

A BILL

FOR

AN ACT TO REPEAL THE CUSTOMS AND EXCISE MANAGEMENT ACT, CAP. C45, LAWS OF THE FEDERATION OF NIGERIA, 2004 AND OTHER CUSTOMS AND EXCISE LAWS; TO ESTABLISH THE NIGERIA CUSTOMS SERVICE; REFORM THE ADMINISTRATION AND MANAGEMENT OF CUSTOMS AND EXCISE IN NIGERIA AND FOR OTHER RELATED MATTERS, 2017

[. . .] Commencement

Sponsored by Senator Sam Anyanwu

Senator Mohammed Ali Wakili

ENACTED by the National Assembly of the Federal Republic of Nigerian as follows:

1 PART I - ESTABLISHMENT OF THE NIGERIA CUSTOMS SERVICE, SCOPE
2 AND APPLICATION

3 1.-(1) There is established a body to be known as the Nigeria Establishment of
4 Customs Service (in this Act referred to as "the Customs Service"). the Nigeria
5 Customs Service

5 (2) The Customs Service-

6 (a) shall be a body corporate with perpetual succession and a
7 common seal;

8 (b) may sue or be sued in its corporate name;

9 (c) may acquire, hold, and dispose of any property, whether
10 moveable or immoveable; and

11 (d) shall direct, manage and enforce the provisions of this Act and
12 the customs and excise laws listed in the Third Schedule to this Act.

13 2. The provisions of this Act shall apply to all matters connected Scope and
14 with the management and administration of customs and excise and application
15 inspection of goods and services.

16 PART II - FUNCTIONS AND POWERS OF THE CUSTOMS SERVICE

17 3. The functions of the Customs Service are to- Functions of the
Customs Service

1 5. For the purpose of carrying out or enforcing the provisions of Customs officers
2 the customs and excise laws, all officers shall have the same powers, to have power of
3 authorities and privileges as are given by law to police officers. Police officers,
etc.

4 6.-(1) Notwithstanding anything to the contrary contained in any Limitation of
5 other law, no action shall be instituted against the Customs Service in actions against
6 respect of any act, neglect, or default done or omitted to be done by any the Customs
7 officer in his capacity as an officer of the Customs Service with regard to the Service
8 regulations made pursuant to section (4) of this Act unless it is commenced
9 within three months next after the act or negligence complained of, or in the
10 case of a continuing damage or injury, within three months next after the
11 ceasing thereof.

12 (2) No suit shall be commenced against the Board before the
13 expiration of a period of one month of intention to commence the suit shall
14 have been served on the Board by the intending plaintiff or his authorised
15 agent and the notice shall clearly and explicitly state-

- 16 (a) the cause of action;
17 (b) the particulars of the claim;
18 (c) the name and place of abode of the intending plaintiff; and
19 (d) the relief which he claims.

20 PART III - GOVERNING BOARD, MEMBERSHIP, FUNCTIONS AND POWERS

21 7.-(1) There is established for the Customs Service a Governing Establishment of
22 Board (in this Act referred to as "the Board") Board and
membership

23 (2) The Board shall superintend over the administration of the
24 Customs Service.

25 (3) The Board shall consist of-

26 (a) a Chairman who shall be appointed by the President for a period
27 of four years subject to confirmation by the Senate for a tenure of four years
28 and renewable once and no more;

29 (b) the Comptroller-General, who shall be the deputy Chairman;

30 (c) all Deputy Comptrollers-General of the Customs Service;

- 1 (a) administer, direct, manage and enforce the provisions of this Act
2 and the customs and excise laws listed in the Third Schedule;
- 3 (b) collect and account for revenue from customs duties, excise
4 duties, other taxes, charges, fees and special assessments as may be assigned to
5 it by the Government from time to time.
- 6 (c) administer any aspect of trade and fiscal policies that the
7 Government of the Federation may mandate it to administer;
- 8 (d) promote trade facilitation;
- 9 (e) protect Nigeria against smuggling, customs fraud, and all other
10 violations of customs and excise laws and the laws of Nigeria subject to
11 customs jurisdiction;
- 12 (f) in collaboration with the relevant agencies, carry out all border
13 enforcement and regulatory activities required by law;
- 14 (g) collate and publish in collaboration with relevant agencies
15 accurate trade statistics;
- 16 (h) engage in regular consultations with individual traders, trade
17 associations and other relevant stakeholders;
- 18 (i) do all such things as are necessary for or incidental to the carrying
19 out of its functions and duties under this Act and the laws of Nigeria subject to
20 customs jurisdiction.
- 21 **4. In the exercise of its functions under this Act, the Customs Service**
22 **shall subject to approval by the Board have the powers to-**
- 23 (a) acquire, hold, purchase, mortgage and deal with property, whether
24 movable or immovable, real or personal;
- 25 (b) enter into contracts or incur obligations;
- 26 (c) advice or develop regulations on the management and
27 administration of customs and excise management;
- 28 (d) issue operational guidelines for the efficient administration and
29 operation of the provisions of this Act.

1 (d) the Legal Adviser to the Customs Service;

2 (e) a representative, not below the rank of a director, from the
3 following Federal Ministries-

4 (i) Finance;

5 (ii) Trade and Investment,

6 (iii) Transport,

7 (iv) Interior; and

8 (v) Aviation;

9 (f) the Chairman of the Federal Inland Revenue Service;

10 (g) Two other members representing the organized private sector for a
11 period of four years and renewable for another four years; and

12 (h) the Chairman Revenue Mobilisation Allocation and Fiscal
13 Commission.

Board Proceedings

14 8. The Supplementary Provisions set out in the First Schedule to this
15 Act shall have effect with respect to the proceedings of the Board and the other
16 matters contained therein.

Functions and
Powers of the
Board

17 9. -(1) The Board shall be responsible for-

18 (a) formulating the general policy guidelines for the Customs
19 Service;

20 (b) overseeing the administration of this Act;

21 (c) managing and superintending over the policies of the Customs
22 Service or matters pertaining to the administration, assessment, collection and
23 accounting for revenues as may be directed by the Minister from time to time;

24 (d) reviewing and approving strategic plans for the Customs Service;

25 (e) employing from the available recruitment pool, workers and
26 employees that can be trained and made readily adaptable to attain the quality
27 of officers with the professional standards envisioned for the Customs Service;

28 (f) determining the terms and conditions of employment, promotion
29 and discipline;

30 (g) developing commensurate remuneration and appropriate

1 incentive package for the sustainability of skilled and professional
2 manpower; and

3 (h) stipulating the remuneration, allowances, benefits and pensions
4 of the staff and employees of the Customs Service with the approval of the
5 appropriate authority of the Federal Government.

6 10. The Board may, subject to such conditions as it may think fit, Delegation of
Board's powers
7 delegate any of its powers under this Act to-

8 (a) the Comptroller-General; or

9 (b) any customs officer not below the rank of Deputy Comptroller-
10 General;

11 (c) a committee consisting of such number of persons as the Board
12 may decide.

13 11. The Minister may give to the Board such directives without Minister to give
general directives
to the Board
14 prejudice to section 7(2) as are necessary for the performance of the duties
15 and responsibilities of the Board under this Act and under the related
16 customs and excise laws.

17 12.-(1) Notwithstanding anything to the contrary contained in Limitation of
actions against
the Board
18 other law, no action shall be instituted against the Board in respect of any act,
19 neglect, or default done or omitted to be done by any officer, servant or agent
20 of the Board in his capacity as an officer, servant or agent of the Board with
21 regard to the regulations made pursuant to section (10) of this Act unless it is
22 commenced within three months next after the act or negligence complained
23 of, or in the case of a continuing damage or injury, within three months next
24 after the ceasing thereof.

25 (2) No suit shall be commenced against the Board before the
26 expiration of a period of one month of intention to commence the suit shall
27 have been addressed and served on the Secretary to the Board by the
28 intending plaintiff or his authorised agent and the notice shall clearly and
29 explicitly state-

30 (a) the cause of action;

- 1 (b) the particulars of the claim;
2 (c) the name and place of abode of the intending plaintiff; and
3 (d) the relief which he claims.

4 PART IV - MANAGEMENT AND STAFF OF THE CUSTOMS SERVICE,

5 FUNCTION AND POWERS

The Comptroller
General and Deputy
Comptrollers
General

6 13.-(1) There shall be appointed from the Customs Service, a
7 Comptroller-General who shall-

8 (a) be responsible for the overall management of the Customs
9 Service;

10 (b) execute the policies and decisions of the Board;

11 (c) undertake the day to day administration and carry out the policy
12 directions for the Customs Service;

13 (d) be accountable for all revenue collections and all expenditures
14 made under this Act;

15 (e) supervise the records and oversee the proper keeping of accounts
16 of the Customs Service;

17 (f) be responsible for the execution and sealing of documents
18 including contractual and arrangements, memoranda and similar undertakings
19 entered into by the Customs Service provided that the Comptroller-General
20 may delegate this function to any Customs Officer; and

21 (g) perform such other functions as may be assigned to him by the
22 Board.

23 (2) There shall be appointed from the Customs Service, Deputy
24 Comptrollers-General, Assistant Comptrollers-General who shall assist the
25 Comptroller-General in the execution of his duties and responsibilities.

26 (3) The numbers of and duties of the deputy Comptrollers-General
27 and Assistant Comptroller-General to be appointed pursuant to the provisions
28 of subsection (2) of this section shall be as may be determined by the
29 Board.

1 14.-(1) The Board shall have powers to appoint such number of
2 staff and other persons as deemed necessary for the efficient discharge of the
3 functions of the Customs Service under this Act and under other related
4 customs and excise laws.

Other staff of
the Customs
Service

5 (2) The Customs Service shall pay its staff and other persons
6 employed by it such remuneration and allowances as the Board may from
7 time to time determine in consultation with the appropriate authority of the
8 Federal Government.

9 15.-(1) There shall be appointed by the Board from within the
10 Customs Service, a Secretary (in this Act referred to as the "Administrative
11 Secretary") who shall-

Board
Secretariat

12 (a) be a customs officer of not less than salary Grade Level 15;

13 (b) be responsible for the day to day administration of the work of
14 the Board; and

15 (c) perform such other functions as the Board may from time to
16 time assign.

17 (2) The Board shall also appoint such other staff as may be
18 necessary for the efficient performance of its functions and to assist the
19 Administrative Secretary in the performance of his duties.

20 (3) The Customs Service shall make annual budgetary provisions
21 to meet the running costs and expenditures of the Board.

22 16.-(1) Employment in the Customs Service shall be pensionable
23 and accordingly, staff of the Customs Service shall, in respect of their
24 employment, be entitled to pensions, and other retirement benefits as may be
25 approved by the Board.

Pension and
Gratuity

26 (2) The provisions of subsection (1) of this section
27 notwithstanding, nothing contained in this Act shall prevent the
28 appointment of a person to any office in the Customs Service on terms which
29 preclude the grant of a pension in respect of that office.

30 (3) For the purposes of the application of the Pensions Reforms

1 Act, any power exercisable by the Minister under the Pension Reform Act or
2 any authority of the Government may be exercised by the Board.

3 PART V - FINANCING OF CUSTOMS SERVICE OPERATIONS

Funds of the
Customs Service

4 17.-(1) The Customs Service shall keep and maintain bank accounts
5 as may be approved by appropriate authority of the Federal Government into
6 which shall be paid-

7 (a) 1% percent of the free-on-board value of imports;

8 (b) 7% cost of collection of import duty, excise and fees, special levies
9 (FAAC and non- FAAC Account);

10 (c) revenues derived from assessment and collection of cost-based
11 user fees;

12 (d) annual or supplementary budgetary provisions made by the
13 Federal Government to the Customs Service;

14 (e) grants, aids, or donations from local or international development
15 partners; and

16 (2) The specified percentage referred to in paragraph (1)(a) and (b) of
17 this section would be determined from time to time by the National Assembly.

18 (3) The user fee referred to in paragraph (1) (c) of this section shall be
19 determined from time to time by the Board and approved by the Federal
20 Government.

Expenditures
of the Customs
Service

21 18. The proceeds of the funds referred to in section 18 of this Act shall
22 be applied-

23 (a) to meet the cost of administration of the Customs Service;

24 (b) towards reimbursing members of the Board or any committee set
25 up by the Board or the Customs Service for expenses authorized or approved by
26 the Board or Customs Service in accordance with such rates as may be
27 approved in that behalf by the Board.

28 (c) the payment of salaries, fees or other remuneration or allowances,
29 pensions and all other retirement benefits payable to the employees of the
30 Customs Service;

1 (d) the maintenance of any property acquired by or vested in the
2 Customs Service; and

3 (e) all or any of the functions of the Customs Service under this Act
4 and other related customs and excise legislations.

5 19.-(1) The Customs Service shall cause to be prepared, not later
6 than September in each year, an estimate of the expenditure and income of
7 the Customs Service during the next succeeding.

Annual estimates
accounts and audit

8 (2) The Customs Service shall cause to be kept proper accounts and
9 proper records in relation thereto and when certified by the Board, the
10 accounts shall be audited by auditors appointed by the Customs Service
11 from the list and in accordance with the guidelines supplied by the Auditor-
12 General for the Federation.

13 20. The Customs Service shall not later than three months before
14 the end of each year, submit to the Board a report on the activities and the
15 administration of the Customs Service during the immediately preceding
16 year and shall include in such reports, audited accounts of the Customs
17 Service and the auditor's report on those accounts.

Annual reports

18 PART VI - PROVISION OF INFORMATION FOR CUSTOMS FORMALITIES

19 AND CONTROLS

20 21.-(1) Any person directly or indirectly involved in the carrying
21 out of customs formalities or in the application of customs controls shall, at
22 the request of the Customs Service and within any specified time limit,
23 provide the Customs Service with all required documents and information,
24 in the prescribed form, and provide all the assistance necessary for the
25 completion of the customs formalities and controls.

Provision of
information to the
Customs Service

26 (2) The lodging of a goods declaration, or notification or any other
27 decision, shall render the person concerned responsible for-

28 (a) the accuracy and completeness of the information given in the
29 declaration, notification or application;

1 (b) the authenticity of any documents lodged or made available; and
2 (c) where applicable, compliance with all of the obligations relating
3 to the placing of the goods in question under the customs procedure concerned,
4 or to the conduct of the authorized operations.

5 (3) Subsection 2(a) of this section shall also apply to the provision of
6 any information in any other form required by or given to the Customs Service.

7 (4) Where the declaration or notification is lodged, the application is
8 submitted or information is provided by a customs representative of the person
9 concerned, the customs representative shall also be subject to the obligations in
10 this section.

Provision of
information by the
Customs Service

11 22.--(1) The Customs Service shall ensure that all relevant information
12 of general application pertaining to customs matters is readily available to any
13 interested person on the Customs Service' website and at any other designated
14 place or form.

15 (2) In carrying out the obligation under this section, the Customs
16 Service shall ensure that it does not disclose information of a private or
17 confidential nature affecting the Customs Service or third parties unless
18 disclosure is required by law.

19 (3) Where the Customs Service cannot provide information, under
20 this section free of charge, any charge shall be limited to the approximate cost
21 of the services provided.

22 (4) The Customs Service shall promptly publish on the Customs
23 Service website and at any other designated place or form, the following
24 information-

25 (a) importation, exportation or transit procedures, including port,
26 airport, and other entry-point procedures and the required forms and
27 documents;

28 (b) applied rates of duties, taxes or charges of any kind in connection
29 with importations and exportations;

- 1 (c) rules for the classification or valuation or determination of
2 origin of goods;
- 3 (d) laws and regulations relating to rules of origin;
- 4 (e) import, export or transit restrictions or prohibitions;
- 5 (f) all fees and charges imposed by the Customs Service and other
6 agencies in connection with importation, exportation or transit procedures;
- 7 (g) penalty provisions applicable to breaches of import, export or
8 transit procedures;
- 9 (h) appeals procedures; and
- 10 (i) applicable international agreements relating to the importation,
11 exportation or transit of goods;
- 12 (j) allowances and duty free concessions;
- 13 (k) clearing agent and brokers notice; and
- 14 (l) the current law establishing the Nigerian customs.

15 23.-(1) A person may make an application, in respect of particular
16 goods specified in the application, to the Customs Service for an advance
17 ruling, based upon the facts presented, regarding the following matters:

- 18 (a) the tariff classification of the goods;
- 19 (b) whether the goods are in accordance with applicable
20 regulations on the produce or manufacture of a particular country,
21 ECOWAS or another free trade area or customs union;
- 22 (c) whether the goods are subject to a duty exemption;
- 23 (d) the correct application of customs valuation methodology; or
- 24 (e) duty drawback, quotas, fees or other customs matters.

25 (2) Advance rulings-

- 26 (a) must be made pursuant to a format prescribed by the Customs
27 Service; and
- 28 (b) shall be issued as soon as possible but in no event later than one
29 hundred and fifty days of receipt of a completed application and shall be
30 binding only on the Customs Service and the requesting party.

Request for
Information,
Advance rulings
etc

1 (3) The Customs Service may at any time request for additional
2 information from an applicant if it considers that the additional information is
3 relevant to the application for an advance ruling.

4 (4) Advance rulings-

5 (a) are binding as between the Customs Service and the recipient of
6 the ruling;

7 (b) shall be in effect within the fiscal year of issue.

8 (c) may be revoked by the Customs Service upon reasonable advance
9 notice in writing to the person concerned.

10 (5) Rulings of general application may from time to time be issued by
11 the Customs Service to inform the public of the Customs Service decisions.

12 (6) A person may apply for the issuance of rulings of general
13 application and the applications must be made pursuant to the format
14 prescribed by the Customs Service.

15 (7) Rulings of general application shall be subject to the following
16 conditions-

17 (i) published on the Customs Service website;

18 (ii) make reference to the right of appeal provided for in this Act and in
19 applicable regulations;

20 (iii) applied prospectively only and become effective thirty days after
21 publication except in circumstances where the Customs Service deems that an
22 immediate effective date is essential to protect the revenue or safeguard the
23 economic or security interests of Nigeria.

24 (8) After reasonable notice through publication, the Customs Service
25 may, where deemed appropriate amend or revoke a ruling of general
26 application.

27 (9) The Customs Service may charge any person requesting for an
28 advance ruling or a ruling of general application a cost-based user fee for
29 processing the ruling request.

1 24.-(1) All exchange of data, accompanying documents, decisions
2 and notifications between the Customs Service and any person required by
3 or under this Act or any other law, shall be made using electronic data
4 processing techniques and for this purpose the Customs Service will provide
5 such electronic data platform at its offices or at such other places or locations
6 considered appropriate.

Exchange and
storage of data

7 (2) The provisions of subsection (1) of this section
8 notwithstanding, paper or other medium may be used in lieu of electronic
9 exchanges of data-

10 (a) in the transition period during which a comprehensive
11 computerized system is being installed by the Customs Service;

12 (b) where a temporary failure occurs in the Customs Service or a
13 person's computerized system;

14 (c) where an international agreement provides for the use of paper
15 documents;

16 (d) a traveler has no direct access to computerized systems and
17 with no means of providing electronic information;

18 (e) in case where there is a practical requirement for declarations to
19 be made orally or by other non-electronic means; or

20 (f) in the case of small trader(s), who are not accustomed to or use
21 computerized systems.

22 (3) The Customs Service shall deploy a common data set and
23 format of messages to be exchanged and such data shall contain the
24 particulars necessary for risk analysis and the proper application of customs
25 controls.

26 25.-(1) All information acquired by the Customs Service in the
27 course of performing its duties which is confidential or provided on a
28 confidential basis shall be protected by the secrecy obligation binding on
29 officers and employees of the Customs Service as public servants.

Data protection

30 (2) Except as may otherwise be provided by law, the information

1 referred to in subsection (1) of this section shall not be disclosed by the
2 Customs Service without prior or written notice of the person that provided it.

3 (3) Communication of confidential data to the Customs authorities or
4 other governments or countries or territories outside the Customs territory of
5 Nigeria shall be permitted only pursuant to an international agreement, such as
6 a mutual assistance agreement, ensuring an adequate level of data protection.

7 (4) A person who contravenes the provisions of this section shall be
8 liable to disciplinary measures in accordance with the Service rules.

Exchange of
additional
Information

9 26.-(1) The Customs Service may exchange information with any
10 person not specifically required under this Act, or under any other customs
11 legislation, in particular for the purpose of mutual cooperation in the
12 identification and management of risk, provided that such exchanges shall take
13 place pursuant to a written agreement between the Customs Service and any
14 person involved and may include access to the computer systems of traders and
15 other persons by the Customs Service.

16 (2) Any information provided by one party to the other in the course of
17 the exchange of information referred to in this section shall be confidential
18 unless both parties agree otherwise in writing.

Electronic
systems and use
of information
technology

19 27.-(1) The Customs Service, in collaboration with other agencies
20 and traders, shall develop, maintain and employ electronic systems for the
21 exchange of information between the Customs Service, agencies of the
22 Government, and traders, for the exchange of information and for the common
23 registration and maintenance of records relating in particular, but not limited
24 to, the following-

25 (a) all persons directly or indirectly involved in the accomplishment
26 of the Customs Service formalities;

27 (b) applications and authorizations concerning the Customs Service
28 procedures or the status of specific importers, exporters, the Customs Service
29 representatives and others involved directly or indirectly with trade
30 transactions;

1 (c) revenue collection and accounting; and

2 (d) risk management.

3 (2) The Customs Service shall specify the standard form and
4 content of electronic data, consistent with international standards and best
5 practices and the rules regarding maintenance of the data.

6 (3) The Customs Service shall also specify the rules for access to
7 electronic systems and data by Customs Service offices, Government
8 agencies and traders through regulations as may be issued by the Customs
9 Service.

10 (4) The provision of section (1), (2), and (3) notwithstanding paper
11 or other medium may be used in lieu of full adoption of electronic system.

12 **28.-(1)** The Customs Service shall institute and maintain formal
13 consultations with traders and with other interested persons to increase co-
14 operation and compliance, and facilitate participation in establishing the
15 most effective administrative policies, procedures and methods of working
16 commensurate with this Act, other laws of Nigeria, and applicable
17 international agreements.

Transparency
and stakeholder
consultations

18 (2) The Customs Service and interested persons may exchange
19 any information not specifically required under the provisions of this Act
20 and other laws for the purpose of mutual co-operation in the identification of
21 risk and for risk management provided that such exchange may take place
22 under a written agreement as provided for under section 27 of this Act.

23 (3) Any information provided by one party to the other in the
24 course of the consultations and cooperation referred to in this section shall
25 be confidential unless both parties agree otherwise.

26 PART VII - CUSTOMS CONTROLS

27 **29.-(1)** The Customs Service shall carry out all necessary controls
28 to ensure the correct application of the provisions of this Act, related
29 customs and excise laws, other laws, rules, regulations or agreements under
its administration and jurisdiction.

Customs controls

- 1 (2) The controls by the Customs Service include-
- 2 (a) examining goods;
- 3 (b) taking samples;
- 4 (c) verifying goods declaration data and the existence and
- 5 authenticity of documents;
- 6 (d) examining the accounts of traders, their records and data;
- 7 (e) inspecting means of transport;
- 8 (f) inspecting luggage and other goods carried by or on persons;
- 9 (g) interviewing persons who may have relevant information;
- 10 (h) obtaining data from foreign customs administrations and
- 11 governments;
- 12 (i) obtaining data from associations of traders; and
- 13 (j) carrying out official enquiries and other such similar acts.

14 (3) In carrying out of the examinations of goods or any means of

15 transport, a customs officer may use such reasonable and appropriate force to

16 gain access to any locked or unlocked cargo, storage compartment or any area

17 where reasonable suspicion and probable grounds exist to warrant the search of

18 the compartment or area and to examine the goods or means of transport.

Customs control
zones

19 30.-(1) The Board may designate areas within and outside the

20 customs territory as customs control zones for the purposes of administering or

21 enforcing the provisions of this Act and related customs and excise

22 legislations.

23 (2) A "Customs control zone" means-

- 24 (a) a place suitable for, or already recognized as, a center of
- 25 international trade;
- 26 (b) an international port;
- 27 (c) an international land border crossing;
- 28 (d) an international airport; or
- 29 (e) an export processing or free zone, suitable to provide a high level
- 30 of service in terms of traffic flows and clearance demands.

1 (3) Operators of a customs control zone shall be responsible for
2 trade facilitation and shall provide adequate facilities for handling the
3 volumes of trade and traffic, including access roads to facilitate traffic
4 flows, quay space, cranes, airfield ramp access, temporary storage sheds,
5 customs offices, transport services, customs representative services,
6 adequate security, cargo inspection facilities, and other such infrastructural
7 facilities.

8 (4) Subject to customs regulations and to the provisions of this Act,
9 all imported or exported goods shall be loaded, unloaded, inspected,
10 assessed and cleared within the confines of a customs control zone, provided
11 that customs controls shall be limited to actions necessary to ensure
12 compliance with the provisions of this Act and other applicable laws, rules
13 and regulation.

14 (5) The Comptroller-General or his duly authorized representative
15 may establish a temporary customs control zone in circumstances where the
16 nature of the cargo to be inspected or cleared cannot be reasonably
17 facilitated at a standard customs control zone.

18 (6) In the event of disaster relief operations, the Comptroller-
19 General may declare any applicable location a temporary customs control
20 zone for purposes of disaster relief operations.

21 **31.-(1)** Customs controls, including random checks, shall
22 primarily be based upon risk management using electronic data processing
23 techniques and other conventional methods, with the objective of
24 identifying and evaluating risks and developing necessary counter-
25 measures on the basis of risk management criteria developed and updated
26 regularly from international, national and local data.

