICLE 25 (EXCHANGE RATE)	15
ARTICLE 26 (PERISHABLE GOODS)	16
CHAPTER 5: FAVORABLE TARIFFS.....	17
ARTICLE 27 (CASES FOR GRANTING A FAVORABLE TARIFF).....	17
ARTICLE 28 (REQUESTS FOR A FAVORABLE TARIFF)	18
CHAPTER 6: ORIGIN OF GOODS.....	19
ARTICLE 29 (PRODUCTION OF GOODS IN A COUNTRY).....	19
ARTICLE 30 (PRODUCTION OF GOODS IN MORE THAN ONE COUNTRY)....	20
ARTICLE 31(CERTIFICATE OF ORIGIN)	20
ARTICLE 32 (PREFERENTIAL ORIGIN).....	20
ARTICLE 33(RETURN OF GOODS).....	21
CHAPTER7: PRESENTATION OF GOODS TO CUSTOMS.....	22
ARTICLE 34 (ENTRY AND EXIT OF GOODS).....	22
ARTICLE 35 (PLACE FOR PRESENTATION OF GOODS)	23
ARTICLE 36 (TRANSPORTATION OBSTACLES TO PRESENTATION OF GOODS)	23
ARTICLE 37 (PRESENTATION OF AIR SHIPMENTS AT AIRPORT OF FINAL DESTINATION).....	24
ARTICLE 38 (PRESENTING MANIFESTS TO CUSTOMS).....	24
ARTICLE 39(CUSTOMS SUPERVISION ON AIRCRAFT)	24
ARTICLE 40 (EXEMPTION FROM OBLIGATION TO PRESENT A MANIFEST) 25	
ARTICLE 41 (AIRCRAFT’S FORCED LANDING).....	25
ARTICLE 42 (CUSTOMS DECLARATION FOR POSTAL GOODS)	26
ARTICLE 43 (EXEMPTION FROM DECLARATION)	26
ARTICLE 44 (EXPORT POSTAL SHIPMENTS).....	27
ARTICLE 45 (CUSTOMS CONTROL ON TRANVELERS LUGGAGE)	27
ARTICLE 46 (PRESENTATION OF GOODS FROM THE DETERMINED LOCATION TO CUSTOMS)	27
ARTICLE 47 (GOODS VERIFICATION AND TAKING OF SAMPLES).....	27
ARTICLE 48 (SUBMISSION OF A SUMMARY DECLARATION)	28

ARTICLE 49 (UNLOADING AND TRANSSHIPPING FROM DESIGNATED SITES)	29
CHAPTER 8: TEMPORARY STORAGE OF GOODS	29
ARTICLE 50 (PLACES OF TEMPORARY STORAGE)	29
ARTICLE 51 (REMOVING GOODS FROM TEMPORARY STORAGE)	30
ARTICLE 52 (NON-ALLOWED GOODS)	30
CHAPTER 9; CUSTOMS DECLARARTION	31
ARTICLE 53 (ASSIGNING A DESIGNATION FOR NON-AFGHAN GOODS)	31
ARTICLE 54 (TIME PERIOD FOR COMPLETING CUSTOMS DECLARATION)	31
ARTICLE 55 (DECLARATION OF THE GOODS FOR A CUSTOMS PROCESS)	32
ARTICLE 56 (ACCEPTANCE OF THE DECLARATION)	32
ARTICLE 57 (VOLUNTARY AMENDMENT OR WITHDRAWAL OF DECLARATIONS)	33
ARTICLE 58 (VERIFICATION OF THE DECLARATION)	33
ARTICLE 59 (COMPOSITE DECLARATION)	33
ARTICLE 60 (PARTIAL CONTROL)	34
ARTICLE 61 (THE IDENTIFICATION OF THE GOODS)	34
ARTICLE 62 (RELEASE OF GOODS)	34
ARTICLE 63 (GOODS INELIGIBLE FOR RELEASE)	35
ARTICLE 64 (CUSTOMS AMENDMENT OR INVALIDATION OF DECLARATIONS)	36
CHAPTER 10: CUSTOMS PROCESSES	36
ARTICLE 65 (RELEASE OF GOODS FOR FREE CIRCULATION)	36
ARTICLE 66 (CONDITIONAL RELEASE OF GOODS)	36
ARTICLE 67 (CLASSIFICATION OF MIXED GOODS)	37
ARTICLE 68 (LOSS OF CUSTOMS STATUS AS AFGHAN GOODS)	387
ARTICLE 69 (CUSTOMS PROCESSES WITH ECONOMIC IMPACT)	387
ARTICLE 70 (CONDITIONS FOR GRANTING AN AUTHORIZATION)	38
ARTICLE 71 (SECURITY)	38
ARTICLE 72 (RELEASE FROM THE PROCESS)	38
ARTICLE 73 (TRANSFER OF THE RIGHTS AND OBLIGATIONS)	39
ARTICLE 74 (THE TIME FOR DETERMINING THE CUSTOMS DEBT)	39
ARTICLE 75 (TRANSIT PROCESS)	40
ARTICLE 76 (RELEASE FROM THE PROCESS)	40
ARTICLE 77 (TRANSIT VIA THIRD COUNTRIES)	401
ARTICLE 78 (TRANSIT SECURITY)	41
ARTICLE 79 (EXEMPTIONS FROM GIVING SECURITY)	41

ARTICLE 80 (OBLIGATION OF PERSONS RESPONSIBLE FOR TRANSIT GOODS)	42
ARTICLE 81(CUSTOMS WAREHOUSING)	42
ARTICLE 82 (WAREHOUSE TYPES)	43
ARTICLE 83 (WAREHOUSE KEEPER AND HIS RESPONSIBILITIES)	43
ARTICLE 84 (APPROVAL FOR OPERATING A CUSTOMS WAREHOUSE)	44
ARTICLE 85 (TRANSFER OF RIGHTS AND RESPONSIBILITIES)	44
ARTICLE 86 (DISTINCTIVE CASES)	44
ARTICLE 87 (TIME FOR DEPOSITS IN WAREHOUSE)	45
ARTICLE 88 (HANDLING OF GOODS UNDER CUSTOMS WAREHOUSING PROCESS)	45
ARTICLE 89 (TEMPORARY WITHDRAWALS FROM WAREHOUSE)	46
ARTICLE 90 (TRANSFER OF GOODS)	46
ARTICLE 91 (CUSTOMS VALUE OF WAREHOUSED GOODS.)	46
ARTICLE 92 (INWARD PROCESSING)	47
ARTICLE 93 (INWARD PROCESSING OPERATIONS)	47
ARTICLE 94 (APPLICATION FOR APPROVAL OF INWARD PROCESSING	48
ARTICLE 95 (TIME PERIOD FOR EXPORTATION IN INWARD PROCESSING)	48
ARTICLE 96 (RATE OF YIELD OF INWARD PROCESSING)	48
ARTICLE 97 (RELEASE FOR FREE CIRCULATION FROM INWARD PROCESSING)	49
ARTICLE 98 (COMPENSATING PRODUCTS OF INWARD PROCESSING)	49
ARTICLE 99 (CUSTOMS DUTIES ON COMPENSATING PRODUCTS OF INWARD PROCESSING)	49
ARTICLE 100 (COMPENSATING PRODUCTS OF INWARD PROCESSING AFTER OUTWARD PROCESSING)	50
ARTICLE 101 (DRAWBACK CASES)	50
ARTICLE 102 (DRAWBACK DECLARATION)	50
ARTICLE 103 (TEMPORARY EXPORTATIONS PURSUANT TO DRAWBACKS)	50
ARTICLE 104(DRAWBACK REFUNDS)	51
ARTICLE 105 (PROCESS UNDER THE CUSTOMS CONTROL)	51
ARTICLE 106 (APPROVAL FOR PROCESSING UNDER CUSTOMS CONTROL)	51
ARTICLE 107 (APPROVAL CONTENTS FOR PROCESSING UNDER CUSTOMS CONTROL)	52
ARTICLE 108 (DEBT AMOUNT IF PROCESS IS NOT COMPLETED)	52
ARTICLE 109 (IMPORT OF COMPENSATING PRODUCTS OF PROCESSING UNDER CUTOMS CONTROL)	52
ARTICLE 110 (THE TEMPORARY IMPORTATION PROCESS)	53

ARTICLE 111 (APPROVAL FOR TEMPORARY IMPORTATION)	53
ARTICLE 112(CONDITIONS FOR APPROVAL FOR TEMPORARY IMPORTATION)	53
ARTICLE 113 (SPECIAL CONDITIONS IN TEMPORARY IMPORTATION PROCESS)	54
ARTICLE 114 (THE DUTY AMOUNT PAYABLE FOR GOODS UNDER THE TEMPORARY IMPORTATION PROCESS WITH PARTIAL RELIEF)	55
ARTICLE 115 (CHANGE OF CUSTOMS DESIGNATION OF TEMPORARILY IMPORTED GOODS).....	55
ARTICLE 116 (OUTWARD PROCESSING).....	56
ARTICLE 117 (APPLICATION FOR THE APPROVAL OF OUTWARD PROCESSING)	56
ARTICLE 118 (CONTENTS OF OUTWARD PROCESSING APPROVAL).....	57
ARTICLE 119 (IMPORT DUTY FOR COMPENSATING PRODUCTS OF THE OUTWARD ROCESSING)	57
ARTICLE 120 (GOODS REPAIRED WITHOUT CHARGE IN THE OUTWARD PROCESSING)	58
ARTICLE 121 (TRANSFER OF RIGHTS OF THE OUTWARD PROCESSING APPROVAL)	58
ARTICLE 122 (EXPORT PROCESS FOR AFGHAN GOODS).....	58
ARTICLE 123 (EXPORTATION OF NON-AFGHAN GOODS).....	59
CHAPTER 11: FREE ZONES AND FREE WAREHOUSES.....	59
ARTICLE 124 (THE MEANING OF DUTY FREE ZONES).....	59
ARTICLE 125 (FREE ZONES DESIGNATION)	59
ARTICLE 126 (CUSTOMS SUPERVISION IN FREE ZONES)	60
ARTICLE 127(CONDITIONS FOR ENTRANCE AND EXIT OF GOODS).....	60
ARTICLE 128 (CUSTOMS STATUS OF GOODS IN DUTY FREE ZONES).....	61
ARTICLE129 (TIME LIMITS)	62
ARTICLE 130 (AUTHORIZED ACTIVITIES)	62
ARTICLE 131 (APPROVED REGISTERS).....	62
ARTICLE 132(TARIFF ON CONSUMED AND MISSING GOODS).....	62
ARTICLE 133 (ABANDONMRNT/DESTRUCTION OF GOODS IN FREE ZONES).....	63
CHAPTER 12:CUSTOMS DESIGNATIONS.....	63
ARTICLE 134 (DESTRUCTION OR ABANDONMENT).....	63
ARTICLE 135 (DESTRUCTION OF GOODS).....	64

ARTICLE 136(PROCEEDS FROM ABANDONED GOODS)	64
CHAPTER 13: CUSTOMS DEBT.....	65
ARTICLE 137 (FORM OF SECURITY)	65
ARTICLE 138 (THE LIMIT OF A SINGLE SECURITY FOR SEVERAL ACTIONS)	65
ARTICLE 139 (THE SECURITIES AMOUNT).....	65
ARTICLE 140 (CASH DEPOSITS).....	66
ARTICLE 141 (GUARANTOR)	66
ARTICLE 142 (OTHER KINDS OF SECURITY).....	67
ARTICLE 143 (ADDITIONAL SECURITIES).....	67
ARTICLE 144 (RELEASE OF SECURITY).....	67
ARTICLE 145 (LAWFUL ACTIVITIES WHICH CAUSE CUSTOMS DEBT).....	67
ARTICLE 146 (UNLAWFUL ACTIVITIES CAUSING A CUSTOMS DEBT).....	68
ARTICLE 147 (CUSTOMS DEBT ON REMOVAL OF GOODS FROM SUPERVISION WITHOUT PERMISSION)	68
ARTICLE 148 (NON OCCURRENCE OF DEBT)	69
ARTICLE 149 (RESPOSIBILITY OF PARTNERSHIPS)	69
ARTICLE 150 (DATE OF DETERMINING CUSTOMS DEBT)	69
ARTICLE 151 (ENTRY OF DEBT INTO ACCOUNTS)	69
ARTICLE 152 (DIFFERENCES IN ACCOUNT ENTRIES)	70
ARTICLE 153 (NOTIFICATION ABOUT DEBT ENTRY)	70
ARTICLE 154 (SITUATIONS FOR SETTLING AND EXTINGUISHING OF CUSTOMS DEBTS).....	71
ARTICLE 155 (PAYMENT TERM FOR CUSTOMS DEBT).....	71
ARTICLE 156 (DEFERRAL OF DEBT PAYMENT).....	72
ARTICLE 157 (MANNER OF PAYMENT)	72
ARTICLE 158 (NON PAYMENT OF DEBT WITHIN THE PRESCRIBED TERM)	73
ARTICLE 159 (REFUND OR REMISSION OF AN ERRONEOUS ENTRY)	74
ARTICLE 160 (REMISSION OR REFUND FOR DEFECTIVE GOODS)	74
ARTICLE 161 (LIMIT OF THE AMOUNTS TO BE REFUNDED)	75
ARTICLE 162 (INTEREST ON REFUNDS).....	75
ARTICLE 163 (ERRONEOUS REFUNDS)	75
CHAPTER 14: CUSTOMS VIOLATIONS AND PENALTIES.....	75
ARTICLE 164 (CUSTOMS POLICE ADMINISTRATION)	75
ARTICLE 165 (CUSTOMS VIOLATIONS)	77
ARTICLE 166 (ADMINISTRATIVE VIOLATIONS AND SANCTIONS)	77
ARTICLE 167 (PENALTIES).....	79
ARTICLE 168 (MULTIPLE OFFENSES)	80

ARTICLE 169 (METHOD FOR COLLECTION OF FINES)	80
ARTICLE 170 (DISCRETIONARY ADMINISTRATIVE PENALTIES)	80
ARTICLE 171 (LICENSE REVOCATION)	82
ARTICLE 172 (SMUGGLING OF GOODS).....	82
ARTICLE 173 (SANCTIONS APPLICABLE TO SMUGGLING).....	83
ARTICLE 174 (SMUGGLING OBJECTS)	84
ARTICLE 175 (VEHICLES)	85
ARTICLE 176 (THE SEIZURE OF SMUGGLING OBJECTS)	85
ARTICLE 177 (PERISHABLE GOODS; LIVESTOCK.	86
ARTICLE 178 (COMPENSATION FOR DAMAGES).....	86
ARTICLE 179 (RANGE OF PENALTIES)	86
ARTICLE 180 (AGGRAVATING CIRCUMSTANCES)	87
ARTICLE 181 (PARTICIPATION OF GOVERNMENT EMPLOYEES IN SMUGGLING ACTIVITY)	87
ARTICLE 182 (EVALUATION OF ADMINISTRATIVE VIOLATIONS).....	88
ARTICLE 183 (AUTHORITY FOR ACCESS TO INFORMATION).....	88
ARTICLE 184 (REPORT AND COLLECTION OF EVIDENCE)	88
ARTICLE 185 (FILE ADMINISTRATION)	89
ARTICLE 186 (APPEAL AGAINST THE DECISION FOR PAYMENT OF THE FINES)	90
CHAPTER 15: DISTRIBUTION OF REVENUES AND GRANTING INCENTIVES.....	90
ARTICLE 188 (INCENTIVES FOR INFORMANTS).....	91
ARTICLE 189 (INCENTIVES FOR THE SEIZING PERSONS).....	91
ARTICLE 190 (HALVED INCENTIVES)	92
CHAPTER 16: MISCELLANEOUS.....	93
ARTICLE 192 (PRESENTATION OF ANNUAL CUSTOMS REPORT)	93
ARTICLE 193:.....	94
ARTICLE 194 (DATE OF ENFORCEMENT)	94

CHAPTER 1

GENERAL PROVISIONS

Article 1 (Constitutional Authority)

This law has been enacted pursuant to Article 42 of the Constitution in order to ensure the collection of state revenues by the national customs authorities; to provide for the organization of customs; to define the scope of authority of customs officials; to provide for the supervision and the control of the movement of goods in and out of Afghanistan, and for the prevention of customs violations.