Application of
risk management
techniques

27 (2) In managing risk, the Customs Service shall apply customs
28 controls to risks determined to be unacceptable, based upon pre-established
29 risk criteria.

30 (3) A cost-benefit analysis may be used to determine unacceptable

1 risks and such risks shall be prioritized.

2 (4) A risk register shall be maintained by the Customs Service
3 providing the rationale underlying risk identification and the risk register
4 established shall be updated regularly to accommodate current developments.

5 (5) A risk profile containing the description of the risk areas,
6 assessments of the risks, the counter-measures to be taken, implementation
7 dates, and an evaluation of the actions, shall be prepared and regularly updated
8 for each Customs office.

9 (6) Compliance measurement of risk management shall be conducted
10 by the Customs Service through a regular compliance measurement program
11 and such compliance measurement shall involve the use of statistically valid
12 random sampling techniques to determine the degree to which traders conform
13 to customs rules and procedures.

14 (7) Compliance measurement referred to under subsection (6) of this
15 section may also entail the use of random checks, post-clearance audits,
16 external Government audits, and other methods.

17 (8) Joint control and targeting activities based upon risk management
18 may be carried out by the Customs Service in collaboration with foreign
19 customs administrations to increase the effectiveness in assuring the security
20 of shipments and in combating transnational crime.

21 (9) Specific information regarding risk management, such as risk
22 registers, risk profiles, and other risk assessment data pertaining to traders,
23 goods or transactions, are confidential and shall not be released to any person
24 not authorized to receive such information.

25 (10) A person who contravenes the provision of subsection (9) of this
26 section commits an offence and liable on conviction to a term of imprisonment
27 for two years or to a fine of N1, 500,000, or to both.

28 (11) The penalties referred to in subsection 10 of this section shall not
29 apply to customs officers carrying out their official responsibilities provided
30 that customs officers who release risk registers, risk profiles, and other risk

1 assessment data to any person not authorized to receive such information
2 shall be subject to disciplinary action as may be prescribed in regulations
3 issued pursuant to this Act.

4 (12) The Customs Service shall not delegate or contract out the
5 performance of risk management to consultants or private companies,
6 provided that the Customs Service may employ consultants to assist it in the
7 development, implementation and maintenance of risk management
8 programmes with due regard to the need to protect confidential
9 information.

10 32.-(1) The Customs Service shall ensure that its control measures
11 within a Customs control zone and other control measures by other agencies
12 on goods to be imported or exported, to ensure for efficiency and expedient
13 operations, are carried out at the same time.

Cooperation with
relevant authorities

14 (2) The Customs Service shall coordinate the location and timing
15 of inspections and other controls where other agencies are involved.

16 (3) The Customs Service shall establish an electronic data
17 exchange facility to coordinate the work of the customs service and interface
18 with other agencies systems to reduce processing time for traders.

19 (4) The Customs Service and other agencies may, when necessary
20 for the purpose of risk management, exchange data on the entry, exit, transit,
21 transfer, storage and end use of goods, including postal traffic, persons, and
22 means of transport.

23 33. The Customs Service shall cooperate with other customs
24 administration in other jurisdictions and where necessary-

Mutual
Administrative
assistance

25 (a) conclude mutual administrative assistance agreements to
26 enhance customs control; and

27 (b) exchange data received in connection with the entry, exit,
28 transit, transfer and use of imported or exported goods, persons, and means
29 of transport, for the purpose of verifying compliance with the provisions of
30 this Act with other customs and excise laws.

Additional control
for the release of
goods

1 34. The Customs Service may-
2 (a) examine documents and data relating to the goods in the course of
3 commercial operations involving the goods in order to ascertain the accuracy
4 of the particulars contained in the goods declaration and other documents,
5 information and data submitted to it;

6 (b) examine and take samples of goods where necessary, at the
7 premises of the holder of the goods or his representative or any other person
8 directly or indirectly involved in the transaction or in possession of the
9 documents, information and data relevant to the examination.

Post Clearance
audits

10 35.-(1) The Customs Service may conduct a post clearance audit after
11 clearance of goods.

12 (2) The risk profiles of the audits may determine the selection of
13 persons for the audit which may be conducted for compliance measurement
14 purposes in the areas of valuation, classification, origin, duty relief and
15 drawback programmes, and such other areas as may be considered appropriate.

16 (3) For compliance measurement, conformity to standards and other
17 purposes as may be developed from time to time, the Customs Service shall
18 conduct audit of traders systems prior to authorizing special simplified
19 treatment.

20 (4) At the sole discretion of the Customs Service, post clearance
21 audits may be held at the offices of the Customs Service or at the declarer's
22 premises or the premises of other persons directly or indirectly involved in the
23 relevant transactions.

24 (5) Post clearance audits shall be based on inspection by the Customs
25 Service of-

26 (a) relevant documentation of accounts and records; or

27 (b) data in electronic processing systems or the goods and the
28 transportation means identified at the time of the audit.

29 (6) Persons subject to post clearance audit include-

30 (i) importers and exporters;

- 1 (ii) customs agents;
- 2 (iii) warehouse operators;
- 3 (iv) zone operators;
- 4 (v) banks and other financial institutions;
- 5 (vi) transport firms;
- 6 (vii) freight forwarders;
- 7 (viii) express couriers; and
- 8 (ix) other persons directly or indirectly engaged in international
- 9 trade.
- 10 (x) excise traders.

11 **36.-(1)** A person to be audited shall be given-

- 12 (a) a written notice stating the date and time of the audit; and
- 13 (b) a questionnaire setting out the questions to be answered and
- 14 returned.

Procedure for
conducting post
clearance audit

15 (2) A person to be audited shall produce all relevant information,
16 including-

17 (a) all documents and records, paper or electronic, maintained in
18 the normal course of business containing information relevant to the
19 customs transactions under examination, such as-

- 20 (i) accounting data;
- 21 (ii) physical inventory and inventory records;
- 22 (iii) records of sales and other transactions;
- 23 (iv) recording books;
- 24 (v) account records;
- 25 (vi) bank transfers; and

26 (b) all documents related to import and export transactions
27 maintained in magnetic or data processing files that have a direct or indirect
28 relation to the audit.

29 (3) The Customs Service may, where appropriate, examine the
30 goods and mode of transportation.

1 (4) The person to be audited shall cooperate with the auditors, and
2 where he fails to do so, the auditor shall-

3 (a) stop the audit;

4 (b) retain all documents and data procured in the course of the audit;
5 and

6 (c) make a report of the refusal to cooperate by the person being
7 audited to the Comptroller-General or his representative.

8 (5) Refusal to cooperate by a person undergoing audit under this
9 section shall attract a penalty of N150,000.00 for each day of such refusal and
10 where the refusal continues for more than seven days, the person may be
11 suspended from all customs transactions.

12 (6) Where an audit discloses an attempt to evade the payment of
13 duties, taxes and fees or any criminal activity-

14 (a) the audit may be suspended; and

15 (b) the matter reported to the Comptroller-General or his
16 representative.

17 (7) The person audited may within seven days after the conclusion of
18 the audit forward a written explanation on any issue raised in the audit findings
19 to assist in the preparation of the final audit report.

Duties of a
person undergoing
audit

20 37. A person undergoing audit shall-

21 (a) assist the auditors, as may be required;

22 (b) allow access to all parts of his facilities, to the goods, to books and
23 documents, electronic records and to means of transport;

24 (c) present all documents and electronic records required by the
25 auditors, and comply with the auditors' requests within a reasonable time; and

26 (d) be represented by a person of his choice, who shall be able to
27 provide all the required information.

payment of
additional duties
and taxes on
completion of
audit

28 38.-(1) On completion of an audit, where person audited owes
29 additional duties or taxes, the Customs Service shall-

30 (a) give a notice of underpayment to the audited person; and

1 (b) request the audited person to pay the additional duties or taxes,
2 including any interest and penalties.

3 (2) Where the audited person made excess payment of duties and
4 taxes, the excess amounts shall be refunded to him.

5 (3) The interest referred to in this section shall be determined based
6 on the Monetary Policy Rate issued from time to time by the Central Bank of
7 Nigeria.

8 **39.** Where a trader's system audit discloses that-

Trader's system
audit

9 (a) the trader's system audit is reliable;

10 (b) records are generally in order; and

11 (c) no infractions have occurred, the person may in accordance
12 with the provisions of this Act qualify for the application of Special
13 Simplified Customs Procedures.

14 **40.**(1) Without prejudice to the powers conferred on NAFDAC
15 and SON a customs officer may cause to be opened any mail, package or
16 container or shipment of imported goods or goods to be exported-

Samples, testing
and laboratories

17 (a) to take, without payment, samples for examination, testing and
18 analysis, classification, valuation, determination of origin, and other
19 purposes;

20 (b) to determine the duties, taxes and fees payable; or

21 (c) for such other purposes as the Comptroller-General may direct.

22 (2) A declarant shall be entitled to be present or be represented by
23 his representative when samples are being taken.

24 (3) Any sample taken shall be accounted for and where
25 appropriate, returned to the owner, importer or exporter on the completion
26 of the measures required for customs control.

27 (4) For the purpose of determining the duty, taxes or fees
28 assessable or other requirements with regard to goods comprising a single
29 consignment, or in a vessel, tank or other container of goods, the
30 characteristics of all the goods shall be deemed to correspond to the

1 characteristics of any sample taken.

2 (5) The Customs Service shall maintain a laboratory to conduct
3 scientific testing and analysis of samples and in the event that such laboratory
4 does not have the resources or personnel to conduct testing and analysis for
5 particular purposes, the Customs Service may utilize the services of a
6 Government or commercial laboratory.

Use of
consultants

7 41. Subject to approval by the Board the Customs Service may, from
8 time to time, employ consultants to provide services and advice on the adoption
9 of new customs control measures; and for other purposes, provided that a
10 consultant shall not be authorized to carry out customs control measures.

Provision of
mandatory pre-
shipment and
post-shipment
inspections

11 42.-(1) The President may on the recommendation of the Minister
12 approve the use of mandatory pre-shipment inspection services for customs
13 purpose.

14 (2) Upon such approval the Board shall through competitive bidding
15 engage the services of such service providers to carry out such services.

Keeping of
documents and
other information

16 43.-(1) A declarant or a person who is directly or indirectly involved
17 with the importation or exportation of goods, or acts as a customs
18 representative, or is directly or indirectly involved with the storage or transport
19 of imported or exported goods, free zones, or any customs controls, shall keep
20 all documents, information and data related to customs matters for seven
21 calendar years from the date the transaction occurred or the documents,
22 information and data were created.

23 (2) When an appeal from a customs determination or ruling has been
24 lodged, all parties to the appeal shall keep all documents, information and data
25 related to the appeal for three years after the appeal procedure is finally
26 resolved.

Special services,
fees and costs

27 44.-(1) The Comptroller-General may issue regulations prescribing-

28 (a) the services which are performed by a customs officer at the
29 request of a declarant or any other person that shall be considered to be special
30 services subject to a fee;

1 (b) the fees, if any, that are payable for special services by the
2 person requesting for the services; and

3 (c) the terms and conditions on which special services shall be
4 performed, including any requirement for the provision of a security or
5 guarantee.

6 (2) All fees assessed shall be limited to the approximate cost of the
7 services rendered.

8 (3) Fees shall not be assessed on a strictly ad valorem basis unless
9 they are less than the approximate cost of the services rendered.

10 (4) The Customs Service shall make public, on an annual basis, the
11 cost calculations on which fees are based.

12 45.-(1) The Customs Service shall cooperate with the customs
13 administrations of countries that share borders with Nigeria in order to
14 enhance revenue collection, law enforcement and improve trade facilitation.

Joint border
operations with
bordering
countries

15 (2) Memoranda of understanding may be negotiated and
16 concluded with cooperating customs administrations of border countries
17 setting out the respective responsibilities of the signatories to such
18 memoranda.

19 (3) Where appropriate, the cooperation referred to in this section
20 may include-

21 (a) alignment of customs control measures including working days
22 and hours of border offices;

23 (b) developing and sharing of common facilities for conducting
24 joint customs controls;

25 (c) establishment of one stop border posts;

26 (d) establishing juxtaposed customs offices at the border;

27 (e) provision of expedited processes for goods in transit;

28 (f) development of procedures for the exchange of information for
29 conducting joint controls; and

30 (g) designing and operating of systems providing for special,

Reporting
obligations on
importation and
exportation of
goods

1 simplified treatment for authorized traders.

2 46.-(1) Report shall be made in such form and manner and containing
3 such particulars as the Board may direct of every ship and aircraft or vehicle to
4 which this section applies and of all goods carried therein, of every vehicle
5 entering Nigeria by land and of all goods carried therein, and of all goods
6 otherwise brought into Nigeria by land.

7 (2) This section shall apply to every means of conveyance arriving at
8 any place in Nigeria by sea, air, land or inland waters-

9 (a) from any place outside Nigeria; or

10 (b) carrying any goods brought in that means of conveyance from
11 some place outside Nigeria and not yet cleared on importation.

12 (3) This section shall apply to every aircraft arriving at any place in
13 Nigeria-

14 (a) from any place outside Nigeria; or

15 (b) carrying passengers or goods taken on board that aircraft at a place
16 outside Nigeria, being passengers or goods either-

17 (i) bound for a destination in Nigeria and not already cleared at a
18 customs airport, or

19 (ii) bound for a destination outside Nigeria.

20 (4) The Board may make regulations prescribing the procedure for
21 making report under this section and the time within which such report shall be
22 made, and different regulations may be made with respect to importation by
23 sea, air or land and inland waters respectively.

24 (5) If the person by whom the report should be made fails to make
25 report as required by or under this section, he shall be liable to a fine of 100,000
26 naira; and any goods required to be reported which are not duly reported may
27 be detained by the proper officer until so reported or until the omission is
28 explained to the satisfaction of the Customs Service, and may in the meantime
29 be deposited in a Government warehouse.

30 (6) The person making the report shall at the time of making the

1 report, answer all such questions and produce all such documents in his
2 possession or control relating to the ship, aircraft or vehicle, the goods
3 carried therein, the crew and passengers and the voyage, flight or journey as
4 may be put to him or required by the proper officer; and if such person
5 refuses to answer any such question or to produce any such document he
6 shall be liable to a fine of 100,000 Naira.

7 (7) If at any time after a ship, aircraft or vehicle carrying goods
8 brought therein from any place outside Nigeria enters Nigeria and before
9 report has been made under this section-

10 (a) bulk is broken; or

11 (b) any alteration is made in the stowage of any goods carried so as
12 to facilitate the unloading of any part thereof; or

13 (c) any part of the goods is staved, destroyed or thrown overboard
14 or any container is opened, without the knowledge and consent of the proper
15 officer, the master of the ship or the commander of the aircraft or the person
16 in charge of the vehicle shall, unless the matter be explained to the
17 satisfaction of the Customs Service, be liable to a fine of 100,000 Naira.

18 (8) The person administering the area within which the discharge
19 of the ship, aircraft or vehicle took place or, where there is no such person,
20 the owner of the ship, aircraft or vehicle shall deliver to the proper officer
21 within two days of the date of completing discharge, a tally slip, giving full
22 and accurate account of all the goods carried or unloaded from the ship,
23 aircraft or vehicle.

24 (9) The Board may, at its discretion by notice in writing, require
25 additional information in respect of such goods in the ship, aircraft or
26 vehicle as it may deem necessary.

27 (10) If any person fails to comply with the provisions of subsection
28 (8) of this section or fails to give the additional information required by the
29 Board he shall be liable to a fine of 1,000,000 Naira.

Goods
declarations

1 47.-(1) A declaration of all goods that are imported into or exported
2 from the customs territory and the reason for the importation or exportation
3 shall be lodged by the importer, exporter, its customs representative, or other
4 declarant with the customs office designated for that purpose, provided that
5 where the lodging of a goods declaration imposes particular obligations on a
6 specific person, the declaration must be made by that person or his customs
7 representative.

8 (2) A declaration of goods shall be lodged whether or not the goods are
9 liable for duties, excise taxes or other taxes, fees or charges and in the event that
10 all the required information or documents are not available to the declarant at
11 the time the declaration is lodged, the declarant shall within two weeks amend
12 the declaration to provide for the required information or documents.

13 (3) A declaration of goods shall be lodged in the English language and
14 shall be transmitted electronically to the designated customs office in the form
15 and manner prescribed by this Act and in customs regulations; and the Customs
16 Service may accept paper based declarations, provided that the same level of
17 risk management associated with electronically submitted declarations can be
18 applied.

19 (4) Persons introducing goods into the customs territory shall convey
20 the goods directly to the nearest customs office designated to receive the goods
21 without altering their nature or their packaging.

22 (5) Goods shall be declared-

23 (a) prior to the time the goods are introduced into or exported from the
24 customs territory in order to advise customs officers of their impending arrival
25 or departure;

26 (b) at the time the goods are introduced into or exported from the
27 customs territory;

28 (c) with the written approval of the Customs Service, not later than
29 twenty four hours from the time the goods were introduced into or exported
30 from the customs territory;

1 (d) at the time of arrival in the case of goods in the actual possession
2 of a person arriving in the customs territory, or that constitute part of his
3 baggage where the person is arriving by means of transport; or

4 (e) in any other case, with the written approval of the Customs
5 Service, by the importer or by the person on behalf of whom the goods are
6 imported or exported, or his customs representative.

7 (6) When a declaration is lodged by a person other than the
8 operator of the means of transport by which the goods are introduced into or
9 exported from the customs territory, that operator shall lodge with the
10 appropriate customs office a notification of arrival or departure in the form
11 of a manifest, dispatch note or load sheet containing all the information
12 required in order to enable the Customs Service to identify the goods
13 covered by a declaration.

14 (7) Notwithstanding the provision of sub section (6) the operator of
15 a means of transport may submit the manifest in advance by electronic
16 transmission.

17 48.-(1) The content of a goods declaration shall be as prescribed by
18 the Customs Service.

The contents of
a goods
declaration, etc.

19 (2) The Customs Service shall limit the data required in the goods
20 declaration to the extent practicable.

21 (3) The Customs Service shall request for data relevant to the
22 goods declaration only provided that the goods declarations shall contain all
23 the information necessary for application of the customs procedure for
24 which the goods are declared.

25 (4) The Customs Service may also by regulations, provide for
26 simplified goods declarations for low value shipments and travelers.

27 (5) A written declaration form shall conform in all material respect
28 with the United Nations Layout and signed by a declarant or his duly
29 authorized representative.

30 (6) Where goods declarations are made by electronic means-

1 (a) provisions may be made for electronic signatures or by other
2 means of authentication; and

3 (b) such goods declaration must be based on international standards
4 for the exchange of electronic information.

5 (7) Supporting documents required for the application of the customs
6 procedure for the goods declared shall be made available to the Customs
7 Service at the time of lodgment of the declaration provided that for good cause
8 shown, the Customs Service may accept supporting documents at a later date.

9 (8) Where a goods declaration are made by electronic means the
10 Customs Service may allow supporting documents to be transmitted in the
11 same manner including other relevant data in the trader's computer
12 system.

Amendment of
goods declaration

13 49.-(1) Where the goods declaration lodged with the Customs Service
14 is found to be incomplete or inaccurate in any respect, the declarant shall within
15 two weeks of the lodgment of declaration effect necessary corrections or
16 provide any additional information to the Customs Service.

17 (2) Penalties shall not be imposed on a declarant for the lodging of an
18 incomplete or inaccurate goods declaration where-

19 (a) the missing information was not available to the declarant at the
20 time the goods declaration was made; or

21 (b) inaccuracies in the declaration were inadvertent, or immaterial
22 except for statistical purposes;

23 (c) the incomplete or inaccurate information do not constitute an
24 established pattern of conduct, and were not intended; and

25 (d) the inaccuracies were not intended to avoid the payment of duties,
26 excise taxes, other taxes, or fees or assessments.

27 (3) The incomplete and inaccurate information referred to in
28 subsection (2) of this section includes-

29 (i) errors in transcription,

- 1 (ii) arithmetical errors in the goods declaration or supporting
2 documents,
3 (iii) omissions of elements of the dutiable value, such as foreign
4 inland freight,
5 (iv) errors in the conversion of foreign currency,
6 (v) incorrect deductions,
7 (vi) an incorrect declaration of a tariff provided that the nature and
8 other physical characteristics of the goods have been accurately described,
9 (vii) a discrepancy between the quantity of the goods shown in the
10 shipping documents and the actual quantity, where the error is
11 typographical.
- 12 (4) Amendments to the goods declaration shall not be permitted
13 after the Customs Service has -
14 (a) informed the declarant that it intends to examine the goods;
15 (b) established that the goods declaration, or any particular
16 contained in the declaration is incorrect, except for inadvertent or
17 immaterial inaccuracies specified in this section; or
18 (c) released the goods.
- 19 **50.-(1)** The Customs Service shall, at the request of a declarant,
20 invalidate a declaration already accepted where it is satisfied that -
21 (a) the goods are immediately to be placed under another customs
22 procedure; and
23 (b) as a result of special circumstances, the placing of the goods
24 under the customs procedure for which they were declared is no longer
25 justified.
- 26 (2) Where the Customs Service has informed the declarant of its
27 intention to examine the goods, a request for invalidation of the declaration
28 shall not be accepted before the examination takes place.
- 29 (3) The declaration shall not be invalidated after the goods have
30 been released.

Invalidation of
goods declaration

Additional
requirements
regarding declarants,
etc

1 51.-(1) Declarants shall be persons who are physically present in the
2 customs territory.

3 (2) In this Act, whenever more than one person is responsible for the
4 performance of any obligation, the performance of the obligation by any one of
5 such person shall be deemed to be performance by all of them; and whenever
6 liability for the payment of duties, excise taxes, other taxes, fees or
7 assessments, or penalties, is applicable to two or more persons, each of such
8 persons shall be jointly and severally liable for the amounts due and
9 payable.

Verification of
goods declaration
and examination
of goods

10 52.-(1) The Customs Service may, for the purpose of verifying the
11 accuracy of a goods declaration-

12 (a) examine the declaration and all of the supporting documents;

13 (b) require the declarant to present additional information or
14 documents;

15 (c) examine some or all of the goods; and

16 (d) take samples of the goods for analysis or for detailed examination.

17 (2) All costs incurred in the transportation and handling of goods for
18 the purpose of examination, sample taking shall be borne by the declarant.

19 (3) Except where an examination or taking of sample is in connection
20 with an offence or a random check, a declarant shall be present or represented
21 during the examination or the taking of samples to provide the Customs
22 Service with any assistance required to facilitate the examination or taking of
23 samples.

24 (4) The Customs Service shall not be liable for the payment of any
25 compensation in respect of any verification of goods declaration and
26 examination of goods carried out pursuant to the provisions of this section but
27 shall bear the costs of its analysis and examination.

Acceptance of
goods declaration

28 53.-(1) Goods declaration which comply with the conditions
29 prescribed in the Act and regulations made pursuant to this Act shall be
30 accepted by the Customs Service provided that the goods to which the

1 declaration relate have been presented to the Customs Service and are
2 available for customs controls.

3 (2) Where the Customs Service approves that the goods
4 declaration may take the form of an entry in the declarant's records and the
5 Customs Service has access to those records, the declaration shall be
6 deemed to have been accepted the moment the goods are entered into the
7 records.

8 (3) Where a goods declaration is lodged at a customs office other
9 than the office at which the goods are presented, the goods declaration shall
10 be accepted when the office at which the goods are presented confirms the
11 availability of the goods for the application of customs controls.

12 (4) The date of acceptance of the goods declaration by the Customs
13 Service shall be the date of the application of the customs procedure.

14 54. Goods shall not be released from customs control unless the- Release of goods

15 (a) goods declaration has been presented to and accepted by the
16 Customs Service;

17 (b) conditions pertaining to any restriction, where the goods are
18 subject to a restriction, have been satisfied;

19 (c) declarant or other responsible person has made arrangements to
20 provide security as required by this Act and regulations made under this Act;
21 and

22 (d) declarant or other responsible person has paid all duties, excise
23 taxes, other taxes, charges and assessments and penalties determined to be
24 due on the goods, except where the Customs Service has authorized deferred
25 payment under any applicable provisions of this Act.

26 55.-(1) Imports and exports shall where applicable, be subject to Prohibitions and
restriction on
imports and
exports
27 prohibitions and restrictions relating to-

28 (a) public security, public morals and public policy;

29 (b) prevention or relieve of critical shortages of foodstuffs;

- 1 (c) the protection of the health and life of humans, animals or plants;
2 (d) the protection of the environment;
3 (e) the protection of national treasures possessing artistic, historic or
4 archaeological value;
5 (f) the protection of industrial or commercial property, including
6 controls on drug precursors, and goods infringing intellectual property rights;
7 (g) currency;
8 (h) fishery conservation; and
9 (i) prohibition authorized by World Trade Organisation agreements.

10 (2) Goods prohibited under any law or regulation found within the
11 customs territory shall prima facie be deemed to have been imported illegally
12 and the Customs Service shall take appropriate enforcement measures in
13 respect of the goods.

14 (3) The President may by order-

15 (a) prohibit the importation of any specified good;

16 (b) Prohibit the importation of all goods or any specified goods
17 except as provided in the order;

18 (c) Subject to any specified exceptions, prohibit the importation of
19 all goods except with the general or special permission in writing of a specified
20 authority or authorities.

21 (4) The President may by order-

22 (a) prohibit the exportation of any specified good;

23 (b) Prohibit the exportation of all goods or any specified goods
24 except as provided in the order;

25 (c) Subject to any specified exceptions, prohibit the exportation of
26 all goods except with the general or special permission in writing of a specified
27 authority or authorities.

28 56.-(1) Goods brought into the customs territory shall, without delay,
29 be conveyed by the person who-

30 (a) brought in the goods; or

1 (b) assumes responsibility for the carriage of the goods after the
2 goods have been brought into the customs territory, by the specific route and
3 in accordance with any instruction issued by the Customs Service to a
4 customs control zone, customs office, a free zone or to any other place as
5 may be designated by the Customs Service.

6 (2) Goods destined for a free zone shall be conveyed directly to the
7 free zone.

8 (3) Any person who assumes responsibility for the carriage of
9 goods after they have been brought into the customs territory shall be
10 responsible for compliance with the provisions of subsection (1) of this
11 section.

12 (4) Notwithstanding the provision of subsection (1) of this section,
13 special provisions may be made applicable to letters, postcards and printed
14 matters generally or their electronic forms or to goods carried by travelers,
15 goods transported in pipelines and wires, or other goods of negligible
16 economic importance, provided that the special provisions do not adversely
17 affect customs controls.

18 (5) Where, by reason of unforeseen circumstances or force
19 majeure, the provisions of subsection (1) of this section cannot be complied
20 with, the person responsible shall promptly inform the Customs Service of
21 the situation, including the precise location of any goods and means of
22 transport involved and the Customs Service shall determine the customs
23 control measures to be applied to assure that the goods and means of
24 transport are conveyed to a place designated by the Customs Service.

25 57.-(1) Goods brought into the customs territory shall be presented
26 to the Customs Service immediately upon the arrival of the goods at the
27 place designated by the Customs Service pursuant to the provision of section
28 48 of this Act by the person-

Presentation of
goods to the
Customs Service

29 (a) who brought the goods into the customs territory;

30 (b) in whose name or on whose behalf the person who brought the

1 goods into the customs territory acts; or

2 (c) who assumed responsibility for carriage of the goods after they
3 were brought into the customs territory.

4 (2) Notwithstanding the obligations of the persons mentioned in
5 subsection (1) of this section, presentation of the goods may be effected by-

6 (a) any person who immediately places the goods under a customs
7 procedure; or

8 (b) the holder of an authorization for the operation of storage facilities
9 or any person who carries out an activity in a zone.

10 (3) The person presenting the goods shall make reference to the
11 customs declaration which has been lodged in respect of the goods.

12 (4) The provisions of this section shall not preclude the application of
13 any special provisions with respect to letters, postcards and printed matters
14 generally or their electronic forms or to goods carried by travelers, goods
15 transported in pipelines and wires as well as any other goods of negligible
16 economic importance, provided that these do not adversely affect customs
17 controls.

Unloading of
goods

18 58.-(1) The permission of the Customs Service must be obtained prior
19 to the unloading or transshipment of goods from any means of transportation of
20 the goods to the designated places.

21 (2) The permission referred to in subsection (1) of this section shall
22 not be required in the event of an imminent danger requiring the immediate
23 unloading of all or part of the goods provided that the Customs Service is
24 informed immediately thereafter.

Examination of
goods at
examination bay

25 59.-(1) Subject to the provisions of this Act, the Customs Service may
26 at any time require goods to be unloaded and unpacked at designated
27 examination bays for the purpose of examining the goods taking of samples, or
28 examining the means of transport carrying the goods.

29 (2) Goods presented to the Customs Service shall not be removed
30 from the place where they have been presented for examination without the

1 permission of the Customs Service.

2 60.-(1) On the fifteenth day after the completion of discharge of the
3 importing ship, aircraft or vehicle or at such times as the Board may direct,
4 the proper officer shall, in respect of every ship, aircraft or vehicle, deliver to
5 the person administering the area within which the discharge took place or,
6 where there is no such person, to the owner of the ship, aircraft or vehicle, or
7 his agent, a list of goods unloaded from such ship, aircraft or vehicle and not
8 yet released by the proper officer.

Goods uncleared
and missing goods

9 (2) On the receipt of the list specified in subsection (1) of this
10 section, the person administering the area, or where there is no such person,
11 the owner of the ship, aircraft or vehicle, or his agent, shall immediately
12 transfer all such goods to the Government warehouse or to such other place
13 as the proper officer may approve.

14 (3) If any person fails to comply with the provisions of subsection
15 (2) of this section he shall be liable to a fine of N1,000,000 Naira.

16 (4) Where any imported goods remain uncleared at the expiration
17 of fourteen days from the date of completion of discharge of the importing
18 ship, aircraft or vehicle, the proper officer may direct the person
19 administering the area within which the discharge of the ship, aircraft or
20 vehicle took place or, where there is no person administering such area, the
21 owner of the ship, aircraft or vehicle or his agent to remove or store all or any
22 such goods to or at a Government warehouse or such other place as the
23 proper officer may approve. If any person fails to comply with any such
24 direction within twenty-four hours after such direction is given he shall be
25 liable to a fine of N500,000 Naira and the proper officer may cause all or any
26 such goods to be removed to a Government warehouse or such other place as
27 he may approve.

28 (5) Where under subsection (1) or (4) of this section, goods are
29 removed to or stored at a place approved by the proper officer such place
30 shall be deemed to be a Government warehouse and such goods shall be

1 deemed to have been removed to and deposited in a Government warehouse.

2 (6) Where any goods which have been reported in any ship, aircraft or
3 vehicle but have not been released by the proper officer nor removed to a
4 Government warehouse are not produced to the proper officer on demand, such
5 goods shall be deemed to have been imported and removed for use in Nigeria
6 and, without prejudice to any remedy in respect of any contravention of this or
7 any other Act in respect of such goods, the person responsible shall, if so
8 required by the proper officer within one year from the date of the report of such
9 goods, pay any duty chargeable on the importation of such goods, unless he
10 proves to the satisfaction of the Board that the goods have not been imported.

11 (7) In subsection (6) of this section "person responsible" means-

12 (a) in respect of goods shown to the satisfaction of the Customs
13 Service to have been unloaded into an area administered by any person other
14 than the agent or owner of the ship, aircraft or vehicle concerned or an officer in
15 the service of the Government of the Federation, the person administering that
16 area;

17 (b) in respect of any other goods, the owner of the ship, aircraft or
18 vehicle concerned.

19 (8) Where it is necessary for the purpose of determining the amount of
20 any duty chargeable under subsection (6) of this section to classify any goods
21 and assess the value, quantity, weight, measurement or strength thereof, such
22 goods shall be deemed to be of such description and of such value, quantity,
23 weight, measurement or strength as may be determined by the proper officer
24 having regard to the information in his possession relating thereto.

25 (9) Without prejudice to the provisions of section 120 of this Act, if
26 any goods removed to a Government warehouse under this section are not
27 cleared by the importer thereof-

28 (a) in the case of goods which are in the opinion of the Customs
29 Service of a perishable nature, forthwith;

30 (b) in any other case, within fourteen days after they have been so

1 removed or such longer time as the Customs service may in any case allow,
2 the Customs Service may sell them.

3 61.-(1) Goods that are not of ECOWAS origin shall be placed
4 under the customs procedure as provided under this Act.

Customs procedure
relating to non-
ECOWAS goods

5 (2) Subject to the provisions of this Act, a declarant shall be free to
6 choose the customs procedure to place the goods, and the conditions for that
7 procedure, notwithstanding the nature, quantity, country of origin,
8 consignment or destination of the goods.

9 62.-(1) Subject to the laws applicable to free zones, all goods
10 originating in the customs territory of ECOWAS shall be presumed to have
11 the status of ECOWAS goods unless the contrary is proved.

ECOWAS goods
and loss of
ECOWAS status

12 (2) The Customs Service shall by regulations provide for-

13 (a) exceptions to the provision of subsection (1) of this section;

14 (b) means by which the customs status of ECOWAS goods may be
15 established; and

16 (c) how goods which originated from ECOWAS can be
17 differentiated from goods, when placed under certain customs procedures,
18 are not ECOWAS goods.

19 (3) ECOWAS goods shall become non-ECOWAS goods where
20 the-

21 (a) goods have been moved out of the customs territory of
22 ECOWAS;

23 (b) declaration for release of the goods for free circulation is
24 invalidated after release in accordance with the provisions of this Act; and

25 (c) goods are placed in a customs procedure inconsistent with the
26 status of ECOWAS goods, as may be determined by regulations.

27 63.-(1) Except where goods are immediately placed under a
28 customs procedure for which a customs declaration has been accepted, or
29 have been admitted into a free zone, non-ECOWAS goods shall be deemed
30 to have been placed under temporary storage.

Temporary storage
of goods

1 (2) Where goods are not declared for a customs procedure, the
2 following non-ECOWAS goods shall be deemed to be declared for temporary
3 storage of goods procedure-

- 4 (a) goods brought into the customs territory; and
5 (b) goods for which the external transit procedure has ended.

6 (3) A cargo document may constitute a declaration for the temporary
7 storage procedure.

8 (4) The Customs Service may require the holder of the goods to
9 provide a guarantee ensuring payment of the amount of duties, excise taxes,
10 other taxes and fees or charges which may be incurred.

11 (5) Unless extended by the Custom Service for good cause, twenty
12 eight days is the allowable period for temporary storage.

13 (6) If for any reason goods cannot be placed or continue to be
14 maintained under the temporary storage procedure, the Customs Service shall
15 promptly take all necessary measures to place the goods under an appropriate
16 customs procedure.

17 (7) Goods under the temporary storage procedure shall be stored only
18 in places authorized by the Customs Service for temporary storage.

19 (8) Goods under the temporary storage procedure shall be subject
20 only to such handling as is designed to ensure their preservation in an unaltered
21 state without modifying the appearance or characteristics of the goods.

Goods moved
under a transit
procedure, etc.

22 64.-(1) Goods may be moved under the transit procedure from one
23 point to another within or outside the customs territory without being subject
24 to-

- 25 (a) import duties;
26 (b) excise taxes and other taxes;
27 (c) other charges and fees, except for cost-based user fees for escort
28 services where required; and
29 (d) commercial policy measures where the measures do not prohibit
30 the entry or exit of goods into or from the customs territory.

1 (2) The movement contemplated in subsection (1) of this section
2 shall take place in one of the following ways-

- 3 (a) from a Customs office of entry to a Customs office of exit;
4 (b) from a Customs office of entry to an inland Customs office;
5 (c) from an inland Customs office to a Customs office of exit; and
6 (d) from one inland Customs office to another inland Customs
7 office.

8 (3) To the extent practicable, physically separate transit
9 infrastructure shall be provided at border crossings for goods subject to
10 transit procedure and such transit procedure shall be simplified and
11 expedited.

12 (4) The carrier, consignee or any other person responsible for the
13 carriage of goods subject to transit procedure shall have the responsibility
14 of-

15 (a) submitting goods declaration for transit procedure to the
16 Customs Service, provided that the Customs Service may accept as a goods
17 declaration a commercial or transport document for consignment that
18 adequately describes the goods and meets all other requirements of the
19 Customs Service;

20 (b) presenting goods to the relevant offices of the Customs Service;

21 (c) submitting to the Customs Service prior to the carriage of the
22 goods of a guarantee adequate to cover any potential loss of revenue; and

23 (d) using means of transport, security measures and personnel
24 adequate to reasonably ensure the safe transport of the goods to their
25 destination.

26 (5) The Customs Service shall take all actions necessary to enable
27 the Customs office of destination to identify the goods and detect any
28 unauthorized interference.

29 (6) The actions referred to in subsection (5) of this section include-

30 (a) the use of customs seals;

1 (b) the use of an approved means of transport;

2 (c) full examination of the goods and recording of the results of the
3 examination on a transit document, based upon the application of risk
4 management;

5 (d) stipulating a particular routing and time limit; and

6 (e) requiring a customs escort.

7 (7) A change in the Customs office of destination shall be accepted
8 without prior notification unless the Customs Service has specified that prior
9 notification is required.

10 (8) Transfer of the goods from one means of transport to another shall
11 be allowed without the authorization of the Customs Service as long as the
12 customs seals or fastenings are not broken and other security requirements are
13 maintained.

14 (9) The customs transit shall terminate when the goods and related
15 documents are presented at the Customs office of destination and the Customs
16 Service determines that the goods are intact and that transit has taken place in
17 compliance with the conditions imposed by the Customs Service.

18 (10) Goods that are transshipped shall not be subject to the payment of
19 duties, excise taxes, other taxes and customs fees as long as the conditions for
20 transshipment imposed by the Customs Service are followed.

21 (11) For transshipped goods, the following procedures are applicable-

22 (a) only a single goods declaration shall be required for
23 transshipment, and the Customs Service may accept as the goods declaration
24 any commercial or transport documentation that meets its requirements;

25 (b) the Customs Service may take action to ensure that goods to be
26 transshipped will be identifiable at exportation and that unauthorized
27 interference will be readily detectable; and

28 (c) the Customs Service may fix a time limit for the exportation of
29 goods declared for trans-shipment.

1 65.-(1) Subject to regulations made by the Customs Service, goods
2 may be temporarily exported from the customs territory without being
3 subject to duties or excise taxes, other taxes and fees on export or subsequent
4 re-importation into the customs territory in the same condition.

Goods leaving
the Customs
territory
temporarily

5 (2) Goods that are temporarily exported and are returned after
6 having been advanced or improved in value abroad shall be subject to a duty
7 on the value of the advancement or improvement.

8 66.-(1) Goods presented to the Customs Service shall be placed
9 under a customs procedure.

Customs
Procedures

10 (2) Except as otherwise provided, the declarant shall be free to
11 choose the customs procedure for the goods, the conditions for that
12 procedure, notwithstanding the nature, quantity the country of origin,
13 consignment or destination of the goods.

14 PART IX - DETERMINATION OF DUTIES AND TAXES

15 67.-(1) When lodging a goods declaration pursuant to the
16 provisions of this Act, declarants shall-

Determination of
classification,
valuation and
origin of imported
and exported goods

17 (a) determine and declare the classification, valuation and origin of
18 the goods applying-

19 (i) the nomenclature of the World Customs Organization's
20 International Convention on the Harmonized Commodity Description and
21 Coding System,

22 (ii) the provisions of the World Trade Organization's Agreement on
23 Implementation of Article VII of the General Agreement on Tariffs and
24 Trade,

25 (iii) the official currency of the Federal Republic of Nigeria, using
26 the official exchange rate issued by the Central Bank of Nigeria and
27 applicable at the time of importation of the goods into Nigeria or the
28 exportation of the goods from Nigeria, and

29 (iv) rules of origin as may be specified in applicable international
30 agreements and this Act; and

1 (b) exercise reasonable care in the determination and declaration of
2 the tariff classification, valuation and origin of goods.

3 (2) A declarant shall be liable to penalties for any negligent or false
4 statements made knowingly or intentionally in contravention of the provisions
5 of this Act or its regulations.

Determination of
classification,
valuation and
origin of imported
and exported goods
by the Customs
Service

6 **68.**-(1) The Customs Service shall be responsible for-

7 (a) applying the classification, valuation and origin standards
8 contained in this Act to imported and exported goods;

9 (b) determining the correctness of declarants' statements and
10 documentation regarding the classification, valuation and origin of imported
11 and exported goods; and

12 (c) providing general information to the traders regarding the
13 standards governing the classification, valuation and determination of origin
14 through publications, educational programmes and enquiry points.

15 (2) The Customs Service shall carry out the responsibilities referred
16 to in subsection (1) of this section in a timely and efficient manner providing
17 sufficient details to enable declarants to carry out their responsibilities under
18 this Act and its regulations.

Transaction value

19 **69.**-(1) The primary basis for the customs value of goods shall be the
20 transaction value.

21 (2) The transaction value is the price actually paid or payable for the
22 goods when sold for export to the Federal Republic of Nigeria adjusted, when
23 necessary, in accordance with the provisions of this section.

24 (3) The price actually paid or payable is the total payment made or to
25 be made by the buyer to the seller or by the buyer to a third party for the benefit
26 of the seller for the imported goods and includes all payments made or to be
27 made as a condition of sale of the imported goods.

28 (4) The transaction value shall be applied if-

29 (a) there are no restrictions as to the disposition or use of the goods by
30 the buyer other than restrictions which-

- 1 (i) are imposed or required by law or by the Federal Republic of
2 Nigeria;
- 3 (ii) limit the geographic area in which the goods may be resold; or
4 (iii) do not substantially affect the value of the goods;
- 5 (b) the sale or price is not subject to some condition or
6 consideration for which a value cannot be determined with respect to the
7 goods being valued;
- 8 (c) no part of the proceeds of any subsequent resale, disposal or use
9 of the goods by the buyer will accrue directly or indirectly to the seller,
10 unless an appropriate adjustment can be made in accordance with the
11 provisions of this section; and
- 12 (d) the buyer and seller are not related, or where the buyer and
13 seller are related, that the transaction is acceptable under the provisions of
14 this section.
- 15 (5) For the purpose of this section persons shall be deemed to be
16 related if-
- 17 (a) they are officers or directors of one another's businesses;
18 (b) their relationship is one of employer and employee;
19 (c) any of such person directly or indirectly owns, controls or holds
20 five percent or more of the outstanding voting stock or shares of either of the
21 person;
- 22 (d) one of the persons directly or indirectly controls the other;
23 (e) the persons are directly or indirectly controlled by a third
24 person;
- 25 (f) together the persons directly or indirectly control a third person;
26 (g) the persons are members of the same family.
- 27 (6) The fact that the buyer and seller are related shall not solely
28 constitute grounds for rejecting a transaction value.
- 29 (7) Where the buyer and seller are related, the circumstances
30 surrounding the sale shall be examined and the transaction value shall be

1 accepted provided that there is no proof to the contrary that the relationship
2 influenced the price.

3 (8) Where the Customs Service has grounds to believe that the
4 relationship amongst person concerned in a transaction influenced the price,
5 it shall communicate the grounds to the persons concerned and provide them
6 with opportunity to respond within a reasonable period of time.

7 (9) In a sale between related persons, the transaction value shall be
8 accepted if the declarant demonstrates that the transaction value closely
9 approximates one of the following values occurring at or about the same
10 time-

11 (a) the transaction value in sales to unrelated buyers of identical or
12 similar goods for export to Nigeria; and

13 (b) the customs value of identical or similar goods as determined
14 under sections 70 and 71 of this Act.

15 (10) In determining the transaction value under this section, there
16 shall be added to the price actually paid or payable for the imported goods-

17 (a) the following costs, to the extent that they are incurred by the
18 buyer but are not included in the price actually paid or payable for the goods-

19 (i) commissions and brokerage, except buying commissions;

20 (ii) the cost of containers which are treated as being one for customs
21 purposes with the goods in question; and

22 (iii) the cost of packing whether for labour or materials, to the
23 extent that these costs are incurred by the buyer but excluded from the price
24 actually paid for the goods.

25 (b) the value, apportioned as appropriate, of the goods and services
26 listed in this paragraph, where supplied directly or indirectly by the buyer
27 free of charge or at reduced cost for use in connection with the production
28 and sale for export of the imported goods, to the extent that such value has not
29 been included in the price actually paid or payable-

30 (i) materials, components, parts and similar items incorporated in

- 1 the imported goods,
- 2 (ii) tools, dies, moulds and similar items used in the production of
- 3 the imported goods,
- 4 (iii) materials consumed in the production of the imported goods,
- 5 (iv) engineering, development, artwork, design work, and plans
- 6 and sketches undertaken elsewhere than in the country of importation and
- 7 necessary for the production of the imported goods, and
- 8 (v) royalties and license fees related to the goods being valued that
- 9 the buyer must pay, either directly or indirectly, as a condition of sale of the
- 10 goods being valued, to the extent that such royalties and fees are not
- 11 included in the price actually paid or payable;
- 12 (c) the cost of transport of the goods to the port or place of
- 13 importation;
- 14 (d) the loading, unloading and handling charges associated with
- 15 the transport of the goods to the port or place of importation; and
- 16 (e) the cost of insurance.

17 (11) Any additions to the price actually paid or payable shall be

18 made only on the basis of objective and quantifiable data.

19 (12) Additions shall not be made to the price actually paid or

20 payable in determining the customs value except as provided in this

21 section.

22 **70.-(1)** Where the customs value of goods cannot be determined

23 under the provisions of section 69 of this Act, the customs value shall be the

24 transaction value of identical goods sold for export to Nigeria and exported

25 at or about the same time as the goods being valued.

Transaction value
of identical goods

26 (2) In the application of the provision of this section, the

27 transaction value of identical goods in a sale at the same commercial level

28 and in substantially the same quantity as the goods being valued shall be

29 used to determine the customs value and where no such sale is found, the

30 transaction value of identical goods sold at a different commercial level or in

1 different quantities, adjusted to take account of differences attributable to
2 commercial level or to quantity, shall be used, provided that such adjustments
3 can be made on the basis of demonstrated evidence which clearly establishes
4 the reasonableness and accuracy of the adjustment, whether the adjustment
5 leads to an increase or a decrease in the value.

6 (3) Where more than one transaction value of identical goods is
7 found, the lowest of such value shall be used to determine the customs value of
8 the imported goods.

9 (4) In determining customs value under this section, the additions to
10 transaction value authorized by subsection 10 of section 69 of this Act shall be
11 taken into account.

Transaction value
of similar goods

12 71.-(1) Where the customs value of the imported goods cannot be
13 determined under the provisions of sections 69 and 70 of this Act, the customs
14 value shall be the transaction value of similar goods sold for export to Nigeria
15 and exported at or about the same time as the goods being valued.

16 (2) In the application of the provision of this section, the transaction
17 value of similar goods in a sale at the same commercial level and in
18 substantially the same quantity as the goods being valued shall be used to
19 determine the customs value and when no such sale is found, the transaction
20 value of similar goods sold at a different commercial level or in different
21 quantities, adjusted to take account of differences attributable to commercial
22 level or to quantity, shall be used, provided that such adjustments can be made
23 on the basis of demonstrated evidence which clearly establishes the
24 reasonableness and accuracy of the adjustment, whether the adjustment leads
25 to an increase or a decrease in value.

26 (3) Where more than one transaction value of similar goods is found,
27 the lowest of such value shall be used to determine the customs value of the
28 imported goods.

29 (4) In determining customs value under this section, the additions to
30 transaction value authorized by subsection (10) of section 69 of this Act shall

1 be taken into account.

2 72.-(1) Where the customs value of the imported goods cannot be Deductive value
3 determined under the provisions of sections 69, 70 and 71 of this Act, the
4 customs value shall be determined under the provisions of this section, or
5 where not possible, under the provisions of section 73 of this Act, except that
6 at the request of the declarant, the order of application of this section and
7 section 73 of this Act shall be reversed.

8 (2) Subject to the provisions of this section, where the imported
9 goods or identical or similar goods are sold in Nigeria in the condition
10 imported, the customs value of the imported goods shall be based on the unit
11 price at which the imported goods or identical or similar imported goods are
12 sold in the greatest aggregate quantity, at or about the time of the importation
13 of the goods being valued, to persons who are not related to the persons from
14 whom the goods were bought, subject to deductions for the following-

15 (a) either the commissions usually paid or agreed to be paid or the
16 additions usually made for profit and general expenses in connection with
17 sales in such country of imported goods of the same class or kind;

18 (b) the usual costs of transport and insurance and associated costs
19 incurred within the country of importation; and

20 (c) the customs duties and other taxes and charges payable in
21 Nigeria by reason of the importation or sale of the goods.

22 (3) Where neither the imported goods nor identical nor similar
23 imported goods are sold at or about the time of importation of the goods
24 being valued, the customs value shall, subject to the provisions of
25 subsection (2) of this section, be based on the unit price at which the
26 imported goods or identical or similar imported goods are sold in the country
27 of importation in the condition as imported at the earliest date after the
28 importation of the goods being valued but before the expiration of ninety
29 days after the importation.

30 (4) Where neither the imported goods nor identical nor similar

1 imported goods are sold in Nigeria in the condition imported, then, if the
2 declarant so requests, the customs value shall be based on the unit price at
3 which the imported goods, after further processing, are sold in the greatest
4 aggregate quantity to persons in Nigeria who are not related to the persons from
5 whom such goods were bought, due allowance being made for the value added
6 by the further processing and the deductions provided for in subsection (2) of
7 this section.

Computed value

8 73.-(1) The customs value of imported goods under the provisions of
9 this section shall be based on a computed value consisting of the sum of-

10 (a) the cost or value of materials and fabrication or other processing
11 used in producing the imported goods;

12 (b) an amount for profit and general expenses equal to that usually
13 reflected in sales of goods of the same class or kind as the goods being valued
14 which are made by producers in the country of exportation for export to
15 Nigeria; and

16 (c) in determining customs value under this section, the additions to
17 transaction value authorized by section 69 of this Act shall be taken into
18 account.

19 (2) A person not resident in Nigeria may be required to produce for
20 examination, or to allow access to, any account or other record for the purposes
21 of determining a computed value.

22 (3) Information supplied by the producer of the goods for the
23 purposes of determining the customs value under this section may be verified
24 in Nigeria with the agreement of the producer and provided sufficient advance
25 notice is given to the government of the country concerned that government
26 does not object to the investigation.

Alternative value

27 74.-(1) Where the customs value of the imported goods cannot be
28 determined under the provisions of sections 69, 70, 71, 72, and 73 of this Act,
29 the customs value shall be determined using reasonable means consistent with
30 the principles and general provisions of the World Trade Organisation's

1 Agreement on Implementation of Article VII of General Agreement on
2 Trade and Tariffs 1994 and on the basis of data available in Nigeria.