Article 2 (Responsible Authority)

The Ministry of Finance is responsible for the collection of customs revenues of the state, and for enforcing the provisions of this law and any other relevant customs legislation .

Article 3 (Definitions)

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

- 1- '*Person*' means:
 - a natural person; or
 - a legal person,

- 2- "Persons established in Afghanistan" means:
 - In the case of a natural person, any person who is resident in the Afghanistan for more than 183 days per year.
 - A legal person who has a registered or a permanent business office in Afghanistan.

- 3- "*Customs*" means the state agency which carries out and controls custom affairs of import, export, and transit goods,

travelers and responsible person's baggage and parcel post in accordance with customs legislation.

- 4- *Customs legislation*” means this Law, and any other enforced legislation, international conventions and treaties containing customs provisions to which Afghanistan is a party and relevant rules and procedures.
- 5- *“Customs Areas”* means the areas where the customs authorities exercise their activities as well as areas where the customs authorities exercise direct and indirect control or supervision of the relevant affairs.
- 6- *‘Customs decision’ (tasmim)* means any official order (*hedayat e rasmi*) by customs authorities pertaining to the application of Customs legislation to a particular case which affects one or more specific or identifiable persons.
- 7- *‘Customs opinion’* means the decision of the Customs Arbitration Administration (*Edaara Hakamiyet e Gumruki*) taken with regard to a disputed customs case.
- 8- *‘Customs status’* means the categorization of goods as Afghan or non-Afghan goods.
- 9- *‘Afghan goods’* means goods:
 - Wholly obtained or produced in the customs territory of the State in accordance with the provisions of Article 29;
 - imported from other countries, which have been released for free circulation in the customs territory of the State;
 - Obtained or produced in the customs territory of the State, either from goods referred to in subparagraph (2) alone, or from goods referred to both in subparagraphs (1) and (2) above.

- 10- '*Non-Afghan goods*' means goods other than those referred to in subparagraph 9 of this Article.
- 11- '*Customs debt*' means a payment obligatory on a person, on account of customs duty, charges (*haq ul zamat*), dues (*awarez*), penalties (*jerima*), and any other monetary obligations (*eltezamat e puli*) that apply to specific goods or actions under customs legislation.
- 12- '*Customs Debtor*' means any person liable for the payment of a customs debt.
- 13- "*Responsible Person*" is the *declarant*, except when the [this] Law indicates otherwise.
- 14- '*Import duty*' means customs duty on the importation of goods.
- 15- '*Export duty*' means customs duty on the exportation of goods.
- 16- '*customs supervision*' means the inspection done by those authorities with a view to ensuring that customs legislation and, other provisions applicable to goods subject to customs supervision are observed, and may include measures for exercising customs control, when necessary.
- 17- '*customs control*' means executing specific actions, such as examining goods, verifying the existence and the authenticity of customs documents, examining the accounts and other records inspecting means of transport, luggage and other goods carried by or on persons, seizing goods, and reporting suspects to the judicial and justice authorities, with a view to ensuring that customs legislation and, where appropriate, other provisions applicable to goods subject to *customs supervision* are respected in the customs territory of the State.

- 18- “*Customs designation*” means :
- the placing of goods under a customs process,
 - their entry into a free zone, free warehouse, or duty free shop.
 - their destruction, or
 - Their abandonment and transfer to the State.
- 19- ‘*Customs process*’ means the following stages (*marahel*):
- release for free circulation within the customs territory of the State;
 - conditional release of goods under *customs supervision*
 - transit;
 - customs warehousing;
 - inward processing;
 - processing under customs control;
 - temporary importation;
 - outward processing;
 - Exportation.
- 20- ‘*Suspensive process*’ means the following *customs processes* which entails suspension of the payment of the customs debt:
- transit;
 - customs warehousing;
 - inward processing
 - processing under customs control;
 - temporary importation;
- 21- “*Suspensive goods*” means goods placed under one or more of the *suspensive processes mentioned in section 20 of this article*. .
- 22- “*Favorable tariff*” means a reduction in, suspension of, or exemption from the otherwise applicable import duty stated in the Customs Tariff,

- 23- "*Customs declaration*" means the act or document whereby a person expresses, the wish to place goods under a given customs designation or process.
- 24- "*Time of acceptance of the declaration*" means the time when the customs declaration presented to customs authorities is accepted by the relevant [customs] office.
- 25- "*Declarant*" means any person who prepares and presents a customs declaration.
- 26- "*Presentation of goods at customs*" means the notification to the customs authorities, in accordance with the relevant procedures, of the arrival of goods at customs or at any other place designated or approved by the Customs authorities.
- 27- "*Release of goods*" means the act whereby the customs authorities make goods available to the *declarant* for placement or disposition under a customs designation or process.
- 28- "*Holder of authorization*" means the person to whom an authorization has been granted.
- 29- "*Customs duty*" means an amount of money assessed on imports or exports in accordance with the classification and rates stated in the Customs tariff,
- 30- "*Force majeure*" means a natural disaster, war, unexpected political and economic upheavals, or similar act beyond the control of the person affected.
- 31- "*Commercial policy measures*" means the imposition of quotas, ceilings, countervailing duties on subsidized foreign goods, anti-dumping duties, or similar provisions for advancing national (*keshwar*) commercial interests.

32- “Remission” (lit. “*Cession*” -*Wogozari*) means a decision to waive all or part of a customs debt prior to entry or after entry and before payment in accordance with article 151.

33- “*Refund*” means the repayment of part or all of a customs debt that has already been collected.

Article 4 (Uniform Application of Customs law)

- (1) Customs legislation shall apply uniformly throughout the customs territory of the state.
- (2) Customs legislation may also apply in other countries, within the framework of either international conventions or other provisions governing specific customs activities provided that they do not conflict with the laws of another country.
- (3) Customs legislation may be applied in cooperation with customs administration of other countries at joint facilities, either inside or outside of Afghanistan’s customs territory, in accordance with international agreements and conventions.

Article 5 (The Customs Territory of the State)

The Customs Territory of the State shall include the land, and water territory, and the airspace of Afghanistan.

Article 6 (Customs Areas).

- (1) Customs areas are established at border crossing points, international airports, duty free zones, customs warehouses and any other points within the Customs Territory as provided for in this Law.
- (2) Customs areas may be established, altered or abolished upon the recommendation of the Customs Administration and the approval of the Ministry of Finance.

Article 7 (Scope of Customs Work)

in order to secure (*taamin*) the interests of the State, Customs shall apply the necessary controls in accordance with customs legislation with respect to international shipments and import and export and movement of goods in the customs territory of the state.

CHAPTER 2

Customs Administration

Article 8 (Organization)

- (1) Customs comprises the General Directorate, the Regional Directorates and their branches. All Customs shall work subordinate to and under the supervision of the General Directorate of Customs of the Ministry of Finance.
- (2) The General Director of Customs is appointed upon the recommendation of the Minister of Finance in accordance with law.
- (3) The Deputy Directors General of Customs are appointed, upon the proposal of the General Director of Customs, and confirmation of the Ministry of Finance, in accordance with the law.
- (4) The other Civil Service (*momorin*) and auxiliary (*ajir*) personnel of the Customs are employed in accordance with the procedures established by the law.

Article 9 (Service Uniforms and Conditions of Service)

- (1) Customs personnel shall wear the service uniform. In the event that service needs make it necessary to work without wearing a uniform, the customs personnel must show their Identity Cards.
- (2) Customs officers are not allowed to accept directly or indirectly, rewards in cash or kind for the customs services performed.
- (3) Customs officers are not allowed to carry on any kind of business, or advising activity, that is incompatible with the faithful performance of customs duties.

Article 10 (Movement of Goods)

Goods may cross the State border, and designated customs borders at customs warehouses, at duty free zones, in airports, and at any other facilities under customs control, only at *customs areas* staffed by customs officials.

Article 11 (Responsibilities of Customs)

- (1) Loading, unloading, movement, and transshipment of goods through specified customs borders [lines] as well as their release from a customs process, is carried out with the permission of Customs in accordance with Customs legislation.
- (2) Customs is responsible for:
 1. determining the value of goods and collecting the related customs debt.
 2. Supervising, detecting, reporting and preventing smuggling;
 3. detecting and evaluating violations of this law;
 4. participating in preparing and signing international agreements and conventions in customs matters, in accordance with customs legislation;
 5. preparing, collecting and, upon agreement of the Minister of Finance, distributing foreign trade statistical

data to the Ministry of Commerce and other public institutions;

6. supervising customs goods, throughout the entire customs territory of the state;
7. exercising customs control over customs areas,
8. maintaining customs records
9. carrying out all other activities determined in customs legislation.

- (3) In order to improve the enforcement of customs legislation, Customs, with the approval of the Minister of Finance may, subject to Article 13, sign agreements with state or non-state domestic or foreign, organizations, for exchanging information.
- (4) Customs shall establish customs verification teams to verify the conformity of the quantity and quality of the goods transported with the customs documents accompanying them at exit from border crossing points and in airports, as well as at the exit of the inland customs offices, and at the facility of importers. If the goods and transportation are in conformity with the customs documents, the customs verification team will confirm the customs documents and stamp them. If the goods and transportation are not in conformity with the customs documents, they will draw up the appropriate written report, and submit it to the relevant customs office for investigation.
- (5) Customs administrations shall assign mobile customs verification teams to verify customs compliance of transporters in the customs territory along roads. The members of the mobile teams shall examine the customs documents and the good upon presentation of their identity card and shall draw up the appropriate written report, to the relevant customs administration in accordance with the relevant procedures.
- (6) In cases of danger to health, or to the environment, Customs may, upon notice to the declarant have goods

presented to Customs destroyed or removed from the area in accordance with relevant procedures.

- (7) When Customs receive information from other public authorities working in the customs territory of the state with regard to violations of customs legislation, Customs shall submit a written report, to the relevant customs administration for further investigation (*rasidigi*).
- (8) When police authorities check vehicles that have been sealed by Customs, the vehicle shall be transferred to the nearest customs office to obtain the agreement of Customs for removal of the seal and to perform controls (*bazrasi*). In this case, the police and customs will submit a written report to Customs for investigation.

Article 12 (Providing information)

- (1) Customs authorities may provide information free of charge to requesting parties concerning the application of customs legislation in the forms prepared by the Ministry of Finance, except when it pertains to an ongoing import or export operation or would be inconsistent with the secrecy provisions of Article 13.
- (2) In case the provision of information shall involve expense, customs authorities may collect the expenses from the applicant.
- (3) The Ministry of Finance may in prepared forms, when needed require the necessary information to be supplied by relevant persons.
- (4) Information provided by persons as required in section 3 is effective when signed.

Article 13 (Confidentiality)

The following information provided to Customs is covered by the obligation of professional secrecy and Customs will not disclose

such information without permission of the person concerned and with legal authority to do so:

- 1- The valuation of a specific goods,
- 2- Details [e.g. names and addresses] of suppliers of goods,
- 3- The results of testing, and
- 4- Other information which is provided to Customs on a confidential basis.

Article 14 (Customs Controls Outside of Customs Offices)

Customs, when the needs of the trade so require and upon request of the person concerned, may allow customs controls to be carried out at the premises pertinent to the importer. The Director of Customs for the area, taking into account the conditions, shall establish the cost of this service and collect them from the responsible person.

Article 15 (RIGHTS AND OBLIGATIONS OF IMPORTERS AND EXPORTERS)

(1) Importers and exporters of goods shall execute the customs clearance of the relevant import and export of goods by a customs broker licensed by the Ministry of Finance.

(2) The provisions of paragraph 1 do not apply to Postal goods and goods imported by travelers pursuant to Articles 42 and 45 of this law.

Article 16 (Brokerage)

- (1) Brokerage is a non-governmental business which persons may carry out upon obtaining a license from the Ministry of Finance
- (2) The conditions for obtaining the license and the rights and obligations of the customs broker shall be regulated

by separate rules (loyaha) approved by the Ministry of Finance.

Article 17 (Taking of Decisions)

- (1) Customs may make a decision with regard to a particular customs transaction in accordance with customs legislation upon the request of the person concerned. The applicant must furnish and complete information and documents required by customs to make the decision.
- (2) Customs are obliged to take the decision mentioned in Section 1 within a maximum of 30 days and announce it to the applicant.
- (3) In case the customs decision mentioned in section 2 is detrimental to the interests of the applicant or any other [interested] party, Customs shall notify their decision in writing together with the reasons to the applicant and shall explain that the applicant has the right to object.