3 (2) Customs value shall not be determined under the provisions of
4 this section on the basis of-

5 (a) the selling price in Nigeria of goods produced in Nigeria;

6 (b) a system which provides for the acceptance for customs
7 purposes of the higher of two alternative values;

8 (c) the price of goods on the domestic market of the country of
9 exportation;

10 (d) the cost of production other than computed values which have
11 been determined for identical or similar goods in accordance with the
12 provisions of section 73 of this Act;

13 (e) the price of goods for export to a country other than Nigeria;

14 (f) minimum customs values; or

15 (g) arbitrary or fictitious values.

16 (3) Where the declarant so requests, the declarant shall be informed
17 in writing of the customs value determined under the provisions of this
18 section and the method used to determine the value.

19 75. If in the course of determining the customs value of imported
20 goods, it is necessary for the Customs Service to delay the final
21 determination of the customs value, the declarant shall be allowed to take
22 delivery of the goods from Customs control pursuant to a customs procedure
23 if he has provided a sufficient guarantee or security to the Customs Service
24 assuring the payment of customs duties, taxes and fees for which the goods
25 may be liable.

Delay in the
determination of
Customs value

26 76. The valuation methodology contained in sections 69, 70, 71,
27 72, 73 and 74 of this Act shall be used to determine the value of goods for
28 export and for the assessment of all duties, taxes and fees on imports and
29 exports and the collection of statistics.

Valuation
methodology for
the determination
of value of goods
for the exports,
etc.

Right of the
Customs Service
to investigate
value claims

1 77. Nothing in the valuation methodology contained in sections 69,
2 70, 71, 72, 73 and 74 of this Act shall be construed to restrict or question the
3 right of the Customs Service to satisfy itself as to the truth or accuracy of any
4 statement, document or declaration presented for customs valuation
5 purposes.

Origin of goods

6 78. The country of origin of goods shall be determined to enable the
7 application of-

8 (a) the respective rates of customs duties pursuant to applicable law;
9 and

10 (b) any quantitative restrictions on the importation of goods in
11 Nigeria.

Rules of origin

12 79.-(1) Goods wholly obtained in a single country or territory shall be
13 regarded as having their origin in that country or territory.

14 (2) The goods listed in this subsection shall be deemed to have
15 originated in a single country or territory-

16 (a) mineral products extracted from its soil, territorial waters or sea-
17 bed;

18 (b) vegetable products harvested or gathered in that country or
19 territory;

20 (c) live animals born and raised in that country or territory;

21 (d) products obtained from live animals in that country or territory;

22 (e) products obtained from hunting or fishing conducted in that
23 country or its territorial waters or sea-bed;

24 (f) products obtained by maritime fishing and other products taken
25 from the sea by a vessel of that country or territory;

26 (g) products obtained aboard a factory ship of that country or territory
27 solely from products of the kind covered by paragraph (f) of this subsection;

28 (h) products extracted from marine soil or subsoil outside that
29 country's or territory's territorial waters, provided that the country or territory
30 has sole rights to work that soil or subsoil;

1 (i) scrap and waste from manufacturing and processing operations
2 and used articles collected in that country or territory and fit only for the
3 recovery of raw materials;

4 (j) goods produced in that country or territory solely from the
5 products referred to in paragraphs (a)-(i) of this subsection.

6 (3) Goods, the production of which involves more than one country
7 or territory, shall be deemed to originate in the country or territory where
8 they underwent their last substantial transformation.

9 (4) Goods that become new and different products as the result of a
10 manufacturing operation shall be deemed to be substantially transformed.

11 (5) A change in tariff heading or subheading may constitute proof
12 of substantial transformation.

13 **80.**-(1) Rules of origin shall be divided into non-preferential and
14 preferential rules.

Preferential rules
of origin

15 (2) In order to benefit from preferential tariff rates or non-tariff
16 preferential measures, goods must originate in a country or territory with
17 which the Government has concluded a preferential trade agreement or
18 accords preferential treatment on a unilateral basis.

19 (3) The rules of preferential origin shall be set out in applicable
20 preferential trade agreements and in laws ratifying and enforcing those trade
21 agreements or establishing preferential treatment on a unilateral basis.

22 (4) Goods shall be deemed to be of ECOWAS origin if they
23 originate from an ECOWAS country, as determined by the applicable
24 preferential rules of origin.

25 **81.** Non-preferential rules of origin apply to all goods except those
26 goods that benefit from preferential rules of origin as the result of an
27 applicable international agreement or unilateral action by the
28 Government.

Non-preferential
rules of origin

29 **82.**-(1) When an origin has been indicated in the customs
30 declaration, the Customs Service may require the declarant to prove the

Evidence of origin

1 origin of the goods.

2 (2) Documentary evidence of origin shall be a declaration of origin in
3 the English language by the manufacturer or exporter or a certificate issued by
4 a competent authority in the country of production.

5 (3) Declarations and certificates of origin may be verified pursuant to
6 mutual assistance agreements between the Customs Service and other customs
7 administrations of other countries and by other means.

8 (4) Where the declarant provides proof of origin of goods, the
9 Customs Service may, in the event of reasonable doubt, require any additional
10 evidence needed in order to prove origin.

11 PART X - CUSTOMS DEBT AND PAYMENT

Customs debt
on importation

12 83.-(1) A customs debt on importation shall be incurred through the
13 placing of goods liable to import duties, excise taxes, other taxes and fees under
14 the following customs procedures-

15 (a) release for free circulation; and

16 (b) any other customs procedure that results in the imposition of
17 import duties, excise taxes, other taxes and fees.

18 (2) A customs debt shall be incurred at the time of acceptance by the
19 Customs Service of the customs declaration.

20 (3) The declarant shall be the debtor, and in the event that the
21 declarant represents another person, the person on whose behalf the customs
22 declaration is made shall also be a debtor.

23 (4) Where a customs declaration is prepared on the basis of
24 information which leads to all or part of the import duties, excise taxes, other
25 taxes and fees not to be collected, any person who provided the information,
26 who was required to prepare the declaration and who knew or reasonably ought
27 to have known that the information provided was false shall also be a
28 debtor.

Customs debt
on exportation

29 84.-(1) A customs debt on exportation shall be incurred through the
30 placing of goods liable to export duties, excise taxes, other taxes and fees under

1 the export procedure, the outward processing procedure, or any other export
2 procedure that results in the imposition of duties, excise taxes, other taxes
3 and fees.

4 (2) The declarant shall be the debtor, and in the event that the
5 declarant represents another person, the person on whose behalf the customs
6 declaration is made shall also be a debtor.

7 (3) Where a customs declaration is prepared on the basis of
8 information resulting to the non-collection of all or part of the export duties,
9 excise taxes, other taxes and fees, any person who provided the information
10 for the preparation of the declaration knowing that the information provided
11 is untrue, misleading or false or who reasonably ought to have known that
12 the information provided is untrue, misleading or false shall also be a
13 debtor.

14 **85.-(1)** For goods liable to import or export duties, excise taxes,
15 other taxes and fees, a customs debt on importation or exportation is
16 incurred for non-compliance with any of the following-

Customs debt
through non-
compliance t

17 (a) an obligation laid down in any customs legislation concerning
18 the introduction of goods into or exit from the customs territory, their
19 removal from customs controls, or the movement, processing, storage,
20 temporary admission or disposal of goods within the customs territory;

21 (b) an obligation laid down in any customs legislation concerning
22 the end-use of goods within the customs territory; and

23 (c) a condition governing the placement of goods under a customs
24 procedure or the granting, by virtue of the end-use of goods, of a duty, excise
25 tax, other tax or fee exemption or reduced rate.

26 (2) A customs debt is incurred when-

27 (a) an obligation giving rise to the customs debt is not fulfilled or
28 ceases to be fulfilled;

29 (b) a customs declaration is accepted for the placing of goods under
30 a customs procedure where it is established subsequently that a condition

1 governing the placing of the goods under that procedure or the granting of a
2 duty, excise tax, tax or fee exemption or reduced rate was not in fact fulfilled.

3 (3) In the circumstances referred to under subsection (2) of this
4 section, the debtor shall be any person who-

5 (a) was required to fulfill the obligation concerned;

6 (b) was aware or ought reasonably to have been aware that an
7 obligation under any customs legislation was not fulfilled and who acted on
8 behalf of the person who was under a duty to fulfill the obligation;

9 (c) provided a guarantee in connection with the obligation; or

10 (d) participated in the act which led to the non-fulfillment of the
11 obligation.

12 (4) Any person who acquired or held the goods referred to in
13 subsection (1) of this section and who was aware or should reasonably have
14 been aware at the time of acquiring or receiving the goods that an obligation
15 under customs legislation was not fulfilled shall be a debtor.

Joint and several
liability of debtors

16 86. Where two or more persons are liable for payment of one customs
17 debt, they shall be jointly and severally liable for the full amount of the
18 debt.

Place where
Customs debt
is incurred

19 87.-(1) A customs debt is incurred at the place where the customs
20 declaration is lodged and in all other cases, at the place where the event from
21 which the debt arose took place.

22 (2) Where it is not possible to determine the place where the debt
23 arose, the customs debt shall be incurred at the place where the Customs
24 Service determines that a customs debt has been incurred.

25 (3) Where the goods have been entered for a customs procedure
26 which has not been discharged, and the place cannot be determined as provided
27 in subsection (1) of this section within a specified period of time, the customs
28 debt shall be deemed to have been incurred at the place where the goods were
29 placed under the applicable customs procedure or were introduced into or
30 exported from the customs territory under that procedure.

1 (4) Where the information available to the Customs Service
2 establishes that the customs debt was incurred in several places, the customs
3 debt shall be deemed to have arisen incurred at the place where it was first
4 incurred.

5 88.-(1) The debtor shall be notified of the customs debt in the form
6 prescribed by the Customs Service, at the place where the customs debt is
7 incurred or is deemed to have been incurred.

Notification of
Customs debt
and entry into
accounts

8 (2) The notification referred to in subsection (1) of this section
9 shall not be given in the following situations-

10 (a) where, pending a final determination of the amount of duty,
11 excise tax, other tax and fees owed, a provisional customs debt
12 determination has been made; and

13 (b) in other cases where the Customs Service is exempted by
14 legislation or regulation from notifying the debtor of the customs debt.

15 (3) Where subsection (2) of this section is not applicable, a debtor
16 shall be notified of the customs debt within fourteen days of the date on
17 which the Customs Service determines the amount of customs debt payable.

18 (4) A person shall not be liable for a customs debt for which a
19 notice was not given as required under this section and section 90 of this Act.

20 (5) Notice of customs debts which are negligible shall not be given
21 to a debtor and for the purposes of this subsection; "negligible" shall have
22 the meaning assigned to it by regulations.

23 89.-(1) A debtor shall not be notified of a customs debt after the
24 expiration of a seven year period from the date on which the customs debt
25 was incurred.

Limitation on
Customs debt

26 (2) Where a customs debt was incurred as a result of an act for
27 which a criminal prosecution was conducted, the seven year period referred
28 to in subsection (1) of this section shall not apply.

29 (3) Where an appeal is lodged in accordance with the provision of
30 this Act, the periods referred to in subsections (1) and (2) of this section shall

1 not apply from the date on which the appeal is lodged until the appeal is finally
2 determined.

Payment of
Customs debt

3 **90.**-(1) A customs debt shall be paid by the debtor within the period
4 prescribed by the Customs Service and stated in the notification.

5 (2) Unless extended by the Customs Service, the prescribed period for
6 payment of a customs debt shall not exceed ten days following a notification.

7 (3) The Customs Service may on request by the debtor, extend in the
8 period for payment in the following situations-

9 (a) upon an application for remission of duty made in accordance with
10 the provisions of this Act;

11 (b) where goods are to be confiscated, destroyed or abandoned to the
12 Government;

13 (c) where the customs debt was incurred as a result of non-compliance
14 with this Act or other relevant legislations involving more than one debtor; or

15 (d) in other cases where a debtor shows good cause.

16 (4) Payment shall be made by the debtor to the Customs Service by
17 electronic funds transfer or by other electronic means.

18 (5) Cash payments of customs debt shall not be accepted.

19 (6) Notwithstanding the provision of subsection (5) of this section,
20 the Customs Service may accept credit cards, bank cheques and cash payments
21 to facilitate travelers and low value shipments as may be defined by
22 regulations, or where electronic means of payment are not available.

23 (7) After payment has been made, a receipt constituting proof of
24 payment shall be issued by the Customs Service to the debtor.

Deferment of
payment

25 **91.**-(1) At the request of a debtor and upon the provision of a
26 guarantee and a proof of fulfilling the criteria set out in Part XII of this Act for
27 special simplified treatment, the Customs Service may permit deferment of
28 payment of the duty, excise tax, other taxes and fees for a period of thirty days.

29 (2) Where payment is deferred, the period of deferment shall begin on

1 the day following the day on which the Customs Service debt is notified to
2 the debtor.

3 92.-(1) Where a customs debt remains unpaid within the prescribed
4 period, the Customs Service shall take all necessary legal measures to
5 recover the debt.

Enforcement of
payment, arrears
and interest

6 (2) Interest on any arrears shall be charged from the date the
7 payment became due until the date the payment is received by the Customs
8 Service and the rate of interest on any arrears shall be the Monetary Policy
9 Rate or other appropriate rate applied by the Central Bank of Nigeria at the
10 time the payment became due.

11 93.-(1) A customs duty, excise tax, other taxes and fees made to the
12 Customs Service may be repaid or remitted by the Customs Service on the
13 grounds that-

Repayment and
remission of
customs duties,
taxes and fees

14 (a) payee was overcharged;

15 (b) goods were defective or not in compliance with the contract;

16 (c) customs declaration was invalidated;

17 (d) an error was made by Customs Service; or

18 (e) there are equitable considerations requiring repayments.

19 (2) Repayments and remissions may be made at the request of the
20 person concerned, his representative or by the Customs Service.

21 (3) Where the situation which led to the anomaly resulted from the
22 deception or fraud by the person concerned, no repayment or remission shall
23 be made by the Customs Service.

24 (4) Where repayment or remission is not made by Customs Service
25 within three months after the decision had been taken granting repayment,
26 interest shall be paid by the Customs Service to the person concerned based
27 on Monetary Policy Rate or other appropriate rate applied set by the Central
28 Bank of Nigeria at the time the repayment was due.

29 (5) The interest paid shall be the Monetary Policy Rate or other
30 appropriate rate applied by the Central Bank of Nigeria at the time

1 repayment was due.

2 (6) Where repayment or remission of a customs debt has been granted
3 in error, the Customs Service shall notify the debtor, in the form prescribed, at
4 the place where the debt was incurred or deemed to have been incurred and the
5 provision of section 89 of this Act shall apply the outstanding customs debt
6 corrected, remaining unpaid within the prescribed period.

Termination or
cancellation of
Customs debt

7 **94.**-(1) A customs debt shall be terminated or cancelled by-

- 8 (a) payment of the amount of the debt;
9 (b) remission by the Customs Service of the amount of the debt;
10 (c) invalidation of the customs declaration giving rise to the debt;
11 (d) confiscation of the goods giving rise to the debt; or
12 (e) the total destruction and irretrievable loss of the goods.

13 (2) In the event of confiscation referred to in paragraph (d) of
14 subsection (1) of this section, the customs debt shall for the purposes of
15 penalties applicable to customs offences be deemed not to have been cancelled
16 where the customs debt provides the basis for determining penalties.

17 (3) Where two or more persons are liable for payment of a customs
18 debt and remission is granted to one or more than one person, the customs debt
19 shall be cancelled only as to the specific persons to whom the remission is
20 granted.

21 PART XI - CUSTOMS GUARANTEES AND SECURITY

Guarantee for
existing or
potential customs
debt and
performance of
conditions or
requirements

22 **95.**-(1) The Customs Service may require a guarantee to be provided
23 to ensure-

- 24 (a) the payment of the amount of duties, excise taxes, other taxes and
25 fees corresponding to a customs debt; and
26 (b) the performance or conditions or requirements imposed under any
27 applicable law.

28 (2) In special circumstances where a monetary penalty has been
29 imposed or goods subject to seizure are released pending the resolution of the
30 penalty action, the Customs Service may, at its discretion, request for a

1 guarantee equal to the lesser of the value of the goods or the monetary
2 penalty may be required.

3 (3) A debtor, a person who may become a debtor, or a third person
4 guarantor approved by the Customs Service, may be required by the Custom
5 Service to provide a guarantee to it.

6 (4) The 'third person guarantor' referred to in subsection (3) of this
7 section include, banks or approved companies and agencies authorized by
8 regulations to issue customs bonds.

9 (5) The Customs Service shall require only one guarantee to be
10 provided in respect of specific goods or a specific declaration, and such
11 guarantee provided for a specific declaration shall not be less than the
12 amount of duty, excise tax, other tax and fees corresponding to the customs
13 debt in respect of the goods covered by or released against that declaration,
14 whether or not the declaration is correct.

15 (6) Where a guarantee is require to be furnished, the Customs
16 Service may authorize a comprehensive guarantee to cover the amount of
17 duties, excise taxes, other taxes and fees corresponding to the customs debt
18 arising from multiple transactions over a specified period of time, not to
19 exceed one year from issuance or renewal and in the case of a customs bond
20 covering multiple transactions, the guarantee shall not be lower than the
21 outstanding customs debt at any given time.

22 (7) Guarantees shall not be required from Federal or States
23 government agencies or local government authorities in respect of the
24 activities in which they engage as public authorities.

25 96.-(1) Guarantees shall be compulsory for-

26 (a) customs representatives;

27 (b) customs warehouse and free zones;

28 (c) freight forwarders and transport firms;

29 (d) traders that import or export goods valued at an annual amount
30 to be determined from time to time by the Customs Service; and

Compulsory
guarantee

1 (e) any person that the Customs Service determines may not pay a
2 customs debt, based on the application of risk management criteria.

3 (2) When the amount can be established with certainty at the time a
4 guarantee is required, the Customs Service shall fix the amount of a
5 compulsory guarantee at an amount equal to the duty, excise tax, other tax and
6 fee obligation of the debtor.

7 (3) Where it is not possible to establish the precise amount, the
8 guarantee shall be fixed at the maximum amount, as estimated by the Customs
9 Service, of the duty, excise tax, other tax and fee obligation that will correspond
10 to the customs debt which may be incurred.

11 (4) When a comprehensive guarantee as defined in subsection (6) of
12 section 95 this Act is provided for the customs debts, the amount of such
13 guarantee shall be set by the Customs Service at a level enabling the Customs
14 Service debt to be covered by the guarantee at all times.

Optional guarantee

15 **97.**-(1) A person may opt to submit a guarantee to the Customs
16 Service and the submission of such a guarantee shall be taken into
17 consideration in determining whether expedited treatment as provided in Part
18 XIII of this Act is to be given to the person's goods.

19 (2) The provision of an optional guarantee by a person shall be a factor
20 considered by customs in determining whether that person's goods shall be
21 entitled to expedited treatment under Part XIII of this Act or otherwise.

Forms and choice
of guarantee

22 **98.**-(1) A guarantee may be provided in any one of the following
23 forms-

24 (a) a cash deposit made in the currency of the Federal Republic of
25 Nigeria, or by any other means of payment recognized by the Customs Service
26 as equivalent to a cash deposit or as may be specified in regulations;

27 (b) by an undertaking given by a guarantor, such as a financial
28 institution, insurance company or similar person approved by the Customs
29 Service;

30 (c) by any other forms of guarantee defined in regulations made under

1 this Act, and approved by the Federal Ministry of Finance, providing an
2 equivalent assurance that the amount of a customs debt, present or future,
3 will be paid.

4 (2) The person providing a guarantee may choose any form of
5 guarantee from among the type of guarantees listed in subsection (1) of this
6 section.

7 (3) The Customs Service may refuse to accept the form of a
8 guarantee chosen where it is incompatible or inconsistent with the
9 applicable customs procedure.

10 (4) The Customs Service may require that the form of guarantee
11 chosen be maintained for a specific period of time.

12 99.-(1) For the purpose of this Act, a guarantor must be a third
13 person established in the customs territory and approved by the Customs
14 Service.

Guarantor and
form of guarantee
to be approved
by the Customs
Service

15 (2) The guarantor shall enter into a binding agreement to pay the
16 secured amount of duties, excise taxes, other taxes and fees constituting a
17 customs debt.

18 (3) The Customs Service may refuse to approve a guarantor or the
19 type of guarantee proposed, where the guarantor or the type of guarantee
20 proposed do not appear certain to ensure payment within the prescribed
21 period for payment of the amount of the customs debt.

22 100.-(1) Comprehensive guarantees provided for pursuant to the
23 provisions of subsection (6) of section 95 of this Act may be granted only to
24 persons that-

Comprehensive
guarantee

25 (a) are established in the customs territory;

26 (b) have a demonstrated record of compliance with the customs
27 and tax requirements;

28 (c) are regular users of the customs procedures involved and are
29 known to the Customs Service to have the capacity to fulfill their obligations
30 in relation to those procedures.

1 (2) Where a comprehensive guarantee is to be provided for a customs
2 debts, a person may be authorized to use a comprehensive guarantee with a
3 reduced amount provided that the following criteria are met-

4 (a) a satisfactory system of managing commercial, and where
5 appropriate, transport records, as determined by a customs audit conducted,
6 which allow the application of appropriate customs controls; and

7 (b) proven financial solvency based upon audited accounting
8 records.

Additional or
replacement
guarantee

9 **101.** When the Customs Service establishes that a guarantee provided
10 does not adequately ensure payment of the amount guaranteed within the
11 prescribed period, it shall require the persons responsible for the guarantee to
12 provide an additional guarantee covering any additional liability or to replace
13 the original guarantee with a new guarantee.

Release of
guarantee

14 **102.**-(1) The Customs Service shall release a guarantee upon the full
15 and final payment of the customs debt covered by the guarantee.

16 (2) Where only a part of a customs debt has been paid, a
17 corresponding part of the guarantee shall be released at the request of the debtor
18 and guarantor.

19 PART XII - CUSTOMS REPRESENTATIVES AND AUTHORISED ECONOMIC
20 OPERATORS

Appointment of
Customs
representatives,
licenced agents,
etc/

21 **103.**-(1) A person shall have the choice of transacting the business of
22 importation, exportation, movement and storage of goods, and other business
23 with the Customs Service either directly or by designating a licenced customs
24 representative to act on his behalf.

25 (2) Any such person electing to transact business with the Customs on
26 his own account shall have fulfilled all the licensing requirements imposed by
27 this Act or regulations made under this Act.

28 (3) Customs transactions, where a person elects to do business on his
29 own account shall not be treated less favorably nor be subject to more stringent
30 requirements than those transactions which are handled for the person

1 concerned by a customs representative and a customs representative shall
2 have the same rights as his principal when conducting customs business.

3 (4) A customs representative shall be established within the
4 customs territory and shall be subject to the licencing and regulatory
5 requirements imposed by this Act and regulations made under this Act.

6 104.-(1) Customs representation may be either directly, in which
7 case the customs representative shall act in the name of and on behalf of
8 another person, or indirectly, in which case the customs representative shall
9 act in his own name but on behalf of another person.

Customs
representative
required to
disclose identity
of principal

10 (2) When customs representation is indirect, the Customs Service
11 may require a customs representative to disclose the identity of the person
12 whom he is representing.

13 105.-(1) A customs officer under employment in the Customs
14 Service shall not engage in business as a customs representative for any
15 person.

Customs officers
not act as the
Customs
representatives

16 (2) Regulations made pursuant to this Act shall provide the
17 conditions and circumstances under which customs officers that are no
18 longer under employment in the by customs may carry on business as a
19 customs representative.

20 106.-(1) A person shall not for compensation make entry of, or
21 lodge a goods declaration for another person or act for another person in
22 connection with other customs transactions unless licenced pursuant to the
23 provisions of this Act and regulations made under this Act.

Requirements for
acting as a Customs
representative

24 (2) The Customs Service shall make regulations concerning the
25 licencing and regulating of customs representatives, including
26 qualifications regarding citizenship, residence, and knowledge of the laws,
27 regulations and customs procedures of the Federal Republic of Nigeria
28 required for a person to engage in the business of a customs representative.

29 (3) A person shall not be licenced as a customs representative, or
30 maintain a licence as a customs representative if he has-

- 1 (a) been convicted of a customs offence or other criminal offence; or
2 (b) consistently failed to fulfill his obligations to principals or to the
3 Customs Service, including repeated instances of gross negligence or
4 infringement of customs rules and regulations; or
5 (c) failed to pay the licence fee required by the Customs Service and to
6 comply with other licencing requirements.

7 (4) The Customs Services shall provide prompt written notice to a
8 customs representative of a decision not to conduct business with that
9 representative, setting forth the reasons for its refusal to conduct business.

10 (5) Customs representatives shall be liable to the Customs Service for
11 the prompt payment of all customs debts imposed on their principals and on
12 themselves and they shall be subject to penalties for failure to meet these
13 obligations, as may be provided in this Act and in regulations made under this
14 Act.

15 (6) Before any person is licenced as a customs representative, he shall
16 furnish a guarantee in the form and for the amount as the Customs Service may
17 require pursuant to regulations made under this Act.

18 (7) A customs representative may be required at any time to produce
19 documentary evidence of its right to transact business with the Customs
20 Service for and on behalf of another person and the proof shall be a document in
21 such form as the Customs Service may require.

22 (8) The Customs Service shall also maintain a registry of authorized
23 customs representatives on the Customs Services' website.

24 (9) The record keeping provisions contained in this Act shall apply to
25 customs representatives.

26 (10) A person who carries on business as a customs representative in
27 violation of the provisions of subsection (1) of this section commits an offence
28 and liable on conviction to two years imprisonment to a fine of N1,500,000, or
29 to both.

30 (11) Any licenced customs representative who violates the provisions

1 of this Act and regulations made under this Act shall be liable to such
2 penalties as may be prescribed in regulation.

3 (12) Penalties payable under the provision of subsection (11) of
4 this section shall be based on the circumstances of the violation, and the
5 person's past compliance record.

6 107. Customs representatives shall have the right to periodic
7 formal consultations with the Customs Service in conjunction with traders
8 or otherwise.

Right to formal
consultations with
the Customs
Service

9 108.-(1) A person who is established in the customs territory and
10 who meets the conditions set out in this Part may apply to the Customs
11 Service to be designated as an authorized economic operator.

Authorized
economic operators

12 (2) The Customs Service may designate an applicant as a "customs
13 simplification authorized economic operator" or as a "security and safety
14 authorized economic operator".

15 (3) A customs simplification authorized economic operator shall
16 be entitled to simplified customs procedures, as is provided in this Act and
17 regulations made under this Act.

18 (4) A security and safety authorized economic operator shall be
19 entitled to simplified customs procedures relating to security and safety, as
20 is provided in this Act and regulations made under this Act.

21 (5) The provisions of this Part shall become effective ninety days
22 after the Customs Service issues regulations providing for the procedures
23 for this Part.

24 109. A customs simplification authorized economic operator may
25 be authorized by the Customs Service to use the following special
26 procedures-

Customs
simplification
authorized
economic operator

27 (a) release of goods from customs control on the provision of
28 minimum information necessary to identify the goods and permit
29 subsequent completion of a goods declaration;

30 (b) clearance of goods at the declarant's premises;

1 (c) use of a single goods declarations for all imports or exports during
2 a given time period where goods are imported or exported frequently by the
3 same person;

4 (d) use of commercial records to self-assess duty, excise tax, other tax
5 and fee liability and to ensure compliance with other customs requirements;

6 (e) lodgment of goods declarations by means of entries in the records
7 of the authorized economic operator; and

8 (f) other simplified procedures that may from time to time be
9 authorized by the Customs Service.

Security and
safety authorized
economic operator

10 110. A security and safety authorized economic operator may be
11 authorized by the Customs Service to use the following special procedures-

12 (a) a reduced data set for release of goods from customs control;

13 (b) expedited processing and release of goods;

14 (c) a minimum number of cargo security inspections;

15 (d) priority use of non-intrusive inspection techniques when
16 inspection is required;

17 (e) reduction in customs fees;

18 (f) access to customs offices and customs personnel after normal
19 hours in order to expedite shipments;

20 (g) priority processing during periods of elevated threat conditions or
21 security incidents;

22 (h) priority consideration of applications for customs simplification
23 authorized economic operator status; and

24 (i) other simplified procedures relating to security and safety that may
25 from time to time be authorized by the Customs Service.

Criteria for
granting status
as authorized
economic operator

26 111.-(1) The criteria for granting the status of Customs Simplification
27 Authorized Economic Operator are-

28 (a) demonstrated compliance with customs and tax requirements;

29 (b) a satisfactory system of managing commercial and, where
30 appropriate, transport records, allowing appropriate customs controls;

- 1 (c) good financial standing;
- 2 (d) established procedures for communicating with the Customs
3 Service and promptly reporting violations of customs law to the Customs
4 Service;
- 5 (e) regular education and training of personnel regarding customs
6 procedures;
- 7 (f) demonstrated practical standards of competence and
8 professional qualifications directly related to simplified procedures;
- 9 (g) provision of a financial guarantee;
- 10 (h) use of modern information and communications technology
11 including electronic data exchange; and
- 12 (i) implementation of required security standards.
- 13 (2) The criteria for granting the status of Security and Safety
14 Authorized Economic Operator shall be the following-
- 15 (a) demonstrated compliance with customs and tax requirements;
- 16 (b) a satisfactory system for managing commercial, and where
17 appropriate, transport records, allowing appropriate customs controls;
- 18 (c) good financial standing;
- 19 (d) established procedures for communicating with the Customs
20 Service and promptly reporting security concerns to the Customs Service;
- 21 (e) regular education and training of personnel regarding security
22 procedures;
- 23 (f) a system to protect confidential security information;
- 24 (g) use of modern information and communications technology,
25 including electronic data exchange;
- 26 (h) implementation of procedures in respect of cargo, conveyance,
27 premises, personnel and trading partner security;
- 28 (i) implementation of crisis management and incident recovery
29 procedures; and
- 30 (j) implementation of monitoring, measurement, analysis and

1 improvement processes to ensure the adequacy and integrity of the security
2 management system.

3 (3) The Customs Service shall issue regulations providing necessary
4 clarification for the criteria contained in this section, and the development of
5 these regulations and specifics of the criteria shall be in collaboration with
6 private sector stakeholders.

Suspension for
revocation

7 **112.** The status of a customs simplification authorized economic
8 operator or security and safety authorized economic operator may be
9 suspended or revoked by the Customs Service if the authorized economic
10 operator fails to comply with the conditions contained in this Part and
11 regulations made pursuant to the provisions of this Part.

12 PART XIII - STATUS OF GOODS AND CUSTOMS PROCEDURES

Customs
declaration of
goods placed
under customs
procedure etc.

13 **113.-(A)** Types of Declarations and Customs Procedures:

14 (1) A customs declaration appropriate for a particular procedure shall
15 be submitted to the Customs Service by the person concerned for goods
16 intended to be placed under a customs procedure, except that a customs
17 declaration shall not be required to place goods in a free zone.

18 (2) The Customs Service shall require the lodgment of an original
19 declaration electronically, except for simplified declarations for low value
20 shipments or personal declarations and other exceptions, as may be provided
21 for by regulations

22 (3) Where written declarations are accepted, only the necessary
23 minimum number of copies shall be required.

24 (4) To support goods declaration, the Customs Service shall demand
25 for documents required for customs control or for compliance with applicable
26 customs procedure and to ensure that all requirements of customs and excise
27 laws have been complied with.

28 (5) The Customs Service may not require translation of supporting
29 documents except where necessary to facilitate the processing of the
30 declaration.

1 (6) A goods declaration shall be lodged in connection with the
2 following procedures-

3 (a) release for free circulation;

4 (b) re-importation;

5 (c) exportation;

6 (d) transit or transshipment;

7 (e) warehousing or duty free shops;

8 (f) drawback;

9 (g) temporary admission into the customs territory with the
10 declared intention of subsequent exportation;

11 (h) destruction of goods or rejection of goods in favour of the
12 Government; and

13 (i) special procedures.

14 **114.**-(1) The Customs Service may authorize declarants to place
15 goods under a customs procedure on the basis of a simplified declaration
16 which may not require some of the particulars and supporting documents
17 normally requested for.

Simplified
declarations

18 (2) The use of simplified declarations may be authorized in the
19 following circumstances-

20 (a) for low value shipments;

21 (b) in situations where the declarant, for reasons deemed valid by
22 the Customs Service, does not have all the information required to make a
23 full declaration and agrees to provide the additional information required at
24 a later time;

25 (c) for travelers;

26 (d) for authorized economic operators; or

27 (e) for emergency relief consignments.

28 (3) For authorized economic operators, a simplified declaration
29 may take the form of an entry in the declarant's records.

30 (4) The Customs Service shall make regulations containing the

1 required content of simplified declarations providing for when such simplified
2 declaration may be used.

3 (5) For the purposes of this section, "low value shipments" means
4 shipments of a value to be determined in regulations issued from time to time
5 by the Customs Service.

Post-Entry
modifications

6 **115.**-(1) When a declarant submits a simplified declaration to the
7 Customs Service pursuant to the provision of section 115 of this Act and the
8 declarant is an authorized economic operator or has submitted a simplified
9 declaration because the declaration did not have all the information required to
10 make a full declaration, the declarant shall submit to the Customs Service
11 further particulars necessary to complete a full customs declaration for the
12 customs procedure concerned.

13 (2) For authorized economic operators, this further submission of
14 particulars for the goods concerned may be of a periodic and recapitulative
15 nature.

16 (3) The time periods for submission of such further particulars shall
17 be set by regulations issued by the Customs Service.

18 (4) The subsequent submission of particulars and the simplified
19 declaration shall be deemed to constitute a single document taking effect on the
20 date on which the simplified declaration is accepted by the Customs Service.

21 (5) When the simplified declaration takes the form of an entry in the
22 declarant's records and access to those records by the Customs Service using
23 electronic data exchange, the declaration shall take effect from the date on
24 which the goods are entered in the declarant's records.

25 (6) The place where the further submission is to be lodged shall be the
26 place where the simplified declaration has been lodged.

Competent
customs offices

27 **116.**-(1) The Customs Service shall determine by regulations the
28 location and competence of the various customs offices situated in the customs
29 territory.

30 (2) Where a customs office is located at a common border crossing, to

1 the extent possible, the Customs Service shall correlate the business hours
2 and competence of such an office with the customs administration of the
3 concerned foreign country.

4 (3) At common border crossings the Customs Service shall, as far
5 as practicable, operate joint customs controls with the customs
6 administration of the concerned foreign country.

7 (4) To the extent possible, the Customs Service shall establish
8 adjacent or joint customs office at common border crossings to facilitate
9 joint controls with the customs administration of the concerned foreign
10 country.

11 (5) To facilitate trade, customs offices shall operate reasonable and
12 appropriate hours, taking into account the nature of the traffic and of the
13 goods and customs procedures at the location or place in question.

14 (6) The Customs Service may extend the normal working hours of
15 a customs office and may also perform customs functions away from
16 customs offices to facilitate trade and in such instances; a cost-based user fee
17 may be assessed by the Customs Service on persons using these special
18 services.

19 117.-(1) The Customs Service may authorize a person to lodge at
20 the customs office with jurisdiction over that person's principal place of
21 business, a customs declaration for goods which are to be presented to
22 another customs office and in such cases, the customs debt shall be deemed
23 to be incurred at the customs office at which the customs declaration is
24 lodged.

25 (2) The customs office at which the customs declaration is lodged
26 shall carry out the formalities for verification of the declaration, payment of
27 the customs debt, and for granting release of the goods.

28 (3) The customs office at which the goods are presented shall carry
29 out any examination requested by the customs office at which the customs
30 declaration is lodged and shall release the goods, taking into account

Centralized
customs clearance

1 information received from that office.

2 (4) With the exception of controls for security and safety purposes, or
3 as a consequence of evidence that customs laws are being violated, the customs
4 office at which the goods are presented shall not carry out an independent
5 examination of the goods.

6 (5) The Customs Service shall issue regulations for this section
7 governing the-

8 (a) granting of authorizations referred to in subsection (1) of this
9 section and the conditions under which such authorization is to be granted;

10 (b) conditions when such authorizations may be suspended or
11 revoked;

12 (c) specific roles of the customs' offices involved; and

13 (d) time for completion of all customs formalities.

14 **118.-(B) Release of Goods, etc.**

15 (1) Goods intended for use or consumption within the customs
16 territory shall be placed under the release for free circulation procedure.

17 (2) Release for free circulation entails the-

18 (a) collection of duties, excise taxes, other taxes fees, and the customs
19 debt due;

20 (b) application of any commercial policy measures and prohibitions
21 and restrictions so long as of the procedure were not applied at an earlier stage;
22 and

23 (c) completion of any other formalities required in respect of the
24 importation of the goods.

25 **119.-(1) The Customs Service shall with the order of court, direct the**
26 disposal of goods by sale, destruction or as the Board may deem fit, in cases
27 where-

28 (a) one or more of the obligations imposed by the customs law
29 concerning the introduction of goods into the customs territory has not been
30 fulfilled, or the goods have been withheld from customs control;

Release for free
circulation
procedure

Sale, disposal
or destruction
of goods

- 1 (b) the goods cannot be released on the ground that-
- 2 (i) it has not been possible, for reasons solely attributable to the
- 3 declarant, to undertake or continue examination of the goods within the
- 4 period prescribed by the Customs Service;
- 5 (ii) the documents which must be produced before the goods can be
- 6 placed under, or released from, a customs procedure requested have not
- 7 been made available by the declarant;
- 8 (iii) payments or a guarantee which should have been made or
- 9 provided in respect of a customs debt have not been made or provided within
- 10 the period prescribed; or
- 11 (iv) the goods are subject to prohibitions or restrictions.
- 12 (c) the goods have not been removed from customs custody within
- 13 such time as Customs regulations may provide after their release;
- 14 (d) after their release, the goods are determined by the Customs
- 15 Service not to have fulfilled the conditions for their release; and
- 16 (e) goods are abandoned to the Government in accordance with the
- 17 provisions of this Part.

18 (2) Goods which have been abandoned to the Government, seized

19 or confiscated shall be deemed to be placed under the temporary storage

20 procedure.

21 (3) For abandoned goods, temporary storage shall terminate on

22 final sale, destruction or disposal of the goods.

23 **120.** Where a person imports goods into the customs territory and
24 abandons such goods, the person or the holder of the goods shall bear the
25 cost of destruction or disposal of the goods.

Abandonment of
goods

26 **121.-(C) Warehouses:**

Warehousing of
goods, etc.

27 (1) Goods may be admitted to a customs warehouse under the

28 warehouse procedure by any person with the right to dispose the goods

29 stored or to be stored without the payment of duties, excise taxes, other taxes

30 and fees.

1 (2) A general customs warehouse may be used by any person and a
2 private customs warehouse may be used only by the person designated where
3 necessary to meet the special requirements of trade.

4 (3) The provisions of this section are not applicable to government
5 warehouses except as may be prescribed.

6 (4) A government warehouse is a place provided by the Government
7 and designated by the Customs Service for the deposit of seized or forfeited
8 goods and for other purposes relating to the enforcement of the customs and
9 excise laws.

Licencing of
warehouses and
warehouse keepers

10 **122.**-(1) A warehouse shall not be operated as a Customs warehouse
11 without a licence issued by the Customs Service to the warehouse keeper.

12 (2) The Customs Service may make regulations for licencing
13 warehouses and warehouse keepers which regulations may make provisions-

14 (a) for the maintenance of appropriate inventory control systems;

15 (b) for proof of financial solvency; and

16 (c) setting standards for the qualifications of employees, contractors
17 and service providers of a warehouse.

18 (3) The Customs Service may, upon application made to it on the
19 prescribed form-

20 (a) licence any building as a warehouse for the deposit of goods for
21 warehouse purposes; or

22 (b) may, where the application has failed to fulfill the prescribed
23 conditions for the grant of a licence, refuse to issue a licence to the applicant.

24 (4) Where the Customs Service has issued a licence to an application
25 pursuant to the provision of this section, it may at any time revoke the licence
26 and where appropriate refund a proportionate part of the licence fee to the
27 applicant.

28 (5) A building may be licenced by the Customs Service as-

29 (a) a general customs warehouse, for the warehousing of goods which
30 are the property of the warehouse keeper or of any other person; or

1 (b) a private warehouse, only for the warehousing of goods which
2 are the property of the warehouse keeper.

3 (6) A licence issued under this section shall-

4 (a) be in such form as the Customs Service may prescribe from
5 time to time;

6 (b) conform with such terms and conditions as the Customs
7 Service may by regulations prescribe;

8 (c) be subject to the payment of such fees as may be specified by the
9 Customs Service; and

10 (d) expire on the 31st day of December of each year.

11 (7) A licence shall not be issued to an applicant under this Part until
12 the applicant has-

13 (a) furnished a guarantee for the due payment of all duties, excise
14 taxes, other taxes and fees in an amount as the Customs Service may require;

15 (b) provided any additional guarantee as the Customs Service may
16 require; and

17 (c) given an undertaking to comply with customs and excise laws.

18 (8) A warehouse keeper who without the prior written approval of
19 the Customs Service makes any alteration to, or addition to, a warehouse
20 shall be liable to a penalty of N1,500,000 and upon review may, at the
21 determination of the Customs Service, have the licence revoked.

22 (9) A warehouse keeper who uses his warehouse, or permits the
23 warehouse to be used, in contravention of the conditions of the licence shall
24 be liable to a penalty of N1,500,000 or revocation of the licence or to both.

25 (10) An owner or occupier of a building who uses the building or
26 permits it to be used, for the deposit of goods for warehousing purpose
27 without a valid licence issued pursuant to the provision of this section shall
28 be liable to a penalty of N1,500,000 and, in addition to a penalty of
29 N500,000 for each day, or part of a day, during which the building is used or
30 is permitted to be so used for warehousing purposes.

Termination of
a warehouse
licence

1 **123.**-(1) The Customs Service shall give a written notice of intention
2 to revoke or not to renew the licence of a warehouse three months prior to the
3 date the revocation is to take effect or the licence is due to expire.

4 (2) The notice referred to in subsection (1) of this section shall specify
5 the date the licence is due to terminate and shall be deemed to have been served
6 on all persons interested in any goods deposited in that warehouse if addressed
7 and served on the warehouse keeper.

8 (3) After the date of issuance, the notice referred to in subsection (1)
9 of this section, no goods shall be accepted for deposit for warehousing in the
10 warehouse.

11 (4) Where-

12 (a) after the date specified in the notice or such later date as the
13 Customs Service may in any case allow, any goods upon which duty has not
14 been paid remain in the warehouse; or

15 (b) after the notice has been served, any goods are deposited for
16 warehousing in the warehouse, the responsible customs officer may, take the
17 goods to a Government warehouse, and the Customs Service may, for good
18 cause, permit such goods to be re-warehoused in another warehouse.

Warehouse keeper
to provide facilities

19 **124.**-(1) A warehouse keeper shall at his own expense-

20 (a) provide and maintain at the warehouse office accommodation and
21 related facilities conducive for work by a customs officer and other employees
22 at the warehouse as the Customs Service may prescribe;

23 (b) provide and maintain appropriate working tools, equipment and
24 appliances, and such other facilities, for examining, securing and taking
25 account of goods, as the customs officer in charge may require;

26 (c) stack and arrange the goods in the warehouse to allow reasonable
27 access to and examination of every container or lot of such goods at all times;

28 (d) provide all necessary labour and materials for the storing,
29 examining, packing, marking, cooperating, weighing and taking stock of the
30 warehoused goods whenever the customs officer so requires.

1 (2) Where any warehouse keeper fails to comply with any of the
2 provisions of this section, the Customs Service may direct that no further
3 goods shall be warehoused by that warehouse keeper until compliance by
4 the warehouse keeper with any requirement prescribed to the satisfaction of
5 the Customs Service.

6 (3) A warehouse keeper who contravenes any direction given by
7 the Customs Service under the provision of subsection (2) of this section
8 shall be liable to a penalty of N1,500,000 and, in addition, to a fine of
9 N500,000 for each day, or part of a day, during which such contravention
10 continues.

11 **125.**-(1) The Customs Service may by regulations specify the
12 times at which goods may be received and removed from a warehouse.

Removal of goods
and receiving of
goods into a
warehouse

13 (2) Where goods are received or removed in contravention of this
14 section or regulations made by the Customs Service in pursuant to this
15 section, the person responsible for removing the goods shall be liable to a
16 penalty of N1,500,000 or the value of the goods, whichever is higher and
17 repeated violations of the provision of this section may result in the
18 revocation of the warehouse licence.

19 **126.**-(1) Upon the arrival of any goods at a warehouse, the
20 warehouse keeper shall immediately report the arrival to the customs office
21 in charge, and where the warehouse keeper fails to report the arrival of any
22 goods he shall be liable to a fine of N1,500,000.

Warehousing
procedure

23 (2) Goods which are declared for warehousing shall be deemed to
24 be duly warehoused from the time the goods are certified by the Customs
25 Service and entered into the record inventory of the warehouse operator.

26 (3) Except as otherwise provided in this Part or as may be permitted
27 by the Customs Service, all goods are to be warehoused in containers or lots
28 in which they were entered for warehousing; and any goods warehoused in
29 contravention of the provision of this subsection shall be forfeited.

30 (4) The warehouse keeper shall mark the containers or lots of

1 warehoused goods in such manner as the customs officer in charge may direct
2 and shall, subject to any such further directions, the warehouse keeper shall
3 keep the goods so marked while they are warehoused.

4 (5) A warehouse keeper who fails to comply with the provisions of
5 subsection (4) of this section shall be liable to a penalty of N1,500,000.

6 (6) The Customs Service shall issue regulations governing
7 warehousing procedures.

8 (7) Warehouse keepers shall maintain inventory management
9 systems that are in accordance with the Customs Service's requirements.

10 (8) Information and communications technology shall be applied to
11 warehousing procedures and record keeping to the extent practicable.

Customs control
of warehouses,
etc.

12 **127.-(1)** The Customs Service shall maintain customs control over
13 public and private customs warehouses and such control measures may
14 include-

15 (a) a requirement that warehouses be double locked, secured by both a
16 lock of the warehouse keeper and of the Customs Service;

17 (b) permanent or intermittent supervision by customs officers;

18 (c) inventories of goods and audits of records; and

19 (d) unannounced spot checks.

20 (2) The customs office responsible may give direction to the
21 warehouse keeper on the parts of a warehouse where goods may be kept and the
22 manner in which goods are to be deposited and kept.

23 (3) Where goods are deposited contrary to any directions of the
24 Customs Service, the warehouse keeper shall be liable to a fine of N1,500,000.

25 (4) The Custom Service may by regulations impose special
26 conditions, consistent with industry standards for the storage of hazardous
27 materials.

28 (5) Goods of a combustible or inflammable nature or with
29 characteristics requiring special care, storage or treatment shall not be

1 warehoused together with other goods not requiring such special care or
2 treatment.

3 (6) Except as otherwise provided for in this section or is permitted
4 or directed by the Customs Service, if goods deposited in a warehouse are
5 moved from the part of the warehouse in which they were deposited, or any
6 alteration is made to the goods, marks, numbers of such goods, their
7 containers or lots, such goods may be forfeited.

8 (7) Goods admitted into a warehouse must be withdrawn from the
9 warehouse not later than three years after admission into a warehouse.

10 **128.** The warehouse keeper shall produce to the Customs Service,
11 on request, any goods deposited in his warehouse which have not been
12 lawfully removed from the warehouse and where he fails to produce the
13 goods, he shall on conviction be liable to a fine of six times the value of the
14 goods or imprisonment for a term of five years or both.

Responsibility for
production and
safe custody of
warehoused goods

15 **129.** A person entitled to dispose warehoused goods shall be
16 allowed, for reasons deemed valid by the Customs Service, to perform the
17 following operations in respect of the warehoused goods, to-

Repacking and
other authorized
operations

18 (a) inspect them;

19 (b) take samples, against payment of duties, excise taxes, other
20 taxes and fees;

21 (c) carry out operations necessary for the preservation of the
22 goods; and

23 (d) carry out such other normal handling operations as are
24 necessary to improve the packaging or to prepare the goods for shipment
25 such as breaking bulk, grouping of packages, sorting and grading, and
26 repacking.

27 **130.**-(1) The transfer of ownership of warehoused goods shall be
28 allowed.

Additional
provisions
regarding
warehoused
goods

29 (2) Where goods are found to have deteriorated, spoilt or damaged,
30 for reasons other than force majeure while under the warehouse procedure,

1 such goods shall be allowed to be declared under the release for free circulation
2 procedure in their deteriorated or damaged state or for destruction at owners'
3 expense if the claimed deterioration or damage is substantiated by examination
4 by the Customs Service.

5 (3) The Customs Service may direct the disposal of goods
6 deteriorated, spoilt or damaged for reasons other than force majeure at the
7 owners' expense in cases where the goods may endanger health or
8 contamination of other goods in storage.

Removal of
warehouse
goods

9 131.-(1) Before any goods are removed from a warehouse, the
10 proprietor or owner of the goods shall deliver to the customs office responsible
11 a declaration in such form and manner as provided for in this Act and
12 regulations made under this Act.

13 (2) Goods shall be deemed to have been duly declared under this
14 section when the declaration has been accepted and signed by the customs
15 officer.

16 (3) Subject to the provision of this Act, goods shall not be removed
17 from a warehouse until any customs debt chargeable on the goods have been
18 paid.

19 (4) Warehoused goods shall not be removed from a warehouse except
20 with the authority of, and in accordance with any directions given by, the
21 customs office responsible.

Closure of a
warehouse

22 132.-(1) Where a customs warehouse is closed, the persons concerned
23 shall be given thirty days after written notice of the closure to remove their
24 goods to another customs warehouse or place the goods under another customs
25 procedure.

26 (2) Failure to remove goods from a closed warehouse within the time
27 allotted by the Customs Service shall result in forfeiture of the goods.

General offences
relating to
warehouses

28 133.-(1) Any person who, except with the authority of the customs
29 officer, opens any of the doors or locks of any warehouse, including a
30 government warehouse, makes or obtains access to any such warehouse or

1 government warehouse or to any goods in a warehouse commits an offence
2 and liable on conviction to a fine of N1,500,000.

3 (2) Any person who fails to leave any warehouse, including a
4 government warehouse or any part of any warehouse or a government
5 warehouse when requested to do so by any customs officer commits an
6 offence and liable on conviction to a fine of N500,000.

7 (3) Any person who, except as permitted under this Act, willfully
8 destroys or damages any goods in a warehouse, including a government
9 warehouse, commits an offence and liable on conviction to a fine of six
10 times the value of the goods or N1,500,000 whichever is the greater, or to
11 imprisonment for a term of two years or to both fine and imprisonment.