Article 18 (Review of Customs Decisions)

- (1) A customs decision may be reviewed upon submission of an application by the applicant. In case a decision was due to the submission of incorrect information by the applicant, review will not be permitted except in accordance with Article 186.
- (2) Customs decisions mentioned in paragraph 1 shall be enforceable and the customs debt assessed (other than penalties paid in accordance with Article 186) shall be collected and shall remain in trust (*taht amanat*) until final decision
- (3) An interested party may request a review of a disputed customs decision through any competent regional customs authority to the General Directorate of Customs, within 10 days from the day of notification of the decision by Customs. The General Directorate of Customs must issue a decision within 20 days on the outcome of the review. In the event the General Director

of Customs does not issue a decision within this time period, the request shall be presumed to have been decided in favor of the person making it.

- (4) In case of an objection to a decision made by the General Directorate of Customs or the rejection of the request by the General Directorate of customs, it may be submitted to the Customs Arbitration Administration.
- (5) An objection to a customs decision shall be made by filing a notice of objection mentioned in paragraph 4 and it shall be presented to the Customs Arbitration Administration within fifteen days of receiving a customs decision from the General Directorate of Customs, along with security for costs in the amount of 2 percent of the contested amount.

Chapter 3

Taking care of an objection

Article 19 (Arbitration)

- (1) The Customs Arbitration Administration will be established within the framework of the Ministry of Finance for the purpose of taking care of objections to the decisions of Customs.
- (2) The Arbitration Administration shall be composed of three members to be appointed upon proposal of the Minister of Finance by the Head of State.

Article 20 (Customs Opinion)

- (1) The opinion of the Customs Arbitration Administration shall be final and enforceable where the amount of customs debt in dispute is up to 50000 Afghani.
- (2) If the amount of the customs debt in dispute is greater than Afghani 50,000 the parties may in cases when dissatisfied refer the opinion to the relevant commercial Court. The order of court shall be final and enforceable.

Article 21(Finality of an opinion)

Administrative fines for smuggling agreed by the parties (*tarazi tarfin*) pursuant to Article 170 shall, in accordance with the relevant procedure, be submitted to the Customs Arbitration Administration which shall determine solely whether the settlement is consistent with Article 170.

Article 22(Method of Executions)

The manner of taking care of the objections sent to the Customs Arbitration Administration shall be regulated in a separate regulation.

Chapter 4

Customs tariff and Valuation of Goods

Article 23 (The Customs Tariff)

- (1) The customs tariff is a document enacted in accordance with this law which determines the import and export duty of goods based on their classification.

- (2) The Customs Tariff shall be approved by the Minister of Finance upon the recommendation of the General Director of Customs.
- (3) No treaty, international agreement, law (other than this law), regulation or other legislative document shall affect the Customs Tariff, unless the change is implemented through an amendment or annex to the Tariff.
- (4) The General Directorate of Customs is responsible for carrying out the tariff classification of goods concerning description and coding in accordance with the Harmonized System of the World Customs Organization and for assessing any corresponding duty under the Customs Tariff.

Article 24 (Valuation of Goods)

- (1) The customs value of goods for the purpose of collecting customs debts shall be determined by relevant customs authorities in accordance with a separate regulation to this law.
- (2) In order to combat false valuation of certain goods with suspicious values, their minimum value shall be determined by General Directorate of Customs in accordance with the relevant procedures.
- (3) A list of the goods mentioned above and specific values assigned to them shall be published.

Article 25 (Exchange Rate)

- (1) The value of goods according to customs legislation shall be computed in Afghan currency.
When the value of goods is expressed in foreign currency and there is need to determine customs value, the value of goods shall be determined in accordance with the Da Afghanistan Bank exchange rate.

- (2) The exchange rate shall be the rate announced by The Afghanistan Bank on the last working day of the month and shall be valid for a period starting from the 6th day of every month and ending on the 6th day of the following month.
- (3) Whenever the exchange rate published by the Da Afghanistan Bank differs by 5% or more from the rate announced in accordance with paragraph (2) of this article, a new rate will be provided and it shall be effective from the second working day following its announcement and notification to Customs as the rate effective for the rest of that period.

Article 26 (Perishable Goods)

The customs value for perishable goods, at the request of the declarant, shall be determined by the Director of Customs of the area [*mahal*] in accordance with customs legislation, without applying the valuation criteria established for other goods

Chapter 5

FAVOURABLE TARIFF

Article 27 (Cases for Granting Favourable Tarrifs)

- (1) A favorable tariff shall be granted as provided in customs legislation in accordance with Article 23(3), and in the cases referred to in paragraph 2.
- (2) The following imported goods shall be exempted from paying customs duty:
 - 1- Goods imported by officials of the State during official travels not in excess of Afghani 100,000 as provided by the Customs Tariff.
 - 2- Office materials and equipment of political representatives and international agencies, intended to be used in residences and offices of representatives of foreign countries in Afghanistan, after confirmation of permission to do so by competent authorities.
 - 3- Items intended for personal use by foreigners working in Afghanistan according to the terms and conditions of their contract.
 - 4- Permitted books, gazettes, magazines and newspapers.
 - 5- Goods provided for government projects funded by loans or imported into the country by or for public and private foreign and International relief and development agencies approved by the government.
 - 6- Personal effects used by Afghan delegations or Afghan international workers and their family members while abroad.
 - 7- Travelers' personal goods in accordance with the Customs Tariff.
 - 8- Commercial samples and advertising gifts.
 - 9- Post parcels valued at Afghani 5000 or less.
 - 10- honorary decorations or awards;

- 11- samples sent to organizations protecting copyrights or industrial or commercial patent rights;
- 12- Used movable property belonging to natural persons, who transfers their normal place of residence from another country to the State, as provided in the Customs Tariff;
- 13- a consignment of less than Afghani 1000 value;
- 14- Pure-bred breeding animals and insects and laboratory animals; biological or chemical substances needed for scientific researches;
- 15- therapeutic substances of human origin and blood grouping and tissue typing reagents,;
- 16- substances for the quality control of medicinal products;
- 17- Fuels, lubricants and equipments carried with and necessary for the normal functioning of transport vehicles in accordance with the relevant procedure.
- 18- Other goods may be included as exempted goods upon recommendation of Minister of Finance and approval of Council of Ministers as required.

Article 28 (Request for a Favourable Tariff)

- (1) To obtain the benefits of a favorable tariff a *declarant* may present a request before or after completion of the customs process.
- (2) If a favorable tariff is restricted to a certain volume of imports, it ceases to be valid in the following conditions:
 - 1- quotas, when the stipulated limit on the volume of imports is reached;
 - 2- Tariff ceilings, according to specific provisions in the law.
- (3) The manner, and the conditions on which a favorable tariff is granted, any quantitative or value-based limits on imported goods or benefits based on their origin, nature, or end-use, shall be determined in a separate procedure.

CHAPTER 6

Origin of Goods

Article 29 (Production of Goods in a Country)

- (1) When goods are wholly originated or produced in a country, that country shall be known as the origin of those goods. Such goods includes:
 - 1- mineral products extracted within that country;
 - 2- vegetable products harvested therein;
 - 3- live animals born and raised therein;
 - 4- products derived from animals raised therein;
 - 5- products of hunting or fishing carried on therein;
 - 6- products of sea fishing and other products taken from the sea outside a country's territorial waters by vessels flying the flag of that country and registered or recorded therein;
 - 7- goods obtained or produced from the products referred to in subparagraph (6) on board factory ships which fly the flag of that country and are registered or recorded therein;
 - 8- products taken from the seabed or subsoil beneath the seabed outside the territorial waters provided that the country has exclusive rights to exploit that seabed or subsoil;
 - 9- waste and scrap products derived from manufacturing operations and from used articles, provided that they were collected therein and are fit only for the recovery of raw materials;
- (2) Goods, which are obtained or produced wholly from goods referred to in paragraph (1), or their derivatives at any stage of production.

Article 30 (Production of Goods in More than one Country)

Goods whose production involves more than one country shall be deemed to originate from the country where they underwent their last substantial processing [transformation].

Article 31(Certificate of Origin)

- (1) The manner of Certification of a document proving the origin of goods shall be arranged in accordance with separate procedures.
- (2) Certification of documents proving the origin of goods may be issued by the responsible authorities for the region in which the goods were produced.
- (3) in case the custom authorities have doubt with regard to a certificate of origin, such authorities may require additional proofs ensuring that the documents of origin comply with customs legislation.
- (4) The procedure referred to in paragraph (1) of this article shall provide the conditions under which a country is considered as the origin of goods which shall be applied in the following cases:
 - 1- to implement the Customs Tariff, excluding the measures referred to in Article 23(2) of this law; and
 - 2- To implement State measures restricting trade in particular goods.

Article 32 (Preferential Origin)

The preferential conditions for determination of the origin of goods for purposes of taking advantage measures contained in international agreements, as well

as the method of issuing certificates of preferential origin, shall be arranged in a separate procedure.

Article 33(Return of Goods)

- (1) Afghan or non-Afghan goods that have been released for free circulation in the State, which, after having been exported there from, are then brought back into the customs territory of the State are referred to as “returned goods.” Returned goods which have been processed outside of Afghanistan shall be subject to the conditions of the process of outward processing.
- (2) Goods which within three years of export are returned to the customs territory of the State for purposes of release for free circulation, shall at the request of the person concerned be exempt from import duty. The General Directorate of Customs may extend this period in light of special circumstances;
- (3) When, prior to their exportation from the customs territory of the State, the returned goods had been released for free circulation at a favorable tariff because of their use for a particular purpose, exemption from duty under paragraph 1 shall be granted only if they are to be re-imported for the same purpose.
- (4) Any import duty paid on goods when they were first released for free circulation shall be credited against the amount of import duty chargeable when the same goods are returned.

Chapter7

Presentation of Goods at Customs

Article 34 (Entry and Exit of Goods)

- (1) The time of entry or exit is considered to take place when goods, cross the State border to enter or leave the customs territory of the State.
- (2) The driver of a commercial means of transport entering or leaving the customs territory of the State, must submit to the customs a manifest of the goods carried on the means of transport before:
 - 1- the captain of an aircraft or vessel, when the goods can be removed from the aircraft or vessel; or
 - 2- any other means of transport, when the vehicle enters into the customs territory of the State.
- (3) A Manifest of Goods need not contain details about the goods of travelers who are themselves required to make a declaration under Article 45.
- (4) A “Manifest of Goods” shall contain information regarding the nationality, flag, and crew of the means of transport, as well as all the information necessary for the identification of the cargo, as provided for in a separate procedure.
- (5) Goods brought into the customs territory of the State shall, at the time of their entry, be subject to customs supervision and control by the customs. Such goods shall not be moved without the permission of the customs.

- (6) Goods shall remain under customs control and supervision until determination of their final customs designation.

Article 35 (Place for Presentation of Goods)

The General Directorate of Customs shall specify a place for *Presentation of goods and their transfer to customs*. The time for completing any transfer of imported goods from the border customs sites to the approved place, and the routes permitted therefore, shall be provided in a separate procedures.

Article 36 (Transportation Obstacles to Presentation of Goods)

- (1) When, by reason of unforeseeable circumstances or *force majeure*, the owner of goods can not transfer the goods to the location specified in Article 35, the owner of goods shall be obliged to inform the customs authority of the situation. Where the unforeseeable circumstances or *force majeure* do not result in total loss of the goods, such person is also obliged to inform the Customs of the precise location of the goods.
- (2) When by reason of unforeseeable circumstances or *force majeure*, an aircraft is forced to enter or land temporarily in the customs territory of the State, the captain of his representative, shall be obliged to report the situation immediately to Customs.
- (3) Customs shall be obliged to take the measures necessary to enable the customs supervision of goods mentioned in this Article, ensuring that they are subsequently conveyed to a customs office or other designated places .

Article 37 (Presentation of Air Shipments at the Airport of Final Destination)

- (1) When goods are brought into the customs territory of the State from another country by air, and are consigned under cover of a single transport document by the same mode of transport to another airport in Afghanistan, they shall be presented at customs, without delay, at the airport where they are unloaded.
- (2) Specific provisions regarding customs control, supervision and other customs executions at the time of entry and exit for goods from the customs territory of the State are laid down in a separate procedure.

Article 38 (Presenting Manifests to Customs)

- (1) Aircrafts carrying imported or exported goods fly in air corridors (*dahlez hawai*) designated, in accordance with the Law of Civil Aviation, and must land and take off only from international airports approved for international flights.
- (2) The captain of an aircraft carrying goods and destined to leave Afghanistan, must present customs officer the customs declaration or manifest of goods on board to be exported from the customs territory of the State. Customs must verify that the goods so indicated in the manifest of declaration correspond to those on board the aircraft.

Article 39 (Customs Supervision on Aircraft)

- (1) Aircraft, flight crew and cabin crew, travelers, crew luggage, traveler baggage, and transported goods, except

as provided in Article 37(1), are subject to customs supervision at the first airport of arrival in Afghanistan.

- (2) An airport authorized for international traffic in accordance with Civil Aviation Law, is subject to customs supervision.
- (3) The Captain of an aircraft must, as soon as the aircraft lands at an authorized airport, submit to the customs office a manifest of all goods carried on the aircraft, except for goods mentioned in Article 34(3).
- (4) The provisions of paragraphs (1), (2) and (3) of this article, shall also be applicable whenever an aircraft is departing to a destination outside the country.

Article 40 (Exemption from Obligations to Present a Manifest)

The following shall not present a manifest to the customs :

- 1- aircraft flying from one airport to another in Afghanistan unless they have any stops at an airport outside Afghanistan or transport goods subject to the customs control and supervision;
- 2- private aircraft for personal use which is not carrying goods subject to customs control and supervision

Article 41 (Aircraft's Forced Landing)

If, in cases of emergency or *force majeure*, an aircraft has to land at an airport not authorized for receiving international air traffic, the captain of the aircraft must, immediately after landing and stopping, inform the nearest customs authority, which shall place the aircraft, cabin, flight crew, travelers and goods under customs supervision.

Article 42 (Customs Declaration for Postal Goods)

- (1) All postal goods containing consignments for commercial purposes as well as postal goods containing consignments of an aggregate value, for each consignment exceeding the threshold value of Afghanis 5000, or other value as may be provided in the relevant procedures, are subject to a customs declaration.
- (2) Postal goods shall be accepted and delivered between a foreign post office and the State's Post office under customs supervision. In case of regular consignments by small package freight shippers, the General Directorate of Customs may authorize immediate release of goods under a security and subsequent submission of an appropriate declaration covering, all goods imported within a fixed period of time as provided by the Procedure.
- (3) Postal shipments shall remain under customs supervision while customs requirements are completed in the post office. The Postal and Parcel Directorate of Customs shall designate post offices where the customs requirements may be completed.