12 **134.-(D) Free Zone Procedures:**

13 (1) The location and area of operation of a free zone shall be as may
14 be determined by applicable laws, rules and regulations on Export
15 Processing Zones or Oil and Gas Free Zones or such other laws and as may
16 be made from time to time.

17 (2) The perimeter, entry and exit points of the area of free zones
18 shall be subject to customs supervision, and persons, goods and means of
19 transport entering or leaving a free zone shall be subject to customs controls.

20 (3) Goods admitted into a free zone shall undergo processes
21 necessary for operations, improved packaging, marketable quality, or
22 preparation for shipment, consumption in the zone or delivery into the
23 customs territory.

24 (4) Subject to the authorization by a free zone administrative
25 authority examination, unstuffing, value addition, processing and
26 manufacturing operations may be conducted in a free zone.

27 (5) The Customs Service in collaboration with administrative
28 authority of a free zone, may issue regulations governing the Customs
29 operation in a free zone.

30 (6) Any person who contravenes the provisions of this section

Relationship
between the
Custom Service
and free zones

1 pertaining to free zone procedure, or the implementing regulations, shall be
2 liable to a penalty of N1,500,000 or imprisonment for two years, or to both fine
3 and imprisonment.

Buildings and
activities in a
free zone

4 **135.**-(1) Subject to the provisions of any law establishing free zones
5 generally or relating to any specific free zone, any industrial, commercial or
6 service activity shall be permitted in a free zone and the carrying on of such
7 activities, shall be subject to advance notification to the Custom Service.

8 (2) The Customs Service may impose prohibitions or restrictions on
9 the activities referred to in subsection (1) of this section, having regard to the
10 nature of the goods, the requirements of customs supervision, security or
11 safety.

Goods brought
into a free zone
and requirement
for guarantee

12 **136.**-(1) Foreign or domestic goods admitted into a free zone shall
13 undergo the prescribed customs procedures applicable to free zones.

14 (2) Evidence of the free zone status for the goods as obtained by the
15 licensee from the relevant authority shall be a part of the document to be
16 submitted to the customs office responsible before the goods are moved to the
17 designated stacking area.

Free zone goods
imported into
customs territory

18 **137.**-(1) Where goods are admitted from a free zone into the customs
19 territory, such goods shall be placed under the appropriate customs procedure
20 and extant import laws including payment of duties, taxes and fees.

21 (2) Where goods are admitted from a free zone into the customs
22 territory and placed under a customs procedure the good shall be deemed as
23 non-ECOWAS goods unless their origin as ECOWAS goods has been
24 established pursuant to a free zone procedure.

25 (3) Goods may be admitted into the customs territory from a free zone
26 using special expedited treatment procedures, including the Customs
27 Scheduling System also referred to as the 'urgent release' procedure, for time
28 sensitive operations.

29 (4) Where goods are exported from a free zone, for the purpose of
30 applying export formalities, the goods shall not be regarded as ECOWAS

1 goods unless it is established that the goods have customs status of
2 ECOWAS goods.

3 **138.** The following customs control measures shall be applicable
4 in free zones-

Customs control
measures applicable
into free zones

5 (a) free zones shall be managed in a manner that ensures safety and
6 accounting of goods consistent with customs procedure applicable in free
7 zones;

8 (b) proper accounts of goods introduced into free zones shall be
9 kept using special registers or the relevant declaration and information
10 technology shall be used for effective control of the circulation of goods;

11 (c) the Custom Service may at any time carry out checks of goods
12 stored in warehouses or any storage facilities located within a free zone;

13 (d) periodic audits of records, quantity counts of goods in a free
14 zone inventory, spot checks of selected transactions or procedures, and
15 review of record keeping, security or conditions of storage in a free zone;

16 (e) customs officers knowledgeable in free zone procedures shall
17 be assigned to free zones as may be necessary for the proper application of
18 custom control measures and free zone operators shall provide sufficient
19 office space in free zones for customs officers to carry out their
20 responsibilities; and

21 (f) additional control measures may be applied, in consultation
22 with a free zone authority, in accordance with the provisions of this Act and
23 as may be prescribed by regulations made under this Act.

24 **139.** Goods admitted into a free zone which is entitled to
25 exemption from or repayment of import duties and taxes when exported
26 shall qualify for such exemption or repayment when introduced into a free
27 zone.

Exemptions and
refunds of duties
and taxes

28 **140.** For custom control measures, persons carrying on business in
29 a free zone shall maintain manual or automated inventory control and record
30 keeping systems or combination of both systems capable of-

Inventory and
record keeping
systems

1 (a) accounting for all goods, including goods of Nigerian or other
2 ECOWAS origin, temporarily deposited, admitted, stored, exhibited,
3 manipulated, manufactured, destroyed, transferred, or removed from a free
4 zone;

5 (b) producing accurate and timely reports and documents as may be
6 required by the Customs Service;

7 (c) identifying shortages and overages of goods in a free zone in
8 sufficient detail to determine the quantity, description, tariff classification, free
9 zone status, and value of the missing or excess goods;

10 (d) providing all the information necessary to make entry for goods
11 being transferred to the customs territory; and

12 (e) providing an audit trail to Customs forms from admission through
13 manipulation, manufacture, destruction or transfer of merchandise from a free
14 zone either by free zone lot or Customs authorized inventory method.

Duration of stay
of goods and
closure of zone

15 **141.**-(1) In exceptional circumstances as may from time to time be
16 determined by the free zone authority, a limit may be imposed on the duration
17 of stay of goods in a free zone.

18 (2) In the event of the closure of a free zone, persons carrying on
19 approved activities in a free zone shall be given six months notice from the date
20 of closure of a free zone to remove their goods to another free zone or to place
21 the goods under another customs procedure.

22 (3) Goods not removed or placed under another customs procedure
23 within the six months period provided in subsection (2) of this section shall be
24 forfeited.

25 (4) The Custom Service may extend the period referred to in
26 subsection (3) of this section where reasonable grounds exist for the
27 extension.

28 PART XIV - TEMPORARY ADMISSION PROCEDURE

Scope of temporary
admission

29 **142.**-(1) Under the temporary admission procedure, non-ECOWAS
30 goods intended for re-export may be admitted into the customs territory with

1 total or partial relief from duties, excise taxes and other taxes, and fees
2 without subjecting the goods to commercial policy measures where the
3 entry or exit of the goods are not prohibited.

4 (2) Customs regulations shall provide circumstances in which
5 temporary admission may be granted.

6 (3) In appropriate cases, temporary admission shall be granted to
7 goods already admitted under another customs procedure.

8 (4) Goods admitted on temporary basis shall be permitted to
9 undergo procedures necessary for preservation while in the customs
10 territory.

11 (5) The temporary admission procedure may be used where-

12 (a) the goods are not intended to undergo any change, except
13 normal depreciation resulting from use;

14 (b) it is possible to ensure that the goods placed under the
15 temporary admission procedure can be identified, except where, due to the
16 nature of the goods or the intended use, the absence of identification
17 measures is not likely to result in abuse of the procedure;

18 (c) the person using the temporary admission procedure is
19 established outside the customs territory;

20 (d) there is a clear intention to re-export the goods on the part of the
21 person who owns or controls the goods;

22 (e) a guarantee is submitted covering the duties, excise taxes, other
23 taxes and fees that the goods will be assessed if the goods are not re-
24 exported;

25 (f) the Customs Service specifies a time limit for re-exportation, as
26 provided for in section 144 of this Act;

27 (g) use of the goods is limited to the declared purpose of the
28 temporary admission; and

29 (h) all additional requirements for total or partial duty relief
30 imposed by international agreement or Customs regulations are met.

Period for
temporary
admission
procedure

1 143.-(1) The Customs Service shall determine the period within
2 which goods placed under the temporary admission procedure must be re-
3 exported or placed under a different customs procedure.

4 (2) The maximum period during which goods may remain under the
5 temporary admission procedure for the same purpose and under the
6 responsibility of the same authorization holder shall be twelve months.

7 (3) In exceptional cases, when the authorized use cannot be achieved
8 within the allotted time period, the Customs Service may extend the period for
9 temporary admission.

Prior authorization
and acceptance of
international
documents

10 144. Prior authorization may be required by the Customs Service for
11 certain temporary admissions and in those instances and where temporary
12 admission procedure accords with the Istanbul Convention on Temporary
13 Admission, documents and guarantees issued by an international organization
14 recognized by the Istanbul Convention, shall be accepted by the Customs
15 Service in lieu of the submission of a declaration for temporary admission
16 procedure and a guarantee as provided for in this Part.

17 PART XV - DRAWBACKS

Meaning and
application of
of the drawback
procedure

18 145.-(1) "Drawback" means the amount of duties, excise taxes and
19 other taxes repaid under the drawback procedure.

20 (2) A drawback of duties, excise taxes and other taxes may be paid in
21 respect of-

22 (a) imported goods subsequently exported in the same condition as
23 imported;

24 (b) imported goods used or consumed in goods manufactured in the
25 Federal Republic of Nigeria which are subsequently exported; or

26 (c) imported goods, where the same quantity of domestic or imported
27 goods of the same class or kind is used in goods manufactured in the Federal
28 Republic of Nigeria which are subsequently exported.

29 (3) For the purposes of subsection (2) of this section, goods shall be
30 deemed to be exported if they are-

1 (a) placed in any area that may be declared a free zone, a customs
2 warehouse, a duty free shop, or otherwise exported;

3 (b) designated as stores pursuant to this Act and supplied for use on
4 board a conveyance outside the customs territory;

5 (c) used for equipment, repair or construction of ships or aircraft as
6 may be prescribed by regulations; or

7 (d) used or designated for use in such other manner as may be
8 prescribed by the Customs Service.

9 (4) An application for drawback shall be in such form and manner
10 as may be prescribed by regulations;

11 (5) An application for drawback of duties, excise taxes and other
12 taxes paid on imported goods shall be made within one year from the date of
13 exportation of the imported goods.

14 (6) Notice of an intent to apply for drawback shall be submitted to
15 the Customs Service at the time a declaration is lodged to import goods that
16 will be subject to the drawback procedure; provided that the Customs
17 Service shall not deny the payment of drawback on grounds that at the time
18 of importation of the goods, the declarant did not declare the intention of
19 claiming a drawback upon exportation.

20 (7) A drawback shall not be granted unless the person applying for
21 drawback provides such documentary evidence in support of the application
22 as may be required by the Customs Service.

23 (8) A drawback shall be paid as soon as possible after the claim has
24 been verified and the payment of drawback shall be made, whenever
25 possible, by electronic means.

26 (9) The Customs Service shall issue regulations for the effective
27 implementation of the provisions of this section.

28 **146.-(1)** Drawbacks shall be calculated by deducting from the
29 amount of duties, excise taxes and other taxes paid on the goods, an amount
30 equivalent to the proportionate cost to the Customs Service for

Calculation of
drawbacks

1 administering the drawback programme.

2 (2) The amount of drawback shall be reduced by the value of any
3 merchantable scrap or waste resulting from the manufacturing process.

Offences and
penalties relating
to drawbacks

4 147.-(1) Where any person obtains or attempts to obtain, or does
5 anything for any person to obtain any amount as drawback of any duty or tax in
6 respect of any goods which a person is not lawfully entitled to or which is
7 greater than the amount he is entitled to, such a person commits an offence and-

8 (a) if the offence is committed with intent to defraud, the person shall
9 on conviction be liable to a fine of six times the value of the goods or
10 N1,500,000, whichever is greater; or

11 (b) in any other case, the person shall on conviction be liable to a fine
12 of six times the amount improperly obtained or allowed or which might have
13 been unlawfully obtained or allowed or N1,500,000, whichever is greater.

14 (2) Any goods in respect of which an offence under subsection (1) of
15 this section is committed shall be forfeited and if the Customs Service deems
16 fit, instead of seizing the goods, may either refuse to allow any drawback on the
17 goods or allow only such drawback as it considers proper.

18 PART XVI - EXPORT PROCEDURE AND COASTWISE

19 CARRIAGE OF GOODS

Exporter to lodge
export declaration

20 148.-(1) Goods destined to leave the customs territory shall be
21 covered by an export declaration lodged at the relevant customs office before
22 the goods are taken out of the customs territory.

23 (2) The provision of subsection (1) of this section shall not apply to
24 goods carried on any means of transport passing through the territorial waters
25 or air space of Nigeria only or that are subject to the international transit
26 procedure.

Customs
supervision and
exit formalities

27 149.-(1) Goods leaving the customs territory shall be subject to
28 customs supervision and may be subject to customs controls and where
29 appropriate, the Customs Service may determine the route to be used for
30 exportation and the time limit for the goods to leave the customs territory.

- 1 (2) Goods leaving the customs territory shall be presented to the
2 customs office at the place of exit or at any other place designated by the
3 Customs Service and the following exit formalities shall apply-
- 4 (a) collection of export duties and fees, if applicable;
5 (b) repayment or remission of import duties, excise taxes, and
6 other taxes; and
7 (c) application of prohibitions and restrictions on exports relating
8 to-
- 9 (i) public morality, policy or security;
10 (ii) protection of the health and life of humans, animals or plants;
11 (iii) protection of the environment;
12 (iv) protection of national treasures possessing artistic, historic or
13 archaeological value;
14 (v) the protection of intellectual property;
15 (vi) money laundering and other cash transfers contrary to law;
16 (vii) fishery conservation; and
17 (viii) commercial policy measures.
- 18 (3) Goods leaving the customs territory shall be presented to the
19 Customs Service by the-
- 20 (a) exporter; or
21 (b) person in whose name or on whose behalf the person who
22 exports the goods acts; or
23 (c) person who assumed responsibility for carriage of the goods
24 prior to their export.
- 25 (4) Release for exit shall be granted on condition that the goods
26 leave the customs territory in the same condition as when the export
27 declaration was accepted.
- 28 (5) The Customs Service may not require evidence of the receipt of
29 the goods at their destination.

Penalties for
improper
exportation of
goods

- 1 **150.**-(1) Where a person-
- 2 (a) except as provided under this Act, exports or is involved in
- 3 exporting-
- 4 (i) any goods chargeable with a duty which has not been paid; or
- 5 (ii) any goods contrary to any prohibition; or
- 6 (b) loads for exportation or as stores or brings to any place in Nigeria
- 7 for the purpose of exporting or loading as stores any goods the exportation of
- 8 which is contrary to any prohibition, or assists or is involved in the loading or
- 9 bringing of the goods with intent to evade any duty or any prohibition, the
- 10 person commits an offence and liable on conviction to-
- 11 (i) imprisonment for a term of two years without the option of a fine;
- 12 (ii) forfeiture of the goods where the exportation is prohibited; or
- 13 (iii) where duty is chargeable, a fine of N500,000.00 or two times the
- 14 value of goods, whichever is greater.
- 15 (2) Where a person, except as provided under this Act -
- 16 (a) loads or causes to be loaded any goods into a ship, aircraft or
- 17 vehicle for exportation or as stores, or removes or causes to be removed any
- 18 goods from a customs territory for exportation before the export declaration
- 19 has been accepted by the Customs Service;
- 20 (b) exports or causes to be exported, or brings or causes to be brought
- 21 to any place in Nigeria for exportation, any goods concealed in a container
- 22 holding goods of a different description; or
- 23 (c) directly or indirectly exports or declares for exportation or causes
- 24 to be exported or declare for export any goods found not to correspond with the
- 25 declaration made he shall be liable on conviction to imprisonment for a term of
- 26 five years without the option of a fine.
- 27 (3) Where goods loaded or retained on board any ship, aircraft or
- 28 vehicle for exportation or as stores are unloaded in Nigeria without a written
- 29 authorization or permit by the appropriate customs officer, and unless any duty
- 30 chargeable and unpaid on the goods is paid or any drawback paid in respect the

1 goods repaid; the master of the ship, the captain of the aircraft, or any person
2 in charge of the vehicle or involved in the unloading, reloading, landing or
3 carrying of the goods from the ship, aircraft or vehicle without
4 authorization, permit, payment or repayment shall be liable on conviction to
5 a fine of six times the value of the goods or N1,500,000 whichever is greater,
6 and the goods shall liable to forfeiture.

7 **151.-(1)** Goods that were exported may be imported into the
8 customs territory free of duties, excise taxes and other taxes under
9 temporary export procedures, provided that the goods have not undergone
10 any manufacturing processing or repairs abroad.

Temporary export
procedure and
return of goods
in the same state

11 (2) Temporary export may be made applicable to both ECOWAS
12 origin goods and non-ECOWAS origin goods.

13 (3) Goods declared as temporary export are not eligible for the
14 refund or remission of import duties, excise taxes and other taxes on
15 exportation.

16 (4) Imports of temporary exports in the same state shall be allowed,
17 where-

18 (a) only a part of the exported goods is imported;

19 (b) the temporary exports are imported by a person other than the
20 person who exported the goods;

21 (c) the goods have been used or damaged or have deteriorated
22 during their stay outside the customs territory;

23 (d) the goods have undergone operations or necessary maintenance
24 processes, provided that their value at exportation has not been enhanced by
25 those processes; and

26 (e) the goods returned were initially placed under another customs
27 procedure, provided that any duties, excise taxes and other taxes remitted or
28 refunded on exportation are repaid.

29 (5) The declaration for goods placed under the temporary exports
30 procedure shall include a notice of the exporter's intent to return the goods;

1 provided that the import of temporary exports may be allowed without a
2 declaration of intent on justifiable grounds.

3 (6) The Customs Service shall specify by regulations the
4 requirements relating to the identification of the goods subject to the notice of
5 intent to return.

6 (7) Goods exported with a notice of intent to return may be granted
7 conditional relief from any applicable export duties and taxes.

8 (8) Return of temporary exports in the same state shall be allowed for
9 a period not exceeding three years from the date of the exportation of the
10 goods.

11 (9) Goods declaration in writing shall not be required for temporary
12 exports of packings, containers, pallets and means of transport for commercial
13 use which are in use for international transport of goods; unless the Customs
14 Service is satisfied that these packings, containers, pallets and means of
15 transport for commercial use can be properly identified and that any duties,
16 excise taxes, other taxes and fees chargeable have been paid.

Procedure for
coastwise carriage
of goods

17 152.-(1) Coastwise carriage of goods procedure means the customs
18 procedure under which goods in free circulation and imported goods are
19 conveyed when the goods are-

20 (a) transported in a vessel other than the vessel in which the goods
21 were brought into the customs territory; and

22 (b) loaded on board a vessel at a place in the customs territory and
23 transported to another place in the customs territory, where the goods are
24 unloaded.

25 (2) The Customs Service may, subject to such conditions and
26 restrictions as it may impose, permit goods brought by an importing ship to a
27 customs port in the customs territory but consigned to and intended to be
28 delivered at some other customs port to be transferred under the coastwise
29 carriage of goods procedure to another ship for carriage by sea to that other
30 customs port.

1 (3) For the purposes of this Act, goods transferred and carried in
2 accordance with subsection (2) of this section shall be deemed to be carried
3 coastwise.

4 (4) Imported goods carried coastwise pursuant to the provision of
5 this section shall not be unloaded at the customs port of destination until a
6 declaration under another customs procedure has been made, except where
7 the goods are-

8 (a) unloaded for deposit in a customs control zone pursuant to the
9 temporary storage procedure provided for in this Act and duly deposited in
10 the custom control zone; or

11 (b) admitted into a free zone.

12 (5) The Customs Service shall allow goods to be transported under
13 the coastwise carriage of goods procedure on board a vessel carrying other
14 goods at the same time, provided that all the goods can be identified and all
15 other customs requirements will be fulfilled.

16 (6) For the purpose of customs control, the Customs Service may
17 require that goods in free circulation being transported under the coastwise
18 carriage of goods procedure be separated from other goods carried on board
19 a vessel.

20 (7) The Customs Service may affix identification marks, customs
21 seals or use other customs control measures to facilitate identification of the
22 goods.

23 (8) Prior to a coastwise carriage of goods, the Customs Service
24 shall require the master of the vessel or other person responsible, to present
25 only a single document giving details of the vessel, listing the goods to be
26 carried under the coastwise carriage of goods procedure and stating the port
27 or ports in the customs territory at which the goods are to be unloaded.

28 (9) The document referred to in subsection (8) of this section shall
29 on approval by the Customs Service constitute the authorization for the
30 conveyance of goods under the coastwise carriage of goods procedure.

1 (10) The Customs Service regulations may be designate the ports
2 that are approved for loading and unloading of goods subject to the
3 coastwise carriage of goods procedure and the hours during which loading
4 and unloading may be carried out.

5 (11) Where the transport of goods under the coastwise carriage of
6 goods procedure is interrupted by accident or force majeure, the master of
7 the vessel or other person responsible shall take reasonable precautions to
8 prevent the goods from entering into unauthorized circulation and to
9 promptly advise the Customs Service of the nature of the accident or other
10 circumstances that interrupted the journey.

11 (12) The Customs Service shall allow goods under the coastwise
12 carriage of goods procedure to be loaded or unloaded upon arrival of the
13 vessel at the place of unloading or loading.

Transire

14 153. In this part, "Transire" means a permit for goods to pass
15 through or across one customs control zone to another customs control
16 zone:

17 (1) Subject to the provisions of this section and except as
18 permitted by the Board, before any consignment is moved from any
19 customs control zone to another, the importer or his representative thereof
20 shall deliver to the proper officer an account of the cargo in such form and
21 manner and containing such particulars as the Board may direct, and that
22 account when dated and signed by the proper officer shall be the transire,
23 that is to say, the clearance of the consignment from that port or place and
24 the pass for any goods to which the account relates.

25 (2) Where the goods taken on board a means of conveyance are to
26 be carried to different places, the applicant shall deliver a separate account
27 relating to the goods taken on board for each such place.

28 (3) The Board may, subject to such conditions as it sees fit to
29 impose, grant a general transire in respect of any means of transport and any
30 goods carried therein.

1 (4) The Board may, subject to such conditions as it sees fit to
2 impose, grant a special transire in respect of any ship exclusively engaged in
3 fishing.

4 (5) Any such general or special transire may be revoked by the
5 Board by notice in writing delivered to the applicant or the owner of the
6 ship.

7 **154.** The President may by order prohibit the coastwise carriage of
8 any goods except as may be provided in the order.

Power to prohibit
coastwise carriage
of goods

9 **155.**-(1) Where:

Offences in
connection with
coastwise carriage
of goods

10 (a) a vessel carrying goods under the coastwise carriage of goods
11 procedure departs from any place without sufficiently accounting for the
12 goods and without a detailed lists of the goods duly delivered to the Customs
13 Service;

14 (b) a coasting vessel deviates, without prior permission from her
15 scheduled voyage except for some unavoidable cause, the proof of which
16 shall lie on the master of the vessel; or

17 (c) a coasting vessel deviates from her voyage or takes on board or
18 discharges any goods at sea without prior permission and the master does
19 not report that fact in writing at the first customs port or other place in the
20 customs territory at which the ship arrives thereafter, the master of such ship
21 shall be liable to a penalty of N2,000,000 or the value of the goods
22 whichever is greater.

23 (2) Goods which are loaded, carried, unloaded or otherwise dealt
24 with in contravention of the provision of this section or of any condition
25 imposed by the Customs Service under this section shall be forfeited.

26 (3) Where goods are carried coastwise contrary to any prohibition
27 or are brought to any place in the customs territory for the purpose of being
28 so carried, the goods shall be liable to forfeiture and any person concerned in
29 the coastwise carriage or the intended coastwise carriage of such goods shall
30 be liable to a fine of N1,500,000.

Stores

1 **156.** In this Part "stores" means-

2 (a) goods intended for consumption by the passengers and crew on
3 board vessels, aircraft and other means of conveyance, whether for sale or not;

4 (b) goods necessary for the operation and maintenance of vessels,
5 aircraft and other means of conveyance; or

6 (c) goods for sale to the passengers and crew of vessels, aircraft and
7 other means of conveyance with a view to being landed, which are either on
8 board during arrival or are taken on board during the stay in the customs
9 territory.

10 (2) Stores shall be exempted from the payment of duties, excise taxes
11 and other taxes if retained on board the vessel, aircraft or other conveyance
12 while in the customs territory, and the quantities of such stores are deemed
13 reasonable having regard to the number of passengers and crew, and to the
14 length of stay of the conveyance, provided the length of any the stay is
15 considered reasonable.

16 (3) Stores may be issued to members of the crew of a vessel
17 undergoing repairs in a dock or shipyard in the customs territory, provided the
18 stay in a dock or shipyard is considered to be of a reasonable duration.

19 (4) The operator of a ship, aircraft, or other conveyance shall take
20 appropriate measures to prevent the unauthorized use of stores, including
21 sealing when necessary.

22 (5) Treatment of goods as stores shall apply equally, regardless of the
23 country of registration or ownership of the vessel, aircraft or other conveyance.

24 (6) The requirement for a goods declaration shall be dispensed with
25 for stores, provided a stores' inventory in a form acceptable to the Customs
26 Service is maintained on board the vessel, aircraft or other conveyance.

27 (7) Stores on board a vessel, aircraft or other conveyance that have
28 arrived in the customs territory shall be allowed-

29 (a) to be placed under another customs procedure, subject to
30 compliance with the relevant conditions; or

1 (b) subject to prior authorization from the Customs Service, to be
2 transferred to other vessels, aircraft or other conveyances engaged in
3 international traffic.

4 (8) Based on the application of risk management, the Customs
5 Service may, from time to time, take inventory of stores on board, and after
6 the quantities permitted have been issued, place the remainder under
7 customs seal.