Article 43 (Exemption from Declaration)

The following postal consignments do not require a declaration:

- 1- postcards and letters containing personal messages only;
- 2- printed matters not liable for import duty;
- 3- all other consignments sent by letter or parcel post, which have no commercial value.

Article 44 (Export Postal Shipments)

Pursuant to export provisions of this Law and international regulations, the Directorate of Customs may prescribe restrictions and special conditions on postal shipments sent abroad.

Article 45 (Customs Control of Travelers Luggage)

- (1) When entering or leaving Afghanistan, travelers are obliged to declare goods in their possession to Customs, and show them upon request.
- (2) Customs authority may inspect the goods for the purpose of verifying the declaration referred to in paragraph 1 with the goods.
- (3) Goods carried by diplomatic couriers, and certified in writing by their relevant agencies shall not be subject to the provisions of Articles 42 to 44.

Article 46 (Presentation of Goods at the Determined Location to Customs)

Goods which arrive at the place for *Presentation of goods at customs* shall be presented, without delay, except for delay due to no fault of the person presenting the goods. Any person who makes a presentation of goods at customs shall provide within the time limit prescribed any required declaration, documents, or information, and shall provide all necessary assistance as may be requested by the customs .

Article 47 (Goods Verification and Taking of Samples)

- (1) During presentation of goods at customs, an officer of the Customs may take a sample of the goods, to assign them a tariff classification, or customs designation. The taking of samples may also be made at the request of the owner of goods or his agent.

- (2) The importer, exporter or their agent shall be entitled to be present when samples are taken, and are obliged to be present when instructed by customs authority;
- (3) The sample shall be examined in a place designated and during the hours prescribed by the General Directorate of Customs; where the samples are not destroyed during the examination, they will be returned to the owner or his agent, otherwise the Customs shall not be liable for the payment of compensation.
- (4) The owner or agent responsible for the goods shall be responsible to pay the cost of transferring to the examination sites, unpacking, weighing, repacking and any other operation involved in the sampling and examination process.

Article 48 (Submission of a Summary Declaration)

- (1) The owner of goods or his agent shall submit a summary declaration within one hour after the *presentation of goods at customs* in accordance with the relevant procedure. The customs may allow an additional period for submitting the declaration, until the first working day following the day of presentation of goods at customs.
- (2) Customs shall be obliged to retain the summary declaration. Goods entered in the summary declaration will be placed in temporary storage pending the presentation of a completed declaration.
- (3) If a completed customs declaration has been submitted prior to the expiry of the period referred to in paragraph I of this Article, the owner of the goods or his representative shall not be obliged to submit a summary declaration.
- (4) The owner of the goods or his representative and travelers shall not be required to file a summary

declaration for goods described in Article 42.2 of this law, unless this would jeopardize customs supervision of the goods.

Article 49 (Unloading and Transshipping at Designated Sites)

- (1) Goods shall be unloaded or transshipped from the means of transport carrying them at designated places with the permission of Customs, except where there is imminent danger necessitating the immediate unloading of all or part of the goods. In the latter case, the owner of goods or his agent shall immediately inform Customs.
- (2) Customs may at any time require goods to be unloaded and unpacked in order to inspect the goods and their means of transport. The person who introduced the goods or his agent shall be entitled to be present while the goods are examined.
- (3) Customs are obliged to notify their intention to proceed with the examination to the person responsible or his agent. If within two hours there is no reply, Customs may proceed with the examination of goods in their absence.

CHAPTER 8

TEMPORARY STORAGE OF GOODS

Article 50 (Places of Temporary Storage)

- (1) From the moment of acceptance of the summary declaration and until the time of acceptance of the customs declaration referred to in Article 55 of this Law, such goods shall be considered as “goods in temporary

storage”. Goods in temporary storage shall be stored in customs areas or any other place determined by Customs

- (2) Good referred to in paragraph (1) shall not be subject to any form of handling. The provisions of article 47 of this law and such forms of handling as are designed to ensure their preservation in the original state (without modifying their appearance or technical characteristics) shall be an exception to this rule.
- (3) The customs authorities may require the owner of the goods or his agent to provide security with a view to ensuring payment of any customs debt and fulfillment of his obligations provided for by this law

Article 51 (Removing Goods from Temporary Storage)

- (1) If the summary declaration is not submitted within the periods determined in accordance with Article 48, the Director General of Customs shall, taking into account Article 54(3), without delay take all measures necessary, including, after providing notice to person responsible for goods, for the purpose of sale of, or assigning a customs designation for, the goods left at customs, in accordance with the relevant procedure.
- (2) Customs may, at the expense of the owner of the goods, transfer the goods mentioned in paragraph 1 to a place which is under customs supervision, and keep them there until a determination is made concerning the sale or customs designation of the goods.

Article 52 (Non-allowed Goods)

- (1) Customs authorities who believe that the goods are smuggled according to the provisions of this law shall upon final decision by a responsible authority, take measures for sale or other authorized action with respect to the goods.

- (2) Goods that are prohibited in accordance with 53(2) shall be seized by customs authorities, and treated in accordance with Paragraph. 1
- (3) Customs, upon request of the holder of a trademark or patent or other proprietary rights in accordance with the relevant procedures, may prohibit the release into free circulation, and the exportation of goods, provided that they are recognized in accordance with applicable Law to be counterfeited or pirated goods.

Chapter 9

CUSTOMS DECLARATION

Article 53(Assigning a Customs Designation for Non-afghan Goods)

- (1) Customs are obliged to assign a customs designation for Non-Afghan goods presented at customs in accordance with customs legislation.
- (2) Customs may, for reasons of public morality, public security, protection of environment, health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property and other state policies ,adopt prohibitions or restrictions in accordance with relevant legislative instruments.

Article 54 (Time Period for Completing a Customs Declaration)

- (1) The declarant is obliged to complete required customs declarations within 5 days from the date on which the summary declarations were submitted.

- (2) Where circumstances so warrant, Customs may set a shorter period or authorize an extension to the periods referred to in paragraph 1.
- (3) The temporary storage period shall be 30 days and it will terminate at any time that duties, storage and other obligations accrued under this law equal the value of the goods. In no event shall the period be extended in the absence of a complete report by the responsible customs authority to the General Directorate of Customs justifying the delay.

Article 55 (Declaration of the Goods for a Customs Process)

- (1) A request to place goods under an initial customs process or for release of goods shall be made in the customs declaration.
- (2) Customs declarations must be made in accordance with the customs requirements in one of the following acceptable formats:
 - 1- In writing ; or
 - 2- By an oral declaration
 - 3- Using data-processing techniques; or
 - 4- any other act by which the person responsible for the goods expresses his wish to place goods under a Customs designation or process
- (3) The customs declaration shall be accompanied by the customs documents required in accordance with the relevant procedure governing the requested customs designation or process.

Article 56 (Acceptance of the Declaration)

- (1) Declarations, which are prepared or submitted by the person responsible for goods in compliance with the conditions laid

down in Article 55 shall be accepted by Customs without delay, provided that the goods to which they refer can be made available for customs inspection.

- (2) Where acceptance of a customs declaration requires the fulfillment of additional obligations by persons, such person shall sign it upon being required by Customs to do so.

Article 57 (Voluntary Amendment or Withdrawal of Declarations)

- (1) The declarant may amend one or more of the particulars of the accepted declaration, in case of unintentional error, or to make a change in the customs designation or process of the goods, or to withdraw the customs declaration, provided that the amendment or withdrawal does not apply to goods other than those originally covered.
- (2) No amendment or withdrawal shall be permitted in the following circumstances:
 - 1- during the period after Customs have informed the declarant that they intend to examine the goods; or,
 - 2- if Customs have established that the declaration has been prepared in violation of chapter 14 of this law.

Article 58 (Verification of the Declaration)

Customs may verify any customs declarations and attached documents and may require the declarants to present other documents, or examine the goods and take samples for analysis or for detailed examination.

Article 59 (Composite Declaration)

The declarant may file a single declaration form covering two or more types of goods. In such case the particulars

relating to each type of goods shall be deemed to constitute a separate declaration.

Article 60 (Partial Control)

Where only parts of the goods covered by a declaration are examined or sampled, the results of the partial examination shall be taken to apply to all the goods covered by that declaration. The declarant may request a further examination of the goods if he is not satisfied with the results obtained.

Article 61 (Identification of the Goods)

- (1) Customs shall for the purpose of complying with the procedure for assigning a customs designation or process for the goods included in the declaration, identify the goods when required and assure themselves.
- (2) Labeling which is affixed to goods under customs supervision for the identification of the goods, shall be removed or destroyed only by Customs, or with their permission. The person responsible for goods may remove or destroy such labeling in unforeseeable circumstances or force majeure, provided that he proves the occurrence of force majeure.

Article 62 (Release of Goods)

- (1) Where the goods are placed under a customs designation or process in accordance with this law, Customs shall release the goods as soon as the particulars in the declaration have been verified to their satisfaction.
- (2) Assigning an initial customs designation, or release from any transit process of all goods covered by the same declaration shall take place at the same time.

- (3) Goods shall not be released unless a customs debt due, penalties due, and any other obligations (*eltazamat*) under this law, have been paid or security or assurances are provided.
- (4) Paragraph 3 shall not apply to amounts of the customs debt not yet due for goods in the temporary importation process.

Article 63 (Goods Ineligible for release)

- (1) Goods ineligible for release shall be goods for which:
 - 1- it has not been possible to undertake or continue examination within the period prescribed for reasons attributable to the declarant; or,
 - 2- customs have not been presented the customs documents required for a requested customs process; or,
 - 3- payments due for customs duty, or security, or other arrangements, have not been made or provided within 3 days after being placed in a designation; or,
 - 4- goods are not removed from customs facilities within 10 days after their release; or
 - 5- goods have been the subject of termination of temporary storage in accordance with Article 54(3); or
 - 6- goods have been determined as being subject to prohibitions included in paragraph (2) article 53 of this law, provisions of smuggling or confiscation orders by the competent authorities referred to in this law.
- (2) Customs in accordance with the relevant procedures, shall be authorized to impose additional storage charges, seize or sell the goods referred to in paragraph (1), provided that they make prior notification to the person responsible for the goods.

Article 64 (Customs Amendment or Invalidation of Declarations)

- (1) Customs may amend or invalidate the declaration after release of the goods where the designation was made on the basis of incorrect or incomplete information.
- (2) In cases where the declarant provided the information referred to in paragraph 1, incorrectly in violation of Articles 166(2) and 172, the customs shall apply the designated sanctions provided for in Articles 166 and 173 and assign a new customs designation on the basis of the correct and complete information.

Chapter 10

Customs Processes

Article 65 (Release of Goods for Free Circulation)

- (1) Non-Afghan goods shall be deemed Afghan goods after release for free circulation.
- (2) Release for free circulation shall be subject to application of commercial policy measures, completion of all requirements for importation of goods, and the collection of the customs debt.

Article 66 (Conditional Release of Goods)

When goods are released at a favorable tariff rate, they shall remain under customs supervision. This Customs supervision shall end only when the goods are released for free circulation, or when the goods are exported, abandoned to the state or destroyed. Use of the goods for the purposes other than those laid down for the application of the favorable tariff is permitted only subject to payment of the remaining duty due.

Article 67 (Classification of Mixed Goods)

When a consignment is made up of goods falling within different tariff classifications, and drawing up the declaration for each tariff classification would entail a waste of time or additional expenses disproportionate to the import duty chargeable, Customs may, with the agreement of the declarant, charge the highest level of import duty on the whole consignment based on the tariff classification of goods. In such case the declarant will be responsible only for estimating the proportionate amount of each type of goods in the consignment.

Article 68 (Loss of Customs Status as Afghan goods)

Goods released for free circulation shall lose their customs status as Afghan goods when the declaration is invalidated in accordance with Article 64.

Article 69 (Customs Processes with Economic Impact)

- (1) The term 'customs processes with economic impact' means the following processes:
 - 1- Customs warehousing;
 - 2- Inward processing;
 - 3- Processing under customs control;
 - 4- Temporary importation;
 - 5- Outward processing.

- (2) 'Goods in unaltered state' means goods which have undergone no form of inward processing.

Article 70 (Conditions for Granting an Authorization)

- (1) The use of any customs processes with economic impacts shall be conditional upon permission being issued by the Ministry of Finance.
- (2) The permission to use customs process with economic impacts and the authorization provided for in this law shall be granted to persons who offer the necessary security and when Customs are able to supervise the process.
- (3) The conditions under which the process with economic impact in question is used shall be set out in the authorization.
- (4) The holder of the authorization shall be obliged to notify the Customs of all factors arising after the authorization was granted which influence its continuation or contents.

Article 71 (Security)

The customs may make the placing of goods under a suspensive process conditional upon the provision of security. The conditions concerning the provision of security shall be provided in the relevant procedure.

Article 72 (Release From the Processes with Economic Impact)

- (1) Customs processes with economic impact shall end when a new customs designation is assigned either to the goods placed under that process or to the compensating /processed products related to those goods.
- (2) Customs shall take the measures necessary to assign a new customs designation for goods of which a suspensive

process has not been implemented as required by the provisions of this law.

Article 73 (Transfer of Rights and Obligations)

The rights and obligations of the *holder of an authorization* for customs processes with economic impact may, be transferred to other persons provided that the other persons undertake to comply with all associated conditions and requirements in accordance with the relevant procedures.

Article 74 (The Time for Determining the Customs Debt)

- (1) The amount of customs debt, for suspensive goods shall be determined at the time of acceptance of the relevant declaration.
- (2) Suspensive goods may be subject to re-evaluation at the time of release for free circulation, in accordance with the relevant procedure.
- (3) At the time of acceptance for the process of release for free circulation or conditional release, suspensive goods shall benefit from any favorable tariff that would have applied to the goods at the time of placing the goods in the suspensive process.

Article 75 (Transit Process)

- (1) The transit process is the procedure applied to goods that have entered Afghanistan with the intent of moving through Afghanistan to another country.
- (2) The transit process shall also be applied to goods placed under a customs process, or other customs control or supervision, and are moved from one point to another within the customs territory of the State.
- (3) The transit process shall not involve the assessment of duties or application of commercial policy measures.
- (4) The transit process may be used in combination with another customs designation or process.
- (5) The transit process may include such alternative arrangements as may be established by relevant procedure pursuant to international conventions and agreements.
- (6) Where customs determine that non-Afghan goods are in transit to a destination in Afghanistan, and have not complied with the requirements of the transit process, the related customs of the relevant customs house, in addition to collecting the appropriate amount due from the security, may seize the goods, and deal with them in accordance with law

Article 76 (Release From the Transit Process)

The transit process shall end in the condition mentioned in Article 72(2) or when the goods and the corresponding documents are produced at the approved destination customs office in accordance with the relevant procedure.

Article 77 (Transit Via Third Countries)

The transit process shall apply to goods passing through a third country and reentering Afghanistan without assigning a new customs designation, in cases provided for by international agreement.

Article 78 (Transit Security)

- (1) Transit Security shall be provided in accordance with Article 137 for insuring the payment of any customs debt that is suspended in respect of transit goods.
The following shall be an exception:
 - 1- carriage by air;
 - 2- carriage by pipeline;
 - 3- operations carried out by a railway company of the State;
 - 4- other cases as determined by the Ministry of Finance
- (2) The person responsible for goods in transit to a destination in Afghanistan pursuant to Article 35 shall be obliged to provide security in the amount of 110% of the customs debt.

Article 79 (Exemptions from Giving Security)

- (1) Any person satisfying the following conditions may, subject to the limits of paragraph 2, obtain from the customs a security waiver certificate waiving the security requirements of Article 78 for transit goods:
 - 1- Who are established in Afghanistan;
 - 2- Who are continual users of the transit process;
 - 3- Whose financial situation is such that they can meet their commitments;
 - 4- Who have not committed any violation of customs or fiscal laws; and
 - 5- Who, in accordance with the determined procedure, undertake (promise) to pay, upon the first application in

writing by the customs, any sums due on account of their transit operations.

- (2) The security waiver granted in accordance with paragraphs 1 shall not apply to transit operations involving the following goods:
 - 1- Goods with a customs debt exceeding Afs. 200,000 or such other amount as proposed by the Ministry of Finance and approved by the Council of Ministers; or
 - 2- Goods which present increased risks because of the level of import duty applicable [to them] in Afghanistan.
- (3) The General Directorate of Customs shall be authorized to grant security waiver certificate. The certificate shall be valid for a period of six months and certified copies of the security waiver certificate shall be issued to the relevant persons. The period may become extended.

Article 80 (Obligation of Persons Responsible for Transit Goods)

The owner of transit goods or his agent shall be obliged to present the goods and the related customs documents intact, in accordance with procedures, at the relevant designated customs office by the prescribed time limit to ensure identification of the goods.

Article 81(Customs Warehousing)

- (1) Goods shall be placed in warehouses approved by customs for the purpose of storing them under prescribed conditions, under the supervision of customs. The warehouses operated directly by Customs responsible authorities, or by warehouse keepers in a customs area are also included in this provision.

- (2) The customs warehousing process shall allow the storage in customs warehouses of :
 - 1- non-Afghan goods, without such goods being subject to import duty or commercial policy measures;
 - 2- Export Afghan goods, when customs legislation requires that the goods be placed in a customs operated warehouse.

- (3) Upon the request of the declarant, the Ministry of Finance may determine the cases in which the goods referred to in paragraph 2 can be placed under the customs warehousing process without being stored in a customs warehouse.

Article 82 (Warehouse types)

A customs warehouse may be established in the following forms:

- 1- official customs warehouses established exclusively by the Ministry of Finance.
- 2- public customs warehouses which are established by individuals and are open to all exporters and importers.
- 3- private customs warehouses established by its owner for his own use.

Article 83 (Warehouse Keepers and Their Responsibilities)

The customs warehouse keeper shall be responsible for:

- 1- Except as provided in Article 89, preventing the removal of goods from the customs warehouse which are subject to customs supervision.
- 2- Implementing the conditions established by the customs warehousing process, in accordance with the relevant procedure.
- 3- Keeping records and other obligations specified in the relevant procedure.

Article 84 (Approval to Operate a Customs Warehouse)

- (1) Approval for establishing Customs warehouses shall be issued by the Ministry of Finance, except for official customs warehouses operated by customs.
- (2) Conditions for granting authorization and conditions for the operation of warehouses shall be regulated in a separate procedure.
- (3) For public and private warehouses operated within customs areas, on land leased for this purpose, no demurrage charges shall be collected, and the area leased will remain under the control of the warehouse keeper. Duties on goods stored in such a warehouse will be postponed until goods are placed under customs process and shall be paid by the declarant who declares the goods for a process involving release of the goods from the customs area.

Article 85 (Transfer of Rights and Responsibilities)

The rights and obligations of a customs warehouse keeper may, with the agreement of the authorized customs, be transferred to another person who is eligible pursuant to the relevant procedure.

Article 86 (Distinctive Cases)

- (1) Where an economic need exists and customs supervision is not adversely affected thereby, the customs may allow the storage of the following goods in customs warehouses:
 - 1- Afghan goods other than those referred to in Article 81 (2)
 - (2). In this case the conditions of the customs warehousing process shall not apply.

2- Non-Afghan goods to be processed on the premises of a customs warehouse under the inward processing process or processing under customs control, and the conditions provided for by those processes be complied with. The relevant exceptions in this context shall be determined in accordance with the related procedures.

- (2) The warehouse keeper shall be obliged, on request of the customs, to enter the goods referred to in Paragraph 1, in the stock records in accordance with Article 83 (3).

Article 87 (Time Limits for Storage in Warehouses)

- (1) The goods may remain under the customs warehousing process for a period up to twelve months. Customs, on the declarant's request, may accept an extension up to 12 months.
- (2) Where special circumstances so warrant, Customs may set a shorter limit for the time provided in paragraph (1). In this case until the end of such a time, the declarant must assign the goods another customs designation.

Article 88 (Handling of Goods Under a Customs Warehousing Process)

- (1) Goods under the customs warehouse process may undergo different forms of handling intended to preserve them, improve their appearance or marketable quality, or prepare them for distribution or resale. The list of the permitted handling operations shall be provided by the Ministry of Finance in the relevant procedures.
- (2) The declarant shall be obliged to receive prior authorization from customs for the forms of handling operations provided for in paragraph 1. Customs will stipulate the conditions under which the handling operations may take place.

Article 89 (Temporary Withdrawals from Warehouses)

- (1) When circumstances so warrant, goods placed under the customs warehousing process may be temporarily removed from the customs warehouse, provided that such removal is authorized in advance by the customs.
- (2) The conditions for such withdrawal shall be stipulated in the authorization.
- (3) The goods referred to in paragraph (1) of this article, may undergo the forms of handling referred to in Article 88 of this law.

Article 90 (Transfer of Goods)

Customs may allow goods placed under the customs warehousing process to be transferred from one customs warehouse to another.

Article 91 (Customs Value of Warehoused goods.)

- (1) The cost of warehousing and of preserving goods while they remain in the warehouse need not be included in the customs value stated by the declarant if they are shown separately from the price actually paid or payable for the goods.
- (2) Where the goods mentioned in paragraph 1 have undergone the usual forms of handling within the meaning of Article 88, the type of the goods, the customs value and the quantity for the purpose of determining the amount of import duty shall, at the request of the declarant, be those that would have been taken into account for the goods, at the date referred

to in Article 74 as if they had not undergone changes due to such handling.

- (3) Any exceptions to the changes in valuation under paragraph 2 shall be provided for in the relevant procedures.

Article 92 (Inward Processing)

The inward processing process shall apply to the following imported goods:

- 1- “suspensive goods” for export from the customs territory of the State in the form of compensating products;
- 2- goods that are placed under a drawback system and are exported in the form of compensating products from the customs territory of the state.

Article 93 (Inward Processing Operations)

- (1) “processing operations”: In connection with the inward processing of goods shall mean:
 - The working of goods, including erecting or assembling them or fitting them to other goods;
 - The processing of goods;
 - The repair or restoration of goods; and
 - The use of certain goods defined in the relevant procedures, which are not to be found in the compensating products but which allow or facilitate the production of those products;
- (2) “Compensating products”: means all products resulting from processing operations excluding waste and scrap.
- (3) “Rate of yield”: the quantity or percentage of compensating products obtained from a given quantity of goods as a result of the processing operations.

Article 94 (Application for Approval of Inward Processing)

Approval (*juaz*) of the inward processing process shall be granted, upon submission of a written application, by the Ministry of Finance in accordance with the relevant procedure and under the following conditions:

- 1- The applicant shall be established in Afghanistan,
- 2- When the suspensive goods can be identified in the compensating products, except as provided in Article 93 (1)4.
- 3- When the process for inward processing best serves the economic interests of the country.

Article 95 (Time Period for Exportation of Compensating Products)

Customs shall specify the period within which the compensating products must be exported, or assigned another customs designation, provided such period shall be sufficient to carry out the processing operations and to otherwise prepare the compensating products for a new customs designation.

Customs may grant an extension at the request of the holder of the Approval.

Article 96 (Rate of Yield of Inward Processing)

- (1) Customs shall set either the rate of yield of the operation or the method of determining such rate based on the actual circumstances in which the processing operation shall be carried out.

- (2) The standard rate of yield shall be determined in the Approval, on the basis of information submitted in the Application.

Article 97 (Release for Free Circulation from Inward Processing)

In case goods in the inward processing process, whether in an unaltered state or as compensating products, are missing at the period provided in Article 95, they shall be deemed to have been released for free circulation and the holder of an inward processing Approval shall be obliged to submit a customs declaration for such missing goods and shall be liable for the customs debt.

Article 98 (Compensating Products of Inward Processing)

- (1) Compensating products that are re-imported after being exported are subject to customs duty.
- (2) The customs debt on goods mentioned in paragraph one shall, at the request of the importer, be calculated in accordance with Article 97.

Article 99 (Customs Duties on Compensating Products of Inward Processing)

- (1) The compensating products shall be dutiable at the same rate as identical imported goods;
- (2) In case a favorable tariff is applied by virtue of the intended use of the identical imported goods, the same favorable tariff shall also be applicable on compensating products.
- (3) In case the identical goods imported in accordance with article 27 of this law become duty free, the compensating products shall also be exempted from paying duty.
- (4) The Ministry of Finance may designate the duty rate for compensating products in those situations where the duty

rate on a compensating product would be less than the duty rate on the related suspensive goods.

Article 100 (Compensating Products of Inward Processing After Outward Processing)

Some or all of the compensating products or goods in unaltered state may be temporarily exported for further processing in a foreign country if the customs authority so authorizes in accordance with the provisions governing outward processing in Articles 116-121 and the relevant procedures.

Article 101 (Drawback Cases)

- (1) An Approval under Article 94 may authorize use of the drawback system, except for goods the importation of which is subject to quantitative import restrictions.
- (2) No drawback amount will be refunded in excess of duties actually paid in accordance with the drawback system.

Article 102 (Drawback Declaration)

The customs declaration shall indicate the use of drawback system and a copy of the Approval granted under Article 94 must be attached.

Article 103 (Temporary Exportations Pursuant to Drawbacks)

Temporary exportation of compensating products carried out as provided for in Article 100 shall be considered as exported within the meaning of Article 104 where such

products are not re-imported into Afghanistan within the period prescribed.

Article 104(Drawback Refunds)

- (1) The import duty shall be refunded to the holder of the Approval described in Article 102 when compensating products are exported, provided that all conditions for use of the process have been fulfilled.
- (2) The drawback refund must be claimed within one year, unless a shorter period is provided in the Approval. If the goods have not been exported by the time of the expiration of the drawback refund period, they shall be deemed to be goods released for free circulation.

Article 105 (Processing Under Customs Control)

Processing under customs control allows suspensive goods to be processed as described in Article 93 (1), without payment of duty or application of commercial policy measures, provided duty is paid on the compensating products when they are released for free circulation at the rate for identical imported goods.

Article 106 (Approval for Processing Under Customs Control)

Approval for processing under customs control shall be granted by the Ministry of Finance upon submission of a written application by the applicant, in accordance with the relevant procedures under the following conditions:

- 1- The applicant must be established in Afghanistan;

- 2- Where the suspensive goods can be identified in the compensating products;
- 3- where the goods cannot be economically restored after processing to their description or state as it was when they were placed under the process;
- 4- when usage of the process best serves the economic interests of the country

Article 107 (Approval Contents For Processing Under Customs Control)

The Approval for processing under customs control shall contain:

- 1- Satisfaction of the conditions stated in Article 106;
- 2- the standard rate of yield as described in Article 96;
- 3- The date by which the compensating products shall be assigned a new customs designation.

Article 108 (Debt Amount if Processing Under Customs Control is Not Completed)

For goods in unaltered state or are at an intermediate stage of processing, the amount of the debt shall be determined as if these goods had been presented for free circulation at the time of acceptance of declaration for placing the goods under the process for processing under customs control.

Article 109 (Import of Compensating Products Processed Under Customs Control)

- (1) Compensating products are dutiable at the same rate or favorable tariff as would be applicable to identical imported goods

- (2) Commercial policy measures that would otherwise apply to comparable imported goods will not be applied to Compensating products.

Article 110 (Temporary Importation Process)

Suspensive goods intended for export which are assigned a temporary importation process, shall be either totally or partially relieved from import duty and commercial policy measures, provided they undergo no change, except for normal depreciation, while in the customs territory of the State.

Article 111 (Approval for Temporary Importation)

- (1) Approval for temporary importation shall be granted in accordance with the relevant procedures by the Ministry of Finance.
- (2) The customs declaration shall indicate if the temporary importation process is being used, and shall attach a copy of any Approval granted under Section 1.

Article 112(Conditions for Approval for Temporary Importation)

- (1) The temporary importation process may be used only for suspensive goods that:
 - 1- May be easily identified,
 - 2- The situations in which the absence of identification measures in view of the nature of the goods or of the operations, is not liable to give rise to any abuse of the process.
 - 3- Will not remain under the temporary importation process in excess of 12 months, unless extended up to an additional 12 months for good cause.