8 (9) On account of mandatory customs control, the Customs Service
9 may require the removal of stores from the vessel, aircraft or other
10 conveyance for secure storage in another place during the stay of the
11 conveyance in the customs territory.

12 (10) Vessels and aircraft which depart from the customs territory to
13 a foreign destination shall be entitled to take on board, free of duties, excise
14 taxes and other taxes -

15 (a) stores for consumption by the passengers and the crew, and
16 stores to be taken away in such quantities as the Customs Service may deem
17 reasonable, having regard to the number of passengers and crew, the length
18 of voyage or flight, and quantities of stores already on board; and

19 (b) stores for consumption necessary for operation and
20 maintenance of the vessel or aircraft, in such quantities as are deemed
21 reasonable for operation and maintenance during the intended voyage or
22 flight, having regard to any quantities of stores already on board.

23 PART XVII - EXPRESS SHIPMENTS AND POSTAL TRAFFIC

24 157. In this Part, unless the context otherwise requires-

25 "express shipments" means the international transport of small packages of
26 goods or correspondence by air or a combination of air and surface transport
27 on an expedited basis using a courier service;

28 "postal items" means letter-post and parcels, as described in the Acts of the
29 Universal Postal Union, when carried by or for the postal services;

30 "postal services" means any public or private body authorized by the

Definition of
terms under this
Part

1 Government to provide the international services governed by the Acts of the
2 Universal Postal Union;
3 "CN22" and "CN23" mean the special declaration forms for postal items as
4 described in the Acts of the Universal Postal Union.

Express shipment
procedure

5 **158.-(1)** The Customs Service shall-

6 (a) provide for a separate and expedited procedure for express
7 shipments;

8 (b) provide adequate facilities for the processing of express
9 shipments;

10 (c) permit express shipments to be processed at the facility of the
11 courier service under appropriate customs controls;

12 (d) maintain a high degree of control over express shipments by use of
13 risk management, internal security, tracking technology, and other appropriate
14 control measures; and

15 (e) allow submission through electronic means of a single manifest
16 covering all goods contained in a shipment transported by an express shipment
17 service.

18 (2) Persons transporting express shipments shall submit all
19 information necessary for the release of the express shipment electronically to
20 the Customs Service prior to the arrival of the express shipment.

21 (3) Where a satisfactory guarantee has been submitted covering
22 potential liability for duties, excise taxes, other taxes and fees, express
23 shipments shall in the usual course, be released for free circulation or in
24 accordance with a requested customs procedure within six hours after arrival
25 of the shipment and the submission of the necessary documents to the Customs
26 Service.

27 (4) The Custom Service may by regulations exempt shipments of a
28 nominal value from duties, excise taxes or other taxes and the requirement of
29 formal entry document.

30 (5) The Customs Service may assess fees limited to the actual cost of

1 the services provided for express shipment services.

2 (6) The Customs Service shall make regulations to give effect to
3 the provisions of subsection (1) (a) of this section; and such regulation shall
4 commence ninety days after it is made.

5 159. The Customs Service may enter into a memorandum of Administrative
6 responsibility
7 for postal items
8 understanding with the postal services which shall specify the respective
9 responsibilities of the Customs Service and the postal services in respect of
10 the customs treatment of postal items.

11 160.-(1) The customs clearance of postal items shall be carried out Clearance of
12 postal traffic
13 expeditiously.

14 (2) The importation of goods in postal items shall be allowed
15 whether or not they are intended to be released for free circulation or placed
16 under another customs procedure.

17 (3) The Customs Service shall designate to the postal services the
18 postal items that shall be produced for the purposes of customs control and
19 the methods of production for those items.

20 (4) The Custom Service may not require the following categories
21 of postal items to be provided -

22 (a) post cards and letters containing personal messages only;

23 (b) literature for the blind; and

24 (c) printed papers not subject to duties, excise taxes, other taxes

25 and fees.

26 (5) Forms CN22 or CN23 shall constitute the goods declaration
27 for postal items where all the information required by the Customs Service
28 are contain on those forms;

29 (6) A goods declaration or Forms CN23 shall be required in the
30 following instances-

(a) shipments above a nominal value as may be specified by
regulations;

(b) goods subject to prohibitions or restrictions or to export duties,

1 excise taxes, or other taxes;
2 (c) goods, the export of which must be certified; or
3 (d) imported goods intended to be placed under a procedure other than
4 release for free circulation.

5 (7) Postal items shall not be subject to customs formalities when
6 conveyed in international transit.

7 (8) The procedure for the collection of any duties, taxes and fees on
8 goods contained in postal items shall be simplified.

9 (9) Subject to the terms of a memorandum of understanding between
10 the Custom Service and the postal service, the postal service may collect any
11 duties, taxes and fees due at the time the postal items are delivered and remit the
12 amount collected to the Customs Service.

Repayment or
remission of duties
and taxes by
Customs Service

13 **161.** Where imported postal items are not delivered or rejected by the
14 addressee, repayment or remission of import duties and taxes shall be granted
15 upon request in respect of goods contained in the postal items, provided that the
16 goods are-

17 (a) re-exported; or

18 (b) destroyed or abandoned without cost to the Customs Service.

19 **PART XVIII - TRAVELERS AND DUTY FREE SHOPS**

Definition under
this Part

20 **162.** In this Part, unless the context otherwise requires-

21 "traveler" means-

22 (a) any person who does not normally reside in Nigeria, who enters or
23 leaves Nigeria ('a non-resident'), or,

24 (b) any person who normally resides in Nigeria, who leaves or returns
25 to Nigeria ('a returning resident');

26 "personal effects" means all articles, new or used, which a traveler may
27 reasonably require for personal use during a journey, taking into account all the
28 circumstances of the journey, but excluding any goods imported or exported
29 for commercial purposes;

30 "means of transport for private use" means road vehicles or trailers, boats or

1 aircraft, together with their spare parts and normal accessories and
2 equipment, imported or exported exclusively for the personal use by a
3 person and not for the transport of persons for remuneration, industrial or
4 commercial transport of goods;

5 "dual channel system" means a simplified customs control system allowing
6 travelers on arrival to make a declaration by choosing between two types of
7 channel; one channel, identified by green symbols, is for the use of travelers
8 carrying goods in quantities or values not exceeding those admissible duty
9 free and which are not subject to import prohibitions or restrictions; and the
10 other, identified by red symbols, is for other travelers; and

11 "Duty free shop" means a shop under customs control, generally located at
12 an exit point, such as an airport or seaport or national boundary, at which
13 travelers leaving or entering Nigeria may purchase goods free of duties and
14 taxes.

15 **163.-(1)** The Customs Service shall designate the customs offices
16 at which customs formalities relating to travelers may be carried out.

Custom offices
for travelers

17 (2) In determining the location and responsibility of customs
18 offices and the hours of business, the Customs Service shall take into
19 account the geographic locations where travelers enter and exit the customs
20 territory, the modes of transportation and the volumes of passenger traffic at
21 the locations.

22 **164.-(1)** The Customs Service shall facilitate international
23 travelers, consistent with the application of appropriate customs controls, to
24 ensure that-

Facilitation of
travelers

25 (a) internationally standardized electronic advance passenger
26 information shall, where feasible, be used to apply risk management and
27 facilitate the customs control of travelers and the clearance of their goods;

28 (b) whenever possible, the dual channel system shall be used for
29 the customs control of travelers and the clearance of their accompanying
30 goods carried and their means of transport for private use;

1 (c) oral declarations in respect of personal effects of travelers may be
2 accepted;

3 (d) transit passengers who do not leave a designated, secured transit
4 area may not be subject to any customs control; and

5 (e) travelers entering or leaving the customs territory by their means
6 of transport for private use shall be permitted to accomplish all necessary
7 customs formalities without, as a matter of course, having to leave the means of
8 transport in which they are traveling.

9 (2) Goods carried by travelers shall be stored, subject to the
10 conditions prescribed by the Customs Service until cleared, under the
11 appropriate customs procedure in the following cases -

12 (a) at the traveler's request; or

13 (b) where the goods concerned cannot be cleared immediately.

14 (3) Unaccompanied baggage or baggage arriving or leaving before or
15 after the traveler, shall be cleared under the procedure applicable to
16 accompanied baggage or under another simplified customs procedure and any
17 authorized person shall be allowed to present unaccompanied baggage for
18 clearance on behalf of a traveler.

19 (4) Personal searches of travelers shall be carried out only in
20 exceptional cases and when there are reasonable grounds to suspect smuggling
21 or other offences, such personal search shall be conducted based on a
22 progressively elaborated basis, from less intrusive to more intrusive steps as
23 defined by regulations.

24 (5) Personal searches shall be carried out by same sex customs
25 officers as the person being searched except where there is an immediate threat
26 to an officer or public safety in which case, steps necessary to minimize or
27 alleviate the threat shall be taken.

28 (6) Where appropriate, the use of credit cards shall be accepted as a
29 means of payment by travelers for duties, excise taxes, other taxes and fees due
30 and for services rendered by the Customs Service.

1 165.-(1) Subject to the prohibitions and restrictions imposed on Personal effects
2 imports by this Act and other legislations, returning residents may re-import of travelers
3 free of duties, excise taxes and other taxes personal effects and their means
4 of transport for private use taken with them at the time of their departure
5 from Nigeria and which were in free circulation in Nigeria.

6 (2) The Customs Service may in appropriate cases, require
7 documentary proof that personal effects and means of transport were owned
8 and used in Nigeria by the returning resident prior to the returning resident's
9 departure.

10 (3) At the request of residents leaving Nigeria, the Customs Service
11 shall take identification measures for certain articles to facilitate re-
12 importation free of duties and taxes.

13 (4) The Customs Service may in exceptional cases require a
14 temporary exportation declaration for the personal effects and means of
15 transport for private use of residents leaving Nigeria.

16 (5) Subject to the prohibitions and restrictions imposed on imports
17 by this Act and other legislations, the Customs Service shall permit the
18 temporary importation of personal effects of non-residents and shall not
19 require a declaration or other customs document or security for the
20 importations unless the personal effects -

21 (a) exceed, in value or quantity, limits provided for in customs
22 regulations; or

23 (b) are deemed by the Customs Service to be a loss to the revenue.

24 (6) The following shall be deemed to be travelers' personal effects-

25 (a) clothing, toilet articles and other articles of a personal nature;

26 (b) personal jewelry;

27 (c) cameras and associated accessories;

28 (d) portable projectors and associated accessories;

29 (e) binoculars;

30 (f) portable musical instruments;

- 1 (g) portable sound reproduction devices;
2 (h) portable personal computers and associated devices;
3 (i) cellular telephones;
4 (j) portable radios;
5 (k) other portable electronic devices intended for personal use;
6 (l) baby carriages and strollers;
7 (m) wheelchairs;
8 (n) personal sporting equipment; and
9 (o) other identifiable personal items.

Other goods
admissible duty
and tax free, etc.

10 **166.**-(1) In addition to the admission of personal effects of travelers
11 free of duties and taxes as provided in this Part, travelers may import goods
12 intended for free circulation in Nigeria not exceeding an amount to be specified
13 in regulations free of duties and taxes; provided that, this exemption may only
14 be utilized once in every six months.

15 (2) For all goods imported for personal use, items over the exemption
16 limit provided for in subsection (1) of this section shall be subject to entry
17 based on extant tariff value under provisions for a Simplified Goods
18 Declaration; and the specified limits shall apply to all travelers, whether
19 Nigerian residents or non-residents.

Duty free shops

20 **167.**-(1) Subject to the prior approval of the Customs Service and the
21 Immigration Service, a duty free shop may be established for the exportation or
22 importation of duty and tax free goods by travelers departing or arriving in the
23 customs territory by aircraft, vessel or vehicle or on foot to or from a
24 contiguous country; and such goods are to be personally carried by the traveler
25 in the same aircraft, vessel or vehicle in which the traveler departs or be
26 purchased prior to customs clearance in the duty free store.

27 (2) Goods sold by duty free shops to departing travelers shall be
28 delivered only to travelers immediately departing the customs territory; and
29 each duty free shop shall maintain procedures to ensure that duty and tax free
30 goods sold to travelers will be exported from the customs territory.

1 (3) The procedures referred to in subsection (2) of this section may
2 include-

3 (a) recording the passport and boarding pass of the traveler; and

4 (b) delivering the goods directly to the means of transport, where
5 appropriate.

6 (4) Goods sold to arriving passengers may only be sold for
7 immediate importation into Nigeria, by a traveler; and the duty free shop
8 shall maintain procedures to ensure that the duty and tax free goods sold to
9 travelers entering Nigeria are recorded and the duty free store shall maintain
10 a record of the passengers' flight information, passport and date and time of
11 sale.

12 (5) Goods originating from Nigeria and goods that were admitted
13 into the customs territory under the release for free circulation,
14 warehousing, or any other customs procedure may be placed in a duty free
15 shop for display and sale; provided that such goods shall be deemed to have
16 been exported and qualify for any applicable refund of duties and taxes as a
17 result of the exportation.

18 PART XIX - PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

19 168. In this Part, unless the context otherwise requires-

20 "intellectual property" means any intellectual property rights including
21 copyright and related rights, trademarks, geographical indications,
22 industrial designs, patents, layout-designs, topographies of integrated
23 circuits and protection of trade secrets or undisclosed information;

24 "protection defeating devices" means devices, products, components or
25 parts, which are primarily designed or adapted to circumvent any
26 technological measure, such as unauthorized smart cards, set top decoders
27 or circumvention software or any illegitimate authentication means;

28 "right holder" means the owner of any protected intellectual or industrial
29 property right, successors-in-title, assigns or licensees;

30 "goods infringing intellectual property rights" means goods made,

Definition under
this Part

1 reproduced or put in circulation in breach of any existing intellectual property
2 rights and without the consent of the right holder or a person; duly authorized
3 representatives and where such making, reproduction or circulation took place
4 outside Nigeria, the goods shall be deemed to be infringing on intellectual
5 property rights if the making, reproduction or circulation would have
6 constituted an infringement if they had taken place in Nigeria.

Applications to
suspend the
importation,
exportation and
transit of goods

7 **169.**-(1) The procedures in this Part shall apply to goods destined for
8 importation, exportation or in transit.

9 (2) A right holder may apply to the Customs Service to suspend the
10 customs clearance and to detain suspected counterfeit trademark, pirated
11 copyright goods and other goods where reasonable ground exists that the
12 goods-

13 (a) infringe on the intellectual property rights of the applicant; or

14 (b) is a protection defeating device.

15 (3) A right holder who makes an application to the Customs Service
16 pursuant to this section shall be required to provide adequate evidence that a
17 prima facie case exists of infringement under the laws of Nigeria, and to
18 provide a sufficiently detailed description of the goods to make the goods
19 easily identifiable by the Customs Service.

20 (4) For geographical indications, the applicant must provide evidence
21 that the goods are in violation of a national law in the country of origin and
22 where the release of the goods is suspended upon exportation or transit, that the
23 use of the geographical indication is a violation of a national law in the country
24 of final destination.

25 (5) The Customs Service may require an applicant to provide a
26 sufficient guarantee or other assurance to indemnify the person alleged to have
27 infringed on the intellectual property rights of the applicant in the event that the
28 right holder's claim is not upheld and the amount of the guarantee or other
29 assurance required to be provided shall not unreasonably deter recourse to the
30 procedures set out in this Part.

1 (6) The Customs Service shall establish a centralized system for
2 managing applications for suspension of importation under this section and
3 shall promptly-

4 (a) post application for suspension on the internet; and

5 (b) notify the person alleged to have violated the intellectual
6 property rights of the application for suspension.

7 170.-(1) An application by a rights holder shall be effective for a
8 period of one year from the date of the application and may be renewed for
9 an additional period of one year; provided that an applicant may request for a
10 shorter period of assistance from the Custom Service for action in respect of
11 a specific shipment.

Duration of
application for
assistance

12 (2) An applicant shall inform the Customs Service promptly,
13 whenever-

14 (a) his intellectual property right ceases to be valid; or

15 (b) he ceases to be the representative of the owner of the
16 intellectual property right.

17 171.-(1) An application made to the Customs Service under this
18 Part shall be-

Contents of
applications
under this Part

19 (a) in such form as may be prescribed by the Customs Service; and

20 (b) accompanied by-

21 (i) details of the applicant, including contact information;

22 (ii) authorization from the right holder, where the applicant is an
23 authorized representative;

24 (iii) evidence of the existence and ownership of a valid intellectual
25 property right by or on behalf of the applicant;

26 (iv) a statement stating the grounds for the imposition of border
27 measures relating to the goods;

28 (v) prima facie evidence showing that the intellectual property
29 rights have been or are about to be infringed or that the shipment contains
30 protection defeating devices in the case of a specific shipment of goods

1 allegedly infringing on intellectual property rights;
2 (vi) description of the goods in respect of which an intellectual
3 property right applies, together, with a sample of a genuine product in
4 sufficient details;

5 (vii) a guarantee as may be required by the Customs Service; and

6 (viii) the prescribed filing fee.

7 (2) Where the information required under subsection (1) of this
8 section is not provided by the applicant, and where the Customs Service deems
9 the information to be material, it shall request the applicant to provide the
10 information in support of the application.

Timeline for
consideration
of application

11 **172.-(1)** The Customs Service shall within thirty working days from
12 the date of receipt of a completed application notify the applicant whether or
13 not the application has been granted or rejected.

14 (2) Where urgent action is required, and the applicant supplied
15 specific information concerning the shipment containing the goods alleged to
16 have infringed intellectual property rights, the Customs Service shall promptly
17 review the application and notify the applicant on the acceptance or rejection of
18 the application.

19 (3) If the application is granted, it shall be effective for the period
20 specified by the Customs Service in the notification.

21 (4) If the application is denied, the reasons for its denial shall be
22 clearly stated in writing in the notification.

Notice of
suspension, etc.

23 **173.-(1)** Where an application for the suspension of the importation of
24 goods suspected to be infringing on an intellectual property right is approved
25 by the Customs Service, the applicant and the importer concerned shall be
26 promptly informed in writing of the suspension.

27 (2) Upon suspension of importation of the goods referred to in
28 subsection (1) of this section, the applicant or other interested person other than
29 the importer shall take steps to obtain a court order prolonging the suspension
30 of the importation of the goods.

1 (3) Where after ten working days of the suspension of importation,
2 the applicant fails to notify the Customs Service of the existence of a court
3 proceedings for an order prolonging the suspension or that a court or other
4 duly empowered authority has taken a provisional measure prolonging the
5 suspension of the importation of the goods, the Customs Service shall
6 release the goods; provided that all conditions for importation, exportation
7 or transit have been complied with.

8 (4) Where reasonable grounds exist, the period of notification
9 referred to in subsection (2) of this section may be extended for a further
10 period of ten working days.

11 (5) In the case of perishable goods, the notification period shall be
12 within three working days without further extension.

13 (6) Where proceedings leading to a decision on the merits of the
14 case have been initiated, a review, including a hearing if requested, shall take
15 place, upon the request of the importer, with a view to deciding, within a
16 reasonable period, whether the suspension shall be modified, revoked or
17 confirmed.

18 (7) Notwithstanding the provision of subsection (6) of this section,
19 where the suspension is carried out or continued in accordance with a
20 provisional seizure order, the period will be determined by the court
21 ordering the measure and in the absence of such a determination, the period
22 shall not exceed twenty working days or thirty-one calendar days,
23 whichever is longer.

24 (8) Where, pursuant to an application for the clearance of goods
25 involving other intellectual property rights other than trademarks, copyright
26 and related rights has been suspended by the Customs Service, and the
27 periods provided for in subsections (3), (4), (5) and (7) of this section has
28 expired without the competent court having granted a provisional seizure
29 order, and provided that all other conditions for importation have been
30 complied with, the owner, exporter, importer, consignee or consignor of the

1 goods shall be entitled to clearance on the provision of a security in an amount
 2 sufficient to protect the right holder for any infringement; and the payment of
 3 such security shall not prejudice any other remedy available to the right holder,
 4 on condition that the security shall be released if the right holder fails to pursue
 5 his right of action within a reasonable period of time.

Fight of inspection
and information

6 174.-(1) Subject to the protection of confidential information, the
 7 Customs Service shall allow a right holder or the importer or exporter of the
 8 goods to examine the goods the clearance of which has been suspended in
 9 accordance with the provisions of this Part and may provide samples for
 10 examination, testing and analysis to assist in the determination of whether the
 11 goods have infringed an intellectual property right or whether the goods are
 12 protection-defeating devices.

13 (2) When a positive determination of infringement has been made on
 14 the merits of a case, the Customs Service shall inform the right holder of the
 15 names and addresses of the consignor, the importer and the consignee and the
 16 quantity of the goods.

17 (3) Right holders may use the data obtained in accordance with the
 18 provisions of this section only for the purpose of investigating and bringing
 19 legal actions concerning alleged infringements of their intellectual property
 20 rights.

Power of the
Customs Service
to suspend
clearance of
goods, etc.

21 175.-(1) The Customs Service shall, on its own initiative, suspend the
 22 clearance of goods in respect of which it has acquired prima facie evidence that
 23 an intellectual property right has been infringed or is about to be infringed or
 24 that the goods are protection-defeating devices.

25 (2) The Customs Service may, on its own initiative, also suspend the
 26 clearance of goods whenever there are reasonable grounds to suspect that the
 27 goods are infringing goods or protection-defeating devices.

28 (3) The Customs Service may at any time seek from the right holder
 29 any information that may assist it to exercise the powers granted by this
 30 section.

1 (4) The importer and right holder shall be promptly notified by the
2 Customs Service of the suspension.

3 (5) Where the importer has lodged an appeal against a suspension,
4 the suspension shall be subject to the conditions provided for in section 275
5 of this Act.

6 176.-(1) Where it is determined by a court order that goods Disposal of
infringing goods
7 detained pursuant to the provisions of this Part are subject to confiscation as
8 goods that are infringing intellectual property rights or are protection-
9 defeating devices, the Customs Service shall promptly destroy or dispose of
10 the goods, without compensation to the owner or any other interested person
11 provided that-

12 (a) the disposal shall be outside the normal channels of commerce
13 and in such a manner so as to minimize the risks of further infringements;

14 (b) the Customs Service shall not allow the re-exportation of the
15 infringing goods in an unaltered state; and

16 (c) the right holder may be allowed to recommend an appropriate
17 manner of disposal.

18 (2) The simple removal of a trademark or trade dress unlawfully
19 affixed shall not be sufficient, other than in exceptional cases, to permit
20 release of the infringing goods for commercial purposes.

21 (3) Right holders may, prior to the destruction or disposal of
22 infringing goods, apply to the Customs Service for a retention of samples, to
23 the extent that such samples are needed as evidence in pending or future
24 legal actions regarding infringements of intellectual property rights.

25 (4) The Customs Service shall order the owner, the importer, the
26 exporter, the consignee or the consignor to pay the costs of storage and
27 destruction of any goods determined to be counterfeit, pirated or otherwise
28 infringing intellectual property rights.

29 177. Infringing goods of a non-commercial nature and intended for
30 the importer's or consignee's own personal use contained in personal

Shipments of
insufficient value

1 luggage or sent in small consignments are not subject to the suspension
2 procedure provided under this Part.

Exchange of
information,
collaboration and
cooperation, issuing
of regulations, etc.

3 178.-(1) The Customs Service shall-

4 (a) establish contact points for the exchange of information on trade in
5 goods infringing intellectual property rights and to conduct and coordinate
6 cooperation with Nigerian agencies responsible for intellectual property rights
7 enforcements and with other national customs authorities; and

8 (b) issue regulations regarding the implementation of this Part.

9 (2) The Customs Service and customs officers shall be exempted
10 from civil or criminal liability for actions taken-

11 (a) in good faith; and

12 (b) following the procedures set out in this Part.

13 (3) A Person who intentionally participate in the import, export or
14 transit of infringing goods commits an offence and liable on conviction to
15 imprisonment for two years, or to a fine of N1,500,000, or both.

16 PART XX - EXCISE TAXES

Definition of
terms under this
Part

17 179. In this Part, unless the context otherwise requires-

18 "ammunition" and "firearms" have the meaning provided under the Firearms
19 Act;

20 "authorized methylator" means a person authorised to methylate spirits under
21 subsection (2) of section 185 of this Act;

22 "beer" means ale, porter, stout and any other description of beer and any liquor
23 which is made or sold as a description of beer or as a substitute for beer which
24 on a sample analysis of at any time is found to contain more than one percent
25 but not more than ten percent of pure alcohol, but does not mean fermented
26 liquor of a kind made elsewhere otherwise than upon the licenced premises of a
27 brewer for sale, which the Customs Service accepts as a liquor usually made by
28 local methods in or about Nigeria;

29 "bonded warehouse" means a warehouse-

1 (a) subject to bond or other conditions as may be specified in
2 regulations;

3 (b) which is not situated on the manufacturer's production premises
4 and into where excisable goods may be placed without giving rise to a
5 taxable transaction as a result of the removal of the excisable goods fine the
6 production premises into the warehouse which otherwise may be taken to be
7 a taxable transaction;

8 "brewer" means a person carrying on brewing trade or business and holds a
9 valid excise licence for that purpose;

10 "excise trader" means any person carrying on a trade or business under to
11 any applicable provision of the excise laws, whether or not that trade or
12 business is a trade or business requiring an excise licence;

13 "gravity" and "original gravity" have the meanings contained under section
14 195 of this Act;

15 "mentholate" means the denaturing of spirits and "mentholate" and
16 expressions of like kind shall be construed accordingly;

17 "percent of pure alcohol" means the percentage of ethyl alcohol by volume
18 at fifteen point five six degrees centigrade or sixty degrees Fahrenheit;

19 "spirits" means ethyl alcohol and includes all liquors mixed with ethyl
20 alcohol and all mixtures compounded with or prepared from ethyl alcohol
21 which on a sample analysis at any time is found to contain not less than two
22 point five percent of pure alcohol, but does not include methylated spirits or
23 other denatured spirits, or wine, beer, cider, perry or other fermented liquors
24 which do not contain more than twenty percent of pure alcohol;

25 "spirits manufacturer" means a person carrying on trade or business as a
26 spirits manufacturer and holds a valid licence for that purpose;

27 "sugar" means sugar of any description and any saccharine substance,
28 extract or syrup and includes any material capable of being used in brewing
29 except malt or corn;

30 "tobacco manufacturer" means a person carrying on trade or business as a

1 tobacco manufacturer and holds a valid licence for that purpose; and
2 "wine" means any liquor made or sold as a description of wine or as a substitute
3 for wine and which, on a sample analysis at any time, is found to contain not
4 more than twenty-four point five percent of pure alcohol, with the exception of
5 palm wine or any other wine of a kind produced elsewhere than upon the
6 licenced premises of a distiller for sale, which the Customs Service accepts as
7 produced by local methods in Nigeria.