- (2) Customs may limit the period within which the temporarily imported goods must be exported. The period assigned must be sufficient to accomplish the intended purpose of the temporary importation process. The declarant is responsible for submitting a declaration for a new customs process or designation, before the expiration of the designated period, and in case of any violation of the other terms of the approval.
- (3) In a special case where an economic need exists, upon the proposal of the Ministry of Finance, the Council of Ministers may prescribe a period up to 6 years for goods to remain in temporary importation.
- (4) Temporarily imported goods shall remain non-Afghan goods until placed under another customs process.

Article 113 (Special Conditions for the Temporary Importation Process)

- (1) The temporary importation process with total relief from import duty shall be used for goods :
 - 1- for which, at the end of the temporary importation period, there would be no fair anticipated market for the goods in Afghanistan
 - 2- equipment that temporarily replaces goods exported for repair;
 - 3- Which are “tools of trade” (in accordance with the relevant procedure) of a skilled worker including musical, artistic and, sporting equipment?
- (2) Use of the temporary importation process with partial relief from import duty may be granted to goods which do not fulfill the conditions mentioned in paragraph 1.
- (3) The relevant procedures may exclude categories of goods from the temporary importation process.

Article 114 (The Duty Amount Payable for Goods Under the Temporary Importation Process with Partial Relief)

- (1) Goods placed under the temporary importation process with partial relief from import duty shall be charged an import duty, for each month or fraction of a month, of 3% of the duty which would have been payable on the said goods had they been released for free circulation on the date on which they were placed under the temporary importation process.
- (2) The total amount of import duty to be charged under paragraph 1 shall in no event exceed the amount which would have been charged if the goods concerned had been released for free circulation on the date on which they were placed under the temporary importation process.
- (3) Goods mentioned in Paragraph 1 will be treated as non-Afghan goods until the duties and any other customs debt is paid in full

Article 115 (Change of Customs Designation of Temporarily Imported Goods)

- (1) Suspensive goods under the temporary importation process may be assigned another customs designation if a new customs declaration is filed prior to the expiration of the temporary period.
- (2) In case goods under a temporary importation process are given a new customs designation, the amount of payments made pursuant to Article 114 shall be deducted from the customs debt.
- (3) In case of sale or other transfer of goods, the holder of the approval shall be liable to pay the amount of import duty due under Article 114 or the duty due under any new customs designation.

Article 116 (Outward Processing)

Afghan goods under the outward processing process which are called temporarily exported goods may be temporarily exported for processing. The returned goods resulting from those operations may be released for free circulation in the customs territory of the State with a reduction of import duty.

Article 117 (Application for the Approval of Outward Processing)

The approval for outward processing is granted by the Ministry of Finance upon application by the applicant, in accordance with the relevant procedures, under the following conditions:

- 1- to persons established in Afghanistan;
- 2- If it is possible to certify that the compensating products have resulted from processing of the temporarily exported goods. Exceptions to this rule shall be provided in the Implementing Procedure;
- 3- When the process best serves the economic interests of the country, and the promotion of exports;
- 4- When the outward processing operation will result in compensating products that include non-Afghan goods, the Approval should certify that the use of the process will promote the sale of Afghan goods without disproportionately damaging the economic interests of Afghan producers of products identical or similar to the imported compensating products;

- 5- Temporary exportation of Afghan goods shall be subject to any requirements for the export of Afghan goods from the customs territory of the State;
- 6- Drawback goods, while under the process for outward processing, shall not be eligible for the refund provided under Article 104;
- 7- Non-Afghan goods released in accordance with Article 66, and are placed in the process of outward processing, may retain their favorable tariff treatment, as long as the conditions for granting such treatment continue to apply;
- 8- The period for the temporary exportation process shall be up to 12 months, and may be extended up to an additional 12 months for justifiable cause;

Article 118 (Contents of Outward Processing Approval)

The approval for outward processing shall include:

- 1- The date by which the compensating products must be re-imported, taking into account the time required to carry out the processing operations.
- 2- The standard rate of yield.
- 3- The value of the temporarily exported goods, calculated as of the date the Application is made.

Article 119 (Import Duty for Compensating Products of Outward Processing)

- (1) The import duty on compensating products under the process for outward processing shall be imposed on the value added to the temporarily exported goods, which shall be calculated in accordance with Article 24. If the added value is less than 5% of the value of the goods, no duty will be charged.

- (2) The import duty on the compensating products shall be assessed at the tariff rate applicable to its tariff classification.

Article 120 (Goods Repaired Without Charge in Outward Processing)

- (1) When the purpose of processing operations is the repair of temporarily exported goods, the compensating products shall be released for free circulation with an exemption from import duty, when it is established to the satisfaction of Customs that the goods were repaired free of charge, either because of a contractual or statutory obligation arising from a guarantee or because of a manufacturing defect.
- (2) Paragraph 1 shall not apply where the customs debt took account of the defect at the time when the goods in question were first released for free circulation.
- (3) For goods mentioned in Paragraph 2, and for goods repaired at expense, adequate documentation shall be submitted concerning the cost of the repair for purposes of determining the added value.

Article 121 (Transfer of Rights of the Outward Processing Approval)

Rights of the holder of the Approval under this process may be transferred to any other person established in Afghanistan who fulfills the conditions.

Article 122 (Export Process for Afghan Goods)

- (1) Afghan goods leaving the customs territory of the State shall, by means of an export customs declaration, be placed in the export process at the competent customs office. The

border customs office shall supervise the exit of exported goods from the customs territory,

- (2) Goods provided for in Paragraph 1 may obtain the permission for release for export provided the goods are in the same condition as when the declaration was accepted.

Article 123 (Exportation of Non-Afghan Goods)

The export of non-Afghan goods shall be carried out under customs supervision but without submission of a new customs declaration or otherwise being subject to the export process.

Chapter 11

Free zones and free warehouses

Article 124 (The Meaning of Duty Free Zones)

Duty free zones, free warehouses and duty free shops shall be a separate part of the customs territory of the State, in which non-Afghan goods are considered, for purposes of import duty and commercial policy measures, as not being on Afghan customs territory.

Afghan goods may enter such areas in accordance with the relevant procedure.

Article 125 (Free Zones Designation)

- (1) The Ministry of Finance shall be authorized to designate parts of the customs territory of the State as free zones and approve construction of any building in a free zone.

- (2) The geographical boundaries and the entry and exit points of each free zone and free warehouse shall be determined exactly by the Ministry of Finance. The holder of approval is obliged to wall off the related zone or warehouse.
- (3) The Ministry of Finance may authorize opening of duty free shops in the customs territory of the State for the sale of goods with exemption from import duty. The method of using free duty shops shall be regulated in the relevant procedures.

Article 126 (Customs Supervision in Free Zones)

- (1) Free zones, duty free shops, and free warehouses, and their borders and entry and exit points shall be subject to customs supervision and control.
- (2) Persons and means of transport entering or leaving a free zone or free warehouse shall be subjected to a customs inspection.
- (3) Persons who do not provide the security required by Customs legislation and procedures can not use free zones or free warehouses.
- (4) When goods enter or leave a free zone or free warehouse, a copy of the transport document shall accompany the goods and be provided to the customs.

Article 127(Conditions for Entrance and Exit of Goods)

- (1) Prohibited goods and goods that pose a threat to public safety or health shall not be admitted to duty free zones, free warehouses, and free shops.
- (2) Goods entering and exiting a duty free zone, free warehouse, or free shop shall first be presented to the customs, but the person responsible for goods need not

accompany them by a customs declaration unless the goods are placed into a customs process. The value of goods placed into a customs process shall be calculated in accordance with Article 24.

- (3) When goods enter a duty free zone, free warehouse, or free shop from another part of the customs territory of the State, Customs shall release the goods from a previous customs process, and place Afghan goods into the export process, unless otherwise provided in customs legislation:
- (4) The Customs debt on Afghan goods exiting the free zone free warehouse, or duty free shop into another part of the customs territory of the State shall be calculated in accordance with Article 119.
- (5) Goods may exit a duty free zone, free warehouse, or free shop for export from the customs territory of the State in accordance with the relevant procedures.

Article 128 (Customs Status of Goods in Duty Free Zones)

- (1) The customs may provide, on request of the person responsible for goods, a certificate stating the customs status of goods placed in a duty free zone, free warehouse, or free shop.
- (2) If the certificate, or other documents that prove the customs status of the goods, cannot be presented, the goods shall be considered to be Afghan goods, for the purposes of export from the customs territory of the State and Non-Afghan goods in case of entry into another part of the customs territory of the State.

Article 129 (Time Limits)

There shall be no limit to the length of time goods may remain in free zones free warehouses, or duty free shops, unless otherwise provided in the relevant procedures.

Article 130 (Authorized Activities)

- (1) Carrying out any industrial, commercial, or service activity shall, under the conditions laid down in Customs Legislation, be authorized in a free zone, warehouse or duty free shop without complying with the provision of Article 88.
- (2) All nationally enforced laws, including those for the protection of patents, trademarks, and copyright are applicable to free zones.
- (3) The customs may impose necessary prohibitions or restrictions on the activities referred to in paragraph 1, having regard to the nature of the goods concerned or to the needs of customs supervision.

Article 131 (Approved Registers)

All persons engaged in storing goods, or carrying on any activity under Article 130(1), in a duty free zone, free warehouse, or free shop, shall enter the goods in the stock records when received, and maintain the stock records in accordance with the orders of customs.

Article 132 (Tariff on Consumed and Missing Goods)

- (1) Goods consumed for daily needs or for maintaining or otherwise supporting the purposes of free zones, as provided in the relevant procedures, shall be regarded to be released

for free circulation and shall be subject to payment of customs duty.

- (2) Where goods disappear and when their disappearance cannot be explained to the satisfaction of the customs, the goods shall be regarded as having been consumed in the free zone, free warehouse, or free shop and Paragraph 1 shall be applied.

Article 133 (Abandonment or Destruction of Goods in Free Zones)

Customs may designate for abandonment, or destruction, under Article 134 of Non-Afghan goods placed in a free zone or free warehouse while they remain in a duty free zone, free warehouse or free shop.

Chapter 12

Customs designations

Article 134 (Destruction or Abandonment)

- (1) A destruction or abandonment designation shall be made as described in the relevant procedures. The declarant, or other person responsible for the goods, must provide a customs declaration requesting the relevant designation.
- (2) The destruction or abandonment designation shall be denied if it entails an expense for the State.

Article 135 (Destruction of Goods)

- (1) The destruction designation shall be carried out by prior notification to Customs. The notification shall state with specificity the goods to be destroyed, the time, the place, the means of destruction, and the reason for destruction.
- (2) Customs may supervise the destruction process and require presentation by the person responsible for the goods of related customs documents and a copy of the notification provided in Paragraph 1.
- (3) Any waste or scrap resulting from such destruction shall retain the status of non-Afghan goods and shall remain under customs control until such time as it is released to another customs designation or process.

Article 136(Proceeds From Abandoned Goods)

Proceeds from the sale of transfer [disposal] of goods designated as abandoned to the state shall be deposited to the relevant account in accordance with the procedure for payment of customs debts. The Director General of Customs may provide for transfer of abandoned goods to a state institution or administrations when the cost of disposal does not merit the relevant expenses.

Chapter 13

CUSTOMS DEBT

Article 137 (Form of Security)

- (1) Unless otherwise provided by the relevant procedures, security required under this law for payment of a customs debt shall be provided at the choice of the customs debtor by the means of cash deposit or a guarantee by a reliable person or institution.
- (2) If the customs are not sure that the customs debt mentioned in paragraph 1 is to be paid within the prescribed period, they may submit an appropriate proposal to the relevant authority justifying the provision of a security.
- (3) The mentioned authority of paragraph 2 may order a customs debtor to provide security necessary for satisfying the customs debt.

Article 138 (Single Security for Several Actions)

The customs may allow a single security to be provided to guaranty customs debt for two or more operations.

Article 139 (Securities Levels)

- (1) Customs can fix the amount of security as following:
 - 1- Unless otherwise provided in customs legislation, according to the precise amount of the customs debt in question where that amount may be established with certainty at the time when the security is required
 - 2- Where no precise or other fixed amount can be determined, according to the maximum amount of the customs debt estimated by Customs.

- (2) If the security provided for in article 138 is required for customs debts which may vary in amount over time, it shall be set at a level sufficient to enable the customs debts in question to be covered at all times.

Article 140 (Cash Deposits)

A cash deposit shall be made in Afghan currency. The following shall also be deemed a cash deposit:

- 1- Submission of a check, the payment of which is guaranteed by the institution on which it is drawn which is approved by relevant rule.
- 2- Submission of any other financial instrument accepted by the customs as a means of payment.

Article 141 (Guarantor)

Any person who meets the following criteria may be accepted as a guarantor:

- 1- Must be a person established in Afghanistan, unless provided otherwise in the international agreements to which Afghanistan is a party.
- 2- Shall provide a guarantee, to pay the unpaid secured amount of a customs debt in a form satisfactory to customs.

- 3- Shall provide a guarantee that will be maintained until a specific time, as may be determined by customs.

Article 142 (Other kinds of Security)

Customs may accept other kinds of security, provided that they can provide equivalent assurance that the customs debt will be paid.

Article 143 (Additional Securities)

When Customs establishes that the security provided is not certain or sufficient to ensure payment of the customs debt within the prescribed period, they shall require the customs debtor to either provide additional security, or at the customs debtor's option, to replace the original security.

Article 144 (Release of Security)

- (1) When the customs debt has been extinguished in part, unless the amount is insufficient to justify such action, a part of the cash deposit shall be repaid to the customs debtor upon a request by the debtor.
- (2) When a secured customs debt is extinguished, the non cash security shall be released and the cash deposit returned without delay.

Article 145 (Lawful Activities Which Cause Customs Debts)

- (1) A customs duty on lawful importation or exportation of goods may be incurred when goods have been released for free circulation in accordance with this law or by the filing of an accepted customs declaration for:
 - 1- the release for free circulation of goods liable to import duty in accordance with Article 65(2);

- 2- the placing of goods under the temporary importation process with partial relief from import duty.
- 3- the placing of goods in conditional release of goods under customs supervision;
- 4- the placing of goods in the export process;
- 5- placing of goods in any other customs process or designation involving payment of duty (*tarifa*), charges (*haq ul zamat*), dues (*awarez*), penalties (*jerima*), or other monetary obligations (*eltezamat e puli*)

- (2) A customs debt shall be incurred after customs notifies the customs debtor, whether upon acceptance of the declaration, or assessment of penalties in accordance with this law.

Article 146 (Unlawful Activities Causing a Customs Debt)

A customs debt with respect to unlawful activities shall be incurred by violation of Articles 166 (2) and 170.

Article 147 (Customs Debt on Removal of Goods from Supervision Without Permission)

A customs debt shall also be incurred on goods removed from customs supervision without permission. And, the customs debtor shall be:

- 1- the person who removed the goods from customs supervision without permission,
- 2- any persons who participated in such removal and who had prior awareness that the goods were being removed from customs supervision.
- 3- any persons who acquired or held the goods subject to customs supervision or control and who were aware at the time of acquiring or receiving the goods that they had been removed from customs supervision.

Article 148 (Non Occurrence of Debt)

No customs debt shall be deemed to be incurred in respect of goods under customs supervision that were:

- 1- lost due to *force majeure*;
- 2- placed in a destruction or abandonment designation under Article 134;
- 3- lost to evaporation or other natural process; or
- 4- were out of the control of the person when they were the subject of Article 146 and 147, and that person proves it.

Article 149 (responsibility of Partnerships)

Where a partnership has guaranteed a customs debt, the general partners shall be jointly and severally liable for such debt. The penalty portion of the debt shall be an exception from this rule.

Article 150 (Date of Determining Customs Debt)

Where it is not possible to determine precisely when the customs debt is incurred due to the fault of the declarant, the highest rate of customs duty applicable during the period in question shall be applied.

Article 151 (Entry of Debt Into Accounts)

- (1) The Customs duty shall be calculated by Customs simultaneously with the acceptance of a customs declaration which entails payment of duty. If additional information is required by Customs to determine the

valuation of goods, Customs shall calculate the customs duty no later than 48 hours after the customs declarations is accepted, or for such other period of time as may be fixed in the Procedure (*tarzulamal*) for Customs Valuation. The amount of the customs duty shall be entered into the accounts without delay after it has been calculated,

- (2) Unless otherwise provided for in this law and its procedures, the customs duty must be calculated and entered prior to the release of the goods for free circulation, or for another process that entails payment of customs duty, in accordance with Article 62.
- (3) A customs debt incurred after the goods have been placed under a customs process shall be entered in the accounts within 48 hours after customs has information sufficient to calculate the customs debt, and determine the debtor.
- (4) The customs officials shall adequately explain any delays in making the entry of a customs debt.

Article 152 (Differences in Account Entries)

When a customs debt entered in the accounts is less than the amount legally owed, the customs are obliged to enter the correct amount in accordance with article 151, within 48 hours of the time Customs become aware of the situation.

Article 153 (Notification about Debt Entry)

- (1) Customs officials are obliged to notify the amount of customs duty to the customs debtor at the time it has been entered in the accounts in accordance with the relevant procedures. The notification shall take place only where the

amount stated in the customs declaration is different from the amount determined by customs.

- (2) Re- determining the amount of customs debt shall not be valid after a period of 3 years.

Article 154 (Situations for Settling and Extinguishing Customs Debts)

A customs debt shall be settled or extinguished by the following means:

- 1- by payment in full in accordance with this articles 154 to 158;
- 2- by remission or refund in accordance with article 159 to 163;
- 3- by withdrawal or invalidation of a customs declaration entailing the obligation to pay duty, in accordance with Article 57 or 64;
- 4- if the goods are confiscated, or destroyed on the instructions of the customs; and
- 5- In circumstances described by Article 148 (1, 2 or 3).

Article 155 (Payment Term for Customs Debt)

- (1) A customs debt notified in accordance with Article 153 shall be paid by the customs debtor in accordance with the following term:
 - 1- Within the term prescribed in the notification. Article 156 shall be an exception to this provision.
 - 2- An extension shall be granted automatically where the customs debtor does not receive the notification in the prescribed period.
- (2) The customs at the request of the customs debtor may also grant an extension taking into account Article 152. The extended time limit in any case shall not exceed 10 days;

Article 156 (Deferral of Debt Payment)

- (1) The Ministry of Finance may provide in a separate procedure to allow deferral of payment of all or part of a customs debt, on condition that the customs debtor provides security and the period of deferral without charge shall not exceed 30 days. Where several customs debts are aggregated over a specified time period the delay in payment shall not exceed an average of 30 days.
- (2) Customs may collect a charge (*haq ul zamat*) for providing the service of postponement of payment of .01% of the deferred amount per day, or such other amount as is fixed by the relevant procedures.
- (3) The amount of charge (*haq ul zamat*) referred to in paragraph 2 shall be determined by the Ministry of Finance so as to be comparable to similar charges in the domestic money or financial market.

Article 157 (Manner of Payment)

- (1) A person other than the customs debtor may pay the customs debt.
- (2) Payment shall be made by bank transfer, or by other instrument provided (*darj*) in customs legislation and procedures, or in cash if the payer is a person described in Article 45 or identified by customs.

Article 158 (Non Payment of Debt within the Prescribed Term)

- (1) Customs shall be obliged to take all actions permitted by law to secure the payment of a customs debt that is overdue.
- (2) The registered movable and immovable property of a customs debtor who fails to make timely payment of the customs debt shall be under security (*that e tazmin*) of customs. Information on the security may be provided to any registry of property, or banks by Customs. The security shall remain in effect until the customs debt is paid.
- (3) Customs may, in accordance with law, collect a customs debt as a preferred creditor from a third party that has obligations to the customs debtor.
- (4) Interest shall be charged on overdue customs debts in accordance with Article 156.

Article 159 (Refund or Remission of an Erroneous Entry)

- (1) A customs debt shall be refunded or remitted if the amount paid or entered into the accounts is proved to be in excess of the amount legally owed by the customs debtor.
- (2) Refunding or remittance mentioned in paragraph 1 may take place upon withdrawal or submission of an amended custom declaration pursuant to Article 57 within a period of three years from the date on which the amount of the duty was notified.
- (3) Customs shall be obliged to refund or remit the customs debt in the situations mentioned in paragraph 1 and 2.

Article 160 (Remission or Refund for Defective Goods)

- (1) Import duty paid on defective goods, which have been damaged prior to release or are not compatible with the importation contract, and have been rejected by the importer, shall be refunded or remitted if:
 - 1- the goods have not been used, except for such initial use as may have been necessary to establish that they are defective; and
 - 2- The goods are exported, or placed in a process or designation that does not entail payment of customs duty.
- (2) Goods mentioned in paragraph 1 may be exported as non-Afghan goods from the customs territory of the country.
- (3) Import duty shall be refunded or remitted for the reasons set out in paragraph 1 upon submission of an application by the debtor within 12 months from the date of notification.
- (4) Customs duty may be refunded in accordance with Article 104.

Article 161 (Limit of the Amounts to be Refunded)

Customs duties, except those collected under Article 45, shall be refunded only if the amount to be refunded exceeds Afghani 1000 or other amount fixed in the relevant procedures.

Article 162 (Interest on Refunds)

No refund under articles 159, 163, shall include payment of interest for the period prior to the refund decision. Interest, in accordance with Article 156, shall be paid to the customs debtor if the decision to grant a refund is not implemented within one month from the date of the refund decision.

Article 163 (Erroneous Refunds)

Customs debt refunded in error shall be re-paid by the customs debtor after notification of the error. Any interest related to the amount of refund under Article 162 shall also be included in this provision.

Chapter 14 Customs Violations and Penalties

Article 164 (Customs Police Administration)

- (1) A Customs Police Administration shall be created jointly by the Ministry of Finance and the Ministry of the Interior for the purpose of detecting and preventing violations of the provisions of this law and for arresting the relevant suspects throughout the Customs Territory

of the State, in accordance with section 3 of this Article.

- (2) Customs Police officials shall be part of the organization of the Ministry of the Interior. The Ministry of the Interior shall be responsible for:
 - 1- Approval, Employment, and dismissal of customs police, on recommendation of the Ministry of Finance,
 - 2- Providing the Customs Police with salaries and any other incentives as provided by law
 - 3- Recruiting, of Customs Police candidates, and maintaining their records (personnel files)
 - 4- Providing appropriate uniforms and other equipment in accordance with the duties they perform, as agreed with the Ministry of Finance
 - 5- Providing training for police candidates required to carry out their police duties
- (3) The Ministry of Finance, as the agency responsible for directing and managing the work of the Customs Police shall have the following duties and authorities:
 - 1- Determining the duties and scope of authority of Customs Police and determining their locations of work.
 - 2- Providing for the necessary training for Customs Police concerning the administration and enforcement of the customs legislation
 - 3- Recommending [to the Ministry of the Interior] remunerations and punishments for Customs Police and other personal matters of Customs Police affecting their work.
- (4) The Ministry of Interior and the Ministry of Finance may jointly provide additional inter-ministerial guidelines implementing section 2.
- (5) The Ministry of Finance may, as required, provide procedures implementing paragraph 3.

- (6) Section 2 of this Article shall be effective for three year period upon enforcement of this law. The Ministry of Finance and the Ministry of the Interior may recommend its retention, amendment or deletion to the Council of Ministers. The approval of the Council of Ministers shall be regarded effective in this regard.
- (7) Customs Police shall be obliged to perform their assigned duties in accordance with the provisions of this law, (the anti-smuggling law) and other guidelines and procedures only under the direction of the Ministry of Finance

Article 165 (Customs Violations)

Violations of customs law and other customs legislation shall be of the following two types:

- 1- Administrative violations; which are violations from all the provisions of this law ,except article 170
- 2- Smuggling of goods, in accordance with chapter 14 of this law.

Article 166 (Administrative Violations and Sanctions)

Administrative violations shall be classified in the following three categories:

- (1) category one violations are as follows:
 - 1- Delay
For delays in violation of Articles 36(2), 39(3), 51(1), 54(1), 80, 87, 95, 112, 118, the penalty imposed shall be 0.01% of the duty payable for each day, or the proportionate amount for each part of a day, or such other rate as may be, as needed, established by the Ministry of Finance taking into account the circumstances.

2- Misrepresentation

Providing information about quality, quantity, value, or origin that is incomplete or inaccurate in violation of Article 45(1), 48(1), 64(1), 80, 83(1) Differences in quantity or value that are smaller than 5% of the quantity or value indicated in the declaration or other customs documents shall receive a written warning. If the customs duty is calculated according to the customs declaration and is 5% or more deficient than the actual amount, a fine shall be imposed as indicated below:

- 5-15% deficiency - a fine equal to the deficiency,
- 15-25% deficiency - a fine of two times the deficiency,
- 25-40% deficiency - a fine of three times the deficiency, and
- 40 - 60% deficiency - a fine of four times the deficiency
- 60-80% deficiency - a fine of five times the deficiency
- 80-100% deficiency - a fine of six times the deficiency

3- In cases of understatement of quantity of more than 5%, in addition to the fine, the undeclared goods shall be confiscated. In case of committing the violations in transit process, the above penalties shall be applied only if the violation is repeated after a written warning. In repetition of violation in other cases a fine of from one to two times the amount of the deficiency in the payment of the customs duty shall be paid provided that the person committing the offence has been given prior warning.

4- The penalties and warning provided in this Article may be waived by customs if it is proven that the misrepresentation was caused by a mistake of

calculation or errors made in good faith during the preparation of the customs declaration.

(2) Class 2 Offences are as following:

- 1- a person who violates Articles 17, 46, and 48, and is provided a written warning of violation and an order to correct, and fails to comply with such written warning within the time required by Customs
- 2- A person who fails to comply with Articles 39 and 49(1) or fails to comply with the instructions of Customs concerning goods under customs supervision or control in violation of 34(5) and 49(2)
- 3- A person who moves customs goods mentioned in Articles 34(5), 35, 38(1), 36, 80, 83, 123, and 132, from an authorized location to a non-authorized location.

(3) Class 3 Offences are:

- 1- Intentional misrepresentation of facts required to be submitted to customs for the purpose of benefiting from a more favorable customs tariff
- 2- Executions in violation of Articles 50(2), 61(2), 66, 134, and 135, with the intent to frustrate the enforcement of customs legislation

Article 167 (Penalties)

- (1) Persons committing class 2 Offenses shall be punished by a fine of 10 to 50% of the value of goods, taking into account the condition provided for in Article 20, in accordance with guidelines of the General Directorate of Customs.
- (2) Persons committing class 3 offenses shall be punished by a fine of 50 to 100% of the value of goods taking into account the conditions provide for in article 20, in accordance with the guidelines of the General

Directorate of Customs.

- (3) The payment of cash penalties under this Article does not negate the payment of the principle customs debt.

Article 168 (Multiple Offenses)

If a violator commits more than one administrative violations at the same time a separate fine will be applied for each violation.

Article 169 (method for Collection of Fines)

cash fines and other proceeds authorized by this chapter shall be collected in accordance with relevant procedures.

Article 170 (Discretionary administrative penalties)

- (1) Smuggling of goods of a value less than Afghani 10,000 shall be dealt with as a Class 3 offense, unless aggravating circumstances are present.
- (2) If the value of goods is in excess of Afghani 10,000, the Director General of Customs may settle the case administratively without referral to the *justice authorities* upon a request by the offender taking into account the simple circumstances and non aggravating circumstances, provided:
 - 1- the judicial prosecution has not started;
 - 2- the amount of the customs duty due on the goods involved in smuggling is less than Afghani 20,000;
 - 3- the offender pays the amount of the customs duties and fines
 - 4- the offender agrees to give up their right of appeal referred to in Article 18.

- 5- the amount of 10,000 Afghani referred to in this paragraph may be changed by the Minister of Finance upon the approval of the Council of Ministers.
- (3) The fine applicable to the customs offense described in Paragraph 2 can be from 1 to 3 times the penalty of a Class 3 offense in accordance with the guidelines of the General Directorate of Customs. If the offender accepts payment of the mentioned fines, there shall be non criminal charges brought against the offender. Otherwise, Customs officials are obliged to refer the case to the competent authorities for prosecution.
- (4) The seized goods and the violator shall be released from customs control immediately after the customs verify that all the conditions and obligations referred to in paragraphs 1 and 2 of this Article are fulfilled by the violator.
- (5) This provisions of paragraphs (1, 2,3) and 4 shall not apply when:
- 1- the act is committed by a customs employee, a customs broker, or any other person whose activity is connected to that of customs in any way
 - 2- the violator possesses any smuggled or smuggling object as a consequence of another criminal act; or
 - 3- the goods are prohibited or restricted goods, as referred to in Article 53 (2)
 - 4- the person is repeatedly a violator.
- (6) Any Class 3 offense shall be referred directly to the competent authorities for prosecution if committed together with any of the conditions mentioned in paragraph 5 of this article.
- (7) In cases where section (5) or (6) applies, the report mentioned in paragraph 1Article 184 shall be attached to the decision of the customs regarding the fulfillment of the conditions mentioned in that article.

Article 171 (License Revocation)

The Ministry of Finance may revoke licenses granted pursuant to Articles 16, and 70 for repeated or serious violations of the conditions under which they are granted.

Article 172 (Smuggling of Goods)

- (1) Carrying out the following activities is deemed to be smuggling and the offender shall be punished in accordance with this law and any other customs legislation :
 - 1- Introduction of goods into the customs territory of the State, or the exit of goods, in violation of the provisions of this Law and other customs legislation, with the intent of avoiding (*ejtinab*) customs control or supervision.
 - 2- To carry prohibited goods for the purpose of import, export, or storing without permission of the relevant authorities.
 - 3- Selling or purchasing of goods in a transit process without paying customs duties

- (2) carrying out the following activities repeatedly, or showing intent to carry out the following activities shall be considered smuggling:
 - 1- Violate the conditions for use of goods that occasioned a partial or total relief from customs debt by reason of their end-use pursuant to Article 66.
 - 2- possess goods against the provisions of article 61, paragraph 2 ;
 - 3- remove or falsify the identification number of the means of transport;
 - 4- purchase, sell, store, and possess imported goods with knowledge that they are smuggled goods; such knowledge will be presumed in the case of a warehouse

keepers who stores imported goods without copies of the related customs declarations.

- 5- Break the seal or substitute or change other security verifications placed on the means of transport or goods.
 - 6- Load, unload, or move goods, travelers or their luggage, from one means of transport to the other without permission from the customs, in an unauthorized place.
- (3) Smuggling is considered to have been committed by the Captain of an aircraft who:
- 1- transports goods without the relevant manifest, or with a manifest that misrepresents the goods on board;
 - 2- has not presented goods to customs which were brought into the customs territory of the State according to the manifest but are not on board at the time of departure ,
 - 3- Lands out of a customs airport, and does not notify its landing to the customs or other relevant authorities within the shortest time.

Article 173 (Sanctions Applicable to Smuggling)

- (1) The violators referred to article 172 shall be punished with:
 - 1- Confiscation of the smuggled goods;
 - 2- A fine from two to five times the amount equal to the applicable customs debt of the smuggled goods; and
 - 3- Punishment in accordance with Article 179.
- (2) In case of committing a violation by more than one person, each one shall be fined proportionate to that person's participation in the violation.
If one of the parties pays the full amount, the others are free of any obligation to Customs for the fine in question.
- (3) When the same violator commits at the same time several violations referred to in chapter 14, the violator shall be punished for each of the violations separately.

Article 174 (Smuggling Objects)

- (1) “Smuggling objects [means] any objects (*wassaiei*) involved directly in the act of smuggling, including arms, and the means of transport and other objects used to transfer or to hide smuggling goods. Smuggling objects will be seized by the customs and, upon decision of the competent courts may be confiscated and treated as abandoned goods. The means [objects] mentioned in paragraphs 3 and 4 are an exception to this rule.
- (2) The seizure of smuggled goods will take place regardless of the amount and the degree in which the owner of the goods took part in the smuggling action.
- (3) Where the person convicted of smuggling took possession of the seized objects as a consequence of a criminal act, the objects will be returned to the owner.
- (4) Means of transport are exempted from the seizure, whenever:
 - 1- on the basis of evidence, the owner is not proven to be involved in the act of smuggling;
 - 2- The owner provided the means of transport in good faith in the ordinary course of business. (Without knowledge of its use for smuggling or other illegal activities).
- (5) The court, is obliged to take a decision ordering the confiscation of the means of transport and other objects of smuggling within 5 days of referral of the case. The transporting vehicle and other objects of smuggling shall be put up for auction in accordance with the order of court.

Article 175 (Vehicles)

The owner, or driver, of the vehicle transporting smuggled goods shall be punished as follows:

- 1- If the owner of the vehicle carrying smuggled goods seized together with the vehicle and there is proof that the owner of the vehicle is aware of the existence of smuggled goods, the owner of the vehicle shall be sentenced to the punishment of a cash fine equal to the cost of the smuggled goods.
- 2- If the owner of the transporting vehicle commits the above crime repeatedly, the transporting vehicle shall be expropriated.
- 3- If it is proved that the driver of the transporting vehicle is aware that the goods he is transporting are smuggled, the driver shall be punished as an accomplice to the crime.

Article 176 (The Seizure of Smuggling Objects)

- (1) Smuggled objects are seized in the following cases:
 - 1- the act of smuggling is being witnessed,
 - 2- the goods are in movement,
 - 3- the goods are in an insecure public place,

Except in the case where smuggling is witnessed, seizure of goods from private property shall take place only upon the prior order of the authorized court.

- (2) The smuggled goods and the means thereof, when seized, shall be delivered promptly against receipt to the customs administration or to the district administration office in places where there are no customs organizations.
- (3) In case of a dispute concerning prohibited or smuggled goods, the goods will be retained by Customs at the

expense of the importer until the dispute is resolved, or turned over to the relevant authorities for legal action.

Article 177 (Perishable Goods; Livestock.)

- (1) The authorized courts, must issue an order regarding the auction of perishable goods (goods which very soon change in quality or spoil) livestock and other goods, the keeping of which requires expenses , promptly after seizure, but in no event later than 24 hours after seizure.
- (2) If the order of the court is not issued or reached in due time, custom authorities shall be responsible to sell the goods under the supervision of the of Customs with the agreement of the owner of the suspected goods, if present, and shall deposit the money in trust until receiving the order of the court.

Article 178 (Compensation for Damages)

No compensation for damages may be obtained that occurred during an act of seizure or confiscation of smuggled goods in the course of anti smuggling activities.

Article 179 (Range of Penalties)

The committer, in addition to confiscation of the smuggled goods and the objects, shall be sentenced to imprisonment in the following conditions:

- 1- For one to three years imprisonment if the smuggled goods are allowed goods and cost more than Afghani 75, 000.
- 2- For six months to one year years imprisonment if the smuggled goods are banned goods and cost less than Afghani,20,000

- 3- For one to six years imprisonment if the smuggled goods are banned goods and cost more than Afghani, 20,000.

Article 180 (Aggravating Circumstances)

- (1) The maximum penalty included in article 179 of this law shall be imposed if the act of smuggling is committed with the help of two or more persons, or in case of repetition of the crime,
- (2) If smuggling is committed through a network of smugglers the organizer of the network of perpetrators shall be penalized by an imprisonment of two times the punishments allowed by Article 179.
- (3) In cases where the smuggler shows armed resistance to the customs, whether injury results or not, the perpetrator shall be imprisoned for a period of 15 to 20 years.
- (4) If the smuggler kills a customs official and / or other persons who assist them in their duties, the smuggler shall, in addition to the confiscation penalty, be sentenced to capital punishment. Accomplices in the killing shall be sentenced to a punishment of 10 to 15 years imprisonment.

Article 181 (Participation of Government Employees in Smuggling Activity)

Officials, military employees and other persons that are related *in some way* to the state, who participate in the organization and management of smuggling network shall be punished two and one – half times the punishment included in article 179 of this law.

Article 182 (Evaluation of Administrative Violations)

The evaluation (*barrasi*) of administrative violations shall be undertaken by two officials of customs assigned by the authority of the related customs administration .

Article 183 (Authority for Access to Information)

In order to search for evidence of violations, Customs may be authorized in writing by the Director General of Customs to access commercial records and information records which are either maintained by Customs, or required by Customs to be maintained by others. Customs with a view to detecting and preventing administrative violations may carry out all necessary measures at offices, factories, warehouses and other locations and premises where accounts may be found or actions take place relating to customs affairs.

Article 184 (Report and Collection of Evidence)

- (1) The written report of evaluation prepared and signed in triplicate, shall contain:
 - 1- the place, the date and the time where the violation occurred
 - 2- the names of the persons who sign the report and their position;
 - 3- the name and address and other identifying information of those accused of a violation;
 - 4- the classification of the violations mentioned in this law
 - 5- the location of the goods;
 - 6- a description and identification of the means used to commit the violation;
 - 7- the indication of the kind, quantity, quality, value, origin and tariff classification of the goods;
 - 8- the amount of duty and other customs debt due;
 - 9- the Articles of this law on the basis of which the proposed fines are assessed;

- 10- The signatures of the customs employees and that of the violator in accordance with article 170.
- (2) Customs must notify immediately the person or persons suspected of the violation about the registered report mentioned in paragraph 1.
 - (3) Customs must conduct a hearing for violations of the Customs Law, collect documents and proofs, and record the declaration of witnesses. Customs will set a date and time and place for that purpose. The time limit for holding the hearing may not exceed 72 hours from the date of notification.
 - (4) The persons charged or witnessing the violation may be allowed by Customs to present and record their statement to the charges instead of being present at the hearing.
 - (5) The statements [and declarations] mentioned in paragraph 4 shall be signed by the persons charged with the violation and witnesses when they are present, and both the customs officers who preside over hearing.
 - (6) When any persons charged with the violation, or a witness, does not speak Dari or Pashtu, the hearing will be carried out in the presence of an interpreter who shall be responsible for the translation of the proceedings

Article 185 (File Administration)

Customs, after compiling the documents and reviewing the report concerning the administrative violation, shall sign and issue the decision disposing of the case.

Article 186 (Appeal Against the Decision for Payment of a Fine)

- (1) A customs decision to impose a fine under this law has to be delivered and notified to the person accused within 24 hours from the time of the decision by customs officials.
- (2) The person responsible for paying the fine may object to the decision of the customs imposing a fine in accordance with Article 18.
- (3) In case of appeal in accordance with Article 18(4) the appellant must deposit, in addition to the customs debt deposited in accordance with Article 18(2) an amount equal to 40% of the total amount of the fine, provided that the total amount of the deposit shall not exceed the value of the goods subject of the violation.
- (4) If the decision of the Customs Arbitration Administration is unacceptable to the appellant, the appellant shall deposit the remaining 60% of the fine prior to appealing from the opinion of the Customs Arbitration Administration which has been issued in accordance with article 18.
- (5) In accordance with articles 20 and 21 of this law, the deposit shall be returned within 5 days after any decision, customs opinion or order of court rendered in favor of the appellant becomes final.

CHAPTER15

Distribution of Revenues and Granting of Incentives)

Article 187 (Distribution of Revenue from Fines and Expropriated Smuggled Goods)

- (1) Revenue from collection of fines and sale of smuggled goods shall be divided as follows: All revenues from fines to the State Budget. 50 % of the value of confiscated goods to the State Budget, and 50% of the value of confiscated goods shall be distributed for incentives to customs police and personnel, informers and others who cooperated in accordance with this, Chapter, and to the improvement of the working conditions for the customs personnel.
- (2) The proceeds from the auction of the confiscated smuggled goods are calculated and paid to the eligible persons after the final decision is given by the court, in accordance with the provisions of this Chapter

ARTICLE 188 (Incentives for Informants)

Individuals supplying reliable information in detecting smuggled goods shall receive the following incentives;

- 1- To assigned informing persons– 5% of the value of the smuggled goods.
- 2- To non assigned informing persons–7.5% of the value of the smuggled goods.

ARTICLE 189 (Incentives for Persons Seizing Goods)

Anyone personally seizing smuggled goods and dispatching them to the proper authorities shall receive the following incentives ;

- 1- In cases where the appointees seize smuggled goods from Places where Danger of accident is not probable, – 10% of the Price of the smuggled goods.
In cases where there has existed danger of harm in dealing with the smuggler, but no murder or injury has

resulted – 15% of the value of the smuggled goods except in the case of prohibited goods and drugs. These assignees are not entitled to take advantage of Article 188 of this law.

- 2- Other government officials and relatives not officially involved in The pursuit of smuggling or of the customs house officials who have assisted effectively with the relevant assignees –2.5% of the price Of the seized goods.
- 3- others who effectively aid the appointed official of smuggling 5 % of the value of the seized goods.
- 4- Individuals killed during the seizure of smuggled goods or who are injured such that their injury interferes with work or business shall be paid:
 - To government employees – Afghani 500,000 - 1,000,000 in addition to receiving their retirement salaries and allotted incentives for themselves and their inheritors.
 - To individuals not having retirement rights –Afghanis 800, 000 – 1,500,000 According to the degree of injury to themselves or to their inheritors in addition to the specified incentives.
- 5- If the informer or the seizer of the goods is more than one person, the incentives determined by Article 188 shall be divided between them equally.

ARTICLE 190 (Halfed Incentives)

If the owner of the seized goods is unknown or difficult to locate the seizer of the smuggled goods and also his assistants shall receive one- half of the assigned incentives.

Chapter 16

Miscellaneous

ARTICLE 191 (Assisting Customs Administrations)

- (1) Policing agencies in the Ministry of the Interior and other civil (*mulki*) and military institutions, are obliged to assist the customs in all aspects in its enforcement of this law and other customs legislation.
- (2) Any person is bound to assist in the pursuit of persons accused of smuggling and in the seizure of smuggled goods, if those responsible for preventing smuggling seek help from that person.
- (3) Any person can inform the appropriate authorities if they have knowledge of an attempt or act of smuggling. In this case, the identity of person shall be kept confidential by customs officials.

Article 192 (Presentation of Annual Customs Report)

The Ministry of Finance is obliged to prepare and present an Annual Report to the Council of Ministers. The report should include:

- 1- Annual operating budgets
- 2- The number of employees and their grades
- 3- Revenues collected by customs
- 4- Revenues forgone through evasion from payments or forgeries for getting duty relief.
- 5- Activities delegated to and from other agencies.
- 6- Other operating information that has impacted the work of Customs

Article 193 (Preferential Provisions)

If any provisions from this law are in conflict with the provisions of any other legislation, the provisions of this law shall prevail.

Article 194 (Date of Enforcement)

1- Article 194 of this law shall be effective from the date of its endorsement (Tausheh) [by the Head of State] and shall be published in the Official Gazette. From the effective date of this law, the Customs Code published on 28 Saur 1361 (Official Gazette Number 508) and the Regulations Organizing Customs Affairs published on 15/1/1367 (Official Gazette 663) amendments or any other contrary provisions shall be nullified.