Imposition of
excise tax

8 **180.**-(1) For the purpose of this Act, excise tax-

9 (a) shall be imposed and chargeable on excisable goods produced in
10 the customs territory; and

11 (b) collected at the time a taxable transaction occurs.

12 (2) The excise tax to be imposed shall be based on the value of
13 excisable goods or by a stated amount per unit of excisable goods, as specified
14 in the regulations.

15 (3) In the case of excisable goods produced in the customs territory,
16 the taxable transaction is the removal of excisable goods from the production
17 premises, however goods are not considered to be removed from the
18 production premises during the time they are stored in a bonded warehouse.

19 (4) For imports, the taxable transaction is the entry of excisable goods
20 into the customs territory of Nigeria; and the term "entry" for excise tax
21 purpose has the same meaning as for customs purposes.

22 (5) Goods removed from the production premises for export or for
23 loading as stores on a vessel bound out of Nigeria are exempted from excise
24 duties.

25 (6) The Customs Service may by regulations specify restrictions and
26 make provisions for accounts to be rendered for goods exempted from excise
27 duties.

Collection of
excise taxes

28 **181.** The Customs Service shall ensure the monthly collection of
29 excise taxes on excisable goods and the tax due for each month shall be paid by
30 a manufacturer of excisable goods within the first fifteen working days of the

1 succeeding month, failing which the tax shall attract a penalty of ten per cent
2 of the amount due for each month the excise tax due remains unpaid.

3 182.-(1) Where excise tax is based on number of units, the amount Amount of
4 of excise tax is the stated amount per unit multiplied by the quantity of units. excise tax

5 (2) Where the excise tax is based on the value of the excisable
6 goods, the amount of excise tax is a percentage of value determined by
7 multiplying the value of the excisable goods by the excise tax rate.

8 (3) For excisable goods produced in the customs territory, the value
9 of excisable goods is determined on the basis of the compensation received
10 or receivable by the taxpayer from the customer or any other person
11 excluding excise tax and Value Added Tax, but not more than the ex-factory
12 price (i.e the value at which the product will ordinarily be sold at the factory
13 gate which is exclusive of selling and distribution expenses, related charges
14 and other non-production related expenses", excise tax and Value Added)
15 and if the producer sells at both wholesale and the retail, the value used for
16 excise tax purposes is the ex-factory price".

17 (4) For imports, the amount of the taxable transaction is the
18 customs value of the goods, determined in accordance with customs law, but
19 not less than the cost, insurance and freight invoice exclusive of other
20 charges and levies excluding excise tax and Value Added Tax, plus the
21 amount of customs duties and other taxes payable on the import of the goods
22 into the customs territory excluding excise tax and Value Added Tax.

23 (5) Except for returnable containers, the price of the container is
24 included in determining the value of excisable goods.

25 (6) The manufacture of excisable goods without a valid licence is
26 prohibited and a licence is required to meet the conditions specified under
27 this Part.

28 183.-(1) Excisable goods are those goods as may be specified in Excisable goods
29 regulations made pursuant to this Act.

30 (2) The amount of excise tax imposed on excisable goods is the

1 amount specified under this Part and in regulations made from time to time by
2 the Customs Service.

Licence to
manufacture
spirits

3 **184.-(A) MANUFACTURE OF SPIRITS**

4 (1) A person shall not manufacture spirits whether by distillation of
5 fermented liquor or by any other process, without a valid spirits manufacturer
6 excise licence, issued subject to conditions specified under this Act.

7 (2) A person to whom an excise licence has been issued and who
8 carries on business in accordance with the conditions of that licence, is
9 authorized to-

10 (a) manufacture spirits, whether by distillation of a fermented liquor
11 or by any other process;

12 (b) process or use a still for distilling, rectifying or compounding
13 spirits;

14 (c) distil or process any low wines or feints; or

15 (d) brew, make, or possess any wort or wash fit for distillation.

Power to regulate
the manufacture
of spirits

16 **185.-(1)** The Customs Service shall make regulations, to bring into
17 full effect the provisions of this Part-

18 (2) The regulations referred to in subsection (1) of this section shall
19 include provisions-

20 (a) to control the manufacture of spirits, whether by distillation of a
21 fermented liquor or by any other process;

22 (b) for calculating, securing and collecting the excise tax on spirits;

23 (c) to regulate the removal of spirits from the premises of a spirits
24 manufacturer or in or out of a bonded warehouse; and

25 (d) restricting the delivery of immature spirits for use in Nigeria.

Contravention
of regulations,
etc.

26 **186.-(1)** A person who fails to comply with regulations made pursuant
27 to section 185 of this Act is liable on conviction to penalty of up to N2,000,000
28 or to such other amount as may be specified by regulations.

29 (2) In addition to the penalty specified in subsection (1) of this
30 section, the spirits, vessels, utensils, or materials used for distilling or

1 otherwise manufacturing or preparing spirits without a licence shall be
2 forfeiture.

3 (3) Where an account is taken by a customs officer in charge and a
4 discrepancy occurs in the quantity of spirit in the records of a spirits
5 manufacturer, and the quantity that ought to be in that manufacturer's
6 records, according to the customs officers records or records kept in
7 accordance with the requirement of section 211 of this Act, then-

8 (a) if an excess is found, the excess is subject to forfeiture; and

9 (b) if a deficiency is found that cannot be accounted for to the
10 satisfaction of the Customs Service, the spirits manufacturer is liable to pay
11 a fine double the excise tax on the spirits or pure alcohol in a quantity equal
12 to the quantity of the deficiency.

13 **187.-(1)** An unauthorized person shall not carry on any of the Offences
14 activities listed under section 184 of this Act.

15 (2) An unauthorized person who contravenes the provision of
16 section 184 of this Act shall be liable on conviction to a fine of N2,000,000.

17 (3) Where there is insufficient evidence to convict a person for an
18 offence under section 184 of this Act, and it is proved that the offence was
19 committed on a part of premises belonging to or occupied by that person in
20 such circumstances that it could not have been committed without that
21 person's knowledge, that person shall on conviction be liable to a fine of
22 N500,000.00.

23 (4) All spirits, stills, vessels, utensils, wort, wash, and other
24 materials for manufacturing, distilling or preparing spirits found in the
25 possession of any person found to have committed an offence under section
26 184 of this Act, or found on any premises on which such an offence has been
27 committed, are subject to forfeiture.

28 (5) Notwithstanding any other provision contained in this Act
29 relating to seized goods which are subject to forfeiture, a customs officer
30 who seized any such goods subject to forfeiture under subsection (4) of this

1 section may at his discretion spill, break up or destroy the seized goods.

Offence of
unauthorized
removal of spirits

2 **188.**-(1) It is unlawful for a person to do any of the following-

3 (a) conceal in, or without the consent of the custom officer in charge,
4 remove from, the premises of a spirits manufacturer any wort, wash, low
5 wines, feints, or spirits;

6 (b) knowingly buy or receive any wort, wash, low wines, feints, or
7 spirits that have been concealed or removed;

8 (c) knowingly buy, receive, or possess any spirits which have been
9 removed from the production premises before the excise tax payable on the
10 spirits have been paid or secured.

11 (2) A person convicted of an offence under subsection (1) of this
12 section shall on conviction, pay a fine of six times the value of the goods or
13 N1,500,000, whichever is greater, or to imprisonment for a term of two years
14 or to both fine and imprisonment in addition to forfeiting the goods
15 concern.

Authority to
manufacture
mentholated spirits

16 **189.**-(1) It is unlawful to menthylate spirits without a spirits
17 manufacturer excise licence, as defined under section 180 of this Act,
18 containing the specific authorization to menthylate spirit.

19 (2) The Customs Service may authorize a licenced spirits
20 manufacturer to methylate spirits and a person authorized to mentholate spirit
21 in this Act an authorized methylator.

22 (3) The Customs Service may at any time on reasonable grounds
23 revoke or suspend an authorisation granted under this section.

Power to regulate
the mentholation
of spirit

24 **190.** The Customs Service may make regulations-

25 (a) regulating the mentholation of spirits;

26 (b) for the maintenance of records of spirits which may be used, and
27 the substances which may be mixed with spirits for mentholation;

28 (c) prescribing the manner in which accounts are to be kept of stocks
29 of mentholated spirits in the possession of an authorized mentholator.

1 **191.**-(1) The provision of this section applies to mentholated spirits, methyl alcohol, or any mixture containing mentholated spirits or methyl alcohol. Prohibition on the use of mentholated spirits

2 (2) It is unlawful for any person to-

3 (a) prepare or attempt to prepare liquor to which this section applies for use as a beverage or as a mixture with a beverage;

4 (b) sell the liquor, produced contrary to the provision of paragraph

5 (a) of this subsection, whether prepared or not, as a beverage or mixed with a beverage;

6 (c) use any liquor or its derivative in the preparation of any article capable of being used wholly or partially as a beverage or internally as a medicine;

7 (d) sell or possess an article in the preparation of which the liquor or any derivative thereof has been used; or

8 (e) except as may be permitted by the Customs Service and in accordance with conditions imposed by the Customs Service, purify or attempt to purify liquor or, after the liquor has once been used, to recover or attempt to recover the spirit or alcohol contained in the liquor by distillation or condensation or in any other manner.

9 **192.**-(1) When an account is taken by a customs officer in charge and a balance arrived at as to the quantity of mentholated spirits in the stock of a spirits manufacturer, and the quantity at hand differs from the quantity that ought to be in the manufacturer's possession according to the records kept by the Customs Service in compliance with the provision of this Act, then- Penalties

10 (a) if an excess is found, the excess is subject to forfeiture;

11 (b) if a deficiency is found that cannot be accounted for to the satisfaction of the Customs Service, the spirits manufacturer is liable to pay a fine double the excise tax on spirits of pure alcohol in a quantity equal to the quantity of the deficiency.

1 (2) A person who fails to comply with any regulations made under
 2 section 190 of this Act is liable on conviction to pay a penalty of N1,000,000,
 3 for each act constituting the contravention of the provision of subsection (1) of
 4 this section and the spirits or mentholated spirits that are the object of
 5 noncompliance liable to forfeiture.

6 (3) A person who contravenes the provision of section 191 of this Act
 7 commits an offence and liable on conviction to a fine of N1,500,000.00 or to
 8 imprisonment for two years or both; and the liquor in respect of which the
 9 offence was committed subject to forfeiture.

10 (4) A person who is not an authorized methylator and who methylates
 11 spirits commits an offence and on conviction, liable to pay a fine of
 12 N2,000,000 or imprisonment for a term of two years or to both fine and
 13 imprisonment.

Licensing
 requirement and
 excise tax on
 production of
 beers

14 **193.-(B) MANUFACTURE OF BEER**
 15 A person shall not brew beer without an excise licence, issued subject to
 16 conditions specified in this Part.

Power to regulate
 the manufacture
 of beer

17 **194.** The Customs Service may make regulations-
 18 (a) regulating the manufacture of beer;
 19 (b) for calculating, securing and collecting the excise tax on beer;
 20 (c) as to the books and other documents relating to sugar to be kept by
 21 brewers.

Ascertaining
 gravity of liquids

22 **195.-(1)** For the purposes of excise tax-
 23 (a) the expression "gravity" in relation to any liquid means the ratio of
 24 the weight of a volume of the liquid to the weight of an equal volume of
 25 distilled water, the volume of each liquid being computed as at fifteen point
 26 five six degrees centigrade or sixty degrees fahrenheit;
 27 (b) where the gravity of any liquid is expressed as a number of degrees
 28 that number shall be the said ratio multiplied by one thousand; and
 29 (c) the expression "original gravity" in relation to any liquid in which
 30 fermentation has taken place means its gravity before fermentation.

1 (2) The gravity of any liquid at any time shall be ascertained by
2 such means as the Customs Service may approve and the gravity so
3 ascertained shall be deemed to be the true gravity of the liquid.

4 196.-(1) A person who fails to comply with regulations made under Penalties
5 section 194 of this Act shall be liable to pay a fine of N1,500,000 and any
6 goods or article in respect of which the non-compliance was committed shall
7 be subject to forfeiture.

8 (2) When an account is taken by the responsible customs officer of
9 sugar in a brewer's possession and the quantity on hand differs from the
10 quantity that ought to be in the brewer's possession according to the Customs
11 Service records or records kept in compliance with section 194 of this Act,
12 if-

13 (a) an excess is found, the excess is subject to forfeiture; or

14 (b) a deficiency is found, and the quantity in the brewer's
15 possession is less by more than two percent than the quantity which ought to
16 be in the brewer's possession and is not accounted-for to the satisfaction of
17 the Customs Service, the deficiency beyond two percent is deemed to have
18 been used in the brewing of beer without the particulars thereof recorded in
19 compliance with regulations and excise tax shall be charged as if that
20 deficiency had been used.

21 (3) Where a brewer conceals any worts or beer so as to prevent the
22 customs officer in charge from taking an account of the worts or beer, the
23 concealed items shall be subject to forfeiture.

24 197.-(1) A person who brews beer, other than under and in Offences
25 accordance with an excise licence, commits an offence and liable on
26 conviction, to a fine of N2,000,000 and the beer, worts, vessels, utensils, or
27 materials used or which can be used for brewing, in the person's possession
28 subject to forfeiture.

29 (2) A brewer commits an offence under this Part, where after
30 particulars of any worts or beer have been recorded by the brewer in

1 pursuance of regulations made under section 194 of this Act, mix sugar with the
2 worts or beer so as to increase the quantity, gravity, or original gravity of the
3 worts or beer.

4 (3) A person who commits an offence under subsection (2) of this
5 section is liable on conviction to a fine of N2,000,000, and the affected worts or
6 beer shall be forfeited.

Licencing
requirement for
tobacco
manufacture

7 **198.** A person shall not manufacture any description of excisable
8 tobacco without a valid tobacco manufacturer excise licence, issued subject to
9 conditions specified in section 207 of this Act.

Power to regulate
the manufacture
of tobacco

10 **199.** The Customs Service may make regulations regulating the
11 manufacture of tobacco by a tobacco manufacturer for securing the excise
12 duties on tobacco.

Deferral of
payment

13 **200.** Payment of excise tax on manufactured tobacco may be deferred
14 subject to conditions specified in regulations, but not beyond the 21st day of the
15 month following the month in which the tax became due, provided that such
16 deferred payment must be accompanied by an excise tax returns made in the
17 form and manner specified by the Customs Service.

Penalties and
offences

18 **201.**-(1) A person who fails to comply with any regulations made
19 under section 199 of this Act is liable to pay a fine of N1,000,000, and the goods
20 or materials in respect of which the non-compliance was committed liable to
21 forfeiture.

22 (2) Where a discrepancy occurs in the account taken by appropriate
23 custom officer and the balance arrived at of the quantity of tobacco in the
24 factory of a tobacco manufacturer and in the quantity on hand differs from the
25 quantity that ought to be in the manufacturer's possession according to the
26 records kept by the Customs Service in compliance with the provisions of this
27 Act, then if-

28 (a) any excess is found, the excess is subject to forfeiture; and

29 (b) a deficiency is found that cannot be accounted for to the
30 satisfaction of the Customs Service, the tobacco manufacturer is liable to pay a

1 penalty of double the excise tax at the highest rate on a quantity of
2 manufactured tobacco equal to the quantity of the deficiency.

3 **202.**-(1) A person who manufactures tobacco otherwise than under Offences
4 and in accordance with an excise licence commits an offence and liable on
5 conviction to a fine of N2,000,000.

6 (2) Where tobacco is manufactured by an unlicensed person or
7 where an unlicensed person possesses, any plant equipment or materials that
8 are capable of being used for the manufacture of tobacco, the manufactured
9 tobacco and any plant, equipment or material are subject to forfeiture.

10 MANUFACTURE OF OTHER GOODS SUBJECT TO EXCISE TAX

11 **203.** The provisions of this section, sections 204, 205 and 206 of Other goods
12 this Act shall apply to other excisable goods other than spirits, beer and subject to excise
13 tobacco as may be specified in regulations. tax

14 **204.** It is unlawful to manufacture excisable goods referred to in Licence to
15 section 203 of this Act without an excise licence issued subject to the manufacture
16 conditions specified in section 207 of this Act. excisable goods

17 **205.** The Customs Service may make regulations- Power to make
18 (a) regulating the manufacture of goods to which section 203 of regulations

19 this Act applies;

20 (b) for calculating, securing and collecting the excise duties on the
21 goods;

22 (c) for the exportation or loading of the goods as stores in
23 accordance with the customs laws without payment of the excise tax
24 chargeable on the goods; and

25 (d) as to the books, accounts and other documents relating to the
26 goods to be kept by manufacturers.

27 **206.**-(1) It is unlawful to manufacture excisable goods subject to Offences
28 section 203 of this Act otherwise than under and in accordance with an
29 excise licence; and any excisable goods a person makes or possesses without
30 a proper licence, and any plant, materials, vessels, utensils, or other

1 materials the person possesses that are capable of being used in the
2 manufacture of the goods, are subject to forfeiture.

3 (2) A person who manufactures or possesses excisable goods without
4 a proper licence shall be liable to a fine of N2,000,000.

5 (3) Failure to comply with any regulation made under section
6 204 constitutes an offence and any goods or article in respect of which the
7 offence was committed are subject to forfeiture and a convicted person liable to
8 pay a fine of N250,000.

Conditions of
issuance of
excise licences

9 **207. (E) GENERAL PROVISIONS ON EXCISE LICENCES:**

10 (1) Subject to the provisions of this Act, an application for an excise
11 licence relating to any premises in which any goods are manufactured, shall be
12 in such form and shall contain such particulars as the Customs Service may
13 prescribe.

14 (2) The Customs Service may in accordance with existing regulations
15 refuse to issue an excise licence to any person or in respect of any premises.

16 (3) Where the Service Customs approves an application for an excise
17 licence under this Act or under any other enactment, it shall issue the licence-

18 (a) if the licence is one for which the applicant must pay a fee, only
19 after verifying that the fee has been paid; and

20 (b) only after verifying that the licensee has posted a financial
21 guarantee in accordance with the requirement of this Part.

22 (4) An excise licence shall be in such form as the Customs Service
23 may direct and shall expire on the 31st day of December next after the year of
24 issue.

25 (5) An excise licence shall be issued in respect of one set of premises
26 only, and a person manufacturing excisable goods on multiple premises shall
27 be required to have separate licence for each location.

Power to revoke
or suspend licences

28 **208.** The Customs Service may by notice in writing revoke or suspend
29 any excise licence if the holder of such licence has-

30 (a) been convicted of an offence under the excise laws;

- 1 (b) been convicted of any offence involving dishonesty or fraud;
2 (c) become a bankrupt or has entered into any arrangement or
3 compromise with or for the benefit of the creditors of the holder;
4 (d) failed to maintain a financial guarantee in accordance with
5 section 207 of this Act; or
6 (e) failed to pay any excise tax when due and payable.

7 **209.**-(1) If any excise licence has been revoked, suspended expired
8 and has not been renewed, the licensee shall-

Effect of
revocation

- 9 (a) immediately cease to manufacture the goods in respect of
10 which the licence was issued;
11 (b) promptly pay any due and outstanding excise tax on any
12 excisable goods manufactured under the licence; and
13 (c) not dispose of any materials on the premises to which the
14 licence relates except in accordance with any conditions the Customs
15 Service may impose.

16 (2) A person who fails to comply with the provision or any
17 condition imposed under this section shall be liable to pay a fine of
18 N1,000,000, and any plant, equipment, excisable goods, or materials
19 relating to the non-compliance shall be forfeited.

20 **210.**-(1) The Customs Service may, for the purpose of ensuring
21 proper excise control, require the holder of an excise licence, at the holder's
22 expense, to provide and maintain at the licenced premises-

Provision of
office space,
facilities

23 (a) office, lavatory, and sanitary accommodation, with the
24 appropriate furniture, lighting, and cleaning, for use by a duly authorised
25 customs officer; and

Accommodation,
etc by an excise
licence holder

26 (b) appliances and other facilities reasonably necessary to enable
27 the customs officer in charge at any time to take an account or make an
28 examination or search or to perform any of his duties at the licensed
29 premises.

30 (2) A holder of an excise licence may also be required to source for

1 suitable living accommodation for lease to the Customs Service on such
2 reasonable terms and conditions as the Customs Service may determine for
3 occupation by a customs officer and where required, for members of the
4 customs officer's household, where in the opinion of the Customs Service, it is
5 desirable that the officer should reside on or be near to the premises for which
6 the excise licence is granted.

7 (3) If any holder of an excise licence fails to comply with a
8 requirement of subsections (1) and (2) of this section, the Customs Service may
9 revoke or suspend the excise licence.

10 (4) The holder of an excise licence must provide and maintain such
11 fittings as are required for the purpose of affixing a lock that the customs officer
12 in charge may require the licence holder to affix to the licensed premises, or any
13 part of the premises, or to any vessel, utensil, or any other apparatus
14 whatsoever kept on the premises, and in default-

15 (a) the fitting may be provided or any work necessary for its
16 maintenance may be carried out by the customs officer in charge, and the
17 licence holder shall, on demand, pay the expenses so incurred; and

18 (b) if the licence holder fails to pay the expenses on demand, the
19 holder shall in addition be liable to pay a fine of N50,000.

20 (5) The licence holder is liable to pay a fine of N1,000,000 if the
21 licence holder or the licence holder's agent or servant-

22 (a) wilfully destroys or damages the fitting or the lock or key provided
23 for use on the licenced premises or a label or seal placed on the lock;

24 (b) improperly obtains access to a place or article secured by the lock;

25 (c) has the fitting or any article intended to be secured by means of the
26 lock so constructed that the intention is defeated.

27 **211.**-(1) Every holder of an excise licence shall keep at the licenced
28 premises all records required under the excise laws, and shall make the
29 required entries relating to the manufacture, storage, and delivery of excisable
30 goods and materials, and each entry shall be made legibly and shall not be

1 altered in any manner other than by cancellation, or by amendment.

2 (2) All records required to be kept under the provisions of the
3 excise laws shall at all times be available for inspection by the responsible
4 customs officer, and the officer may take copies of the records.

5 (3) Records may be kept in electronic forms, subject to safeguards
6 and conditions as the Customs Service may specify in regulations.

7 (4) An excise licence holder who contravenes any of the provisions
8 of this section shall be liable to pay a penalty of N1,500,000 and N10,000 for
9 every day the default the default continues.

10 **212.**-(1) Further to the requirement to comply with the provision of
11 section 211 of this Act, a licence holder, whenever required by the Customs
12 Service shall within the specified time frame-

Furnishing of
information

13 (a) produce for inspection invoices, books or documents, including
14 electronic records in the licence holder's possession relating to any excisable
15 goods that the holder manufactured during the preceding twelve months;

16 (b) answer questions regarding the description, manufacture,
17 quantity, weight, volume, selling price, consignee, destination, cost of
18 production, or manufacturer's profits, or any other matter relating to the
19 manufactured goods which the Customs Service may reasonably require for
20 the purpose of carrying out the provisions of the excise laws or any
21 regulations made pursuant to the excise laws;

22 (c) produce any evidence the Customs Service may deem
23 necessary in support of any information furnished; and

24 (d) make excise tax returns in the form and details and at such
25 intervals as the Customs Service may by regulations prescribe.

26 (2) The Customs Service may require an excise licence holder to
27 submit annually, or at such other times as the Customs Service may require,
28 a certificate of audit by an approved accountant certifying-

29 (a) the correctness of all the books and records, including
30 electronic records, required by or under this Act to be kept by the holder of

1 the excise licence; and

2 (b) any of the matters referred to in subsection (1)(b) of this section as
3 the Customs Service may require.

4 (3) For the purposes of this section, an "approved accountant" means
5 an accountant who is a member of one of the professional bodies that the
6 Customs Service, by notice in the Gazette, has declared to be approved for the
7 purposes of this section.

8 (4) A licence holder who without reasonable cause fails to comply
9 with a requirement of this section is liable to pay a penalty of N200,000 and
10 N10,000 for every day the default continues.

Declaration of
goods leaving
premises

11 **213.-(1)** Goods subject to excise tax and which have been
12 manufactured by virtue of any provision of the excise laws or of any
13 regulations made thereunder, shall not be removed from the premises of
14 manufacture unless the manufacturer delivers to the responsible customs
15 officer an entry of the goods in the form and manner and containing such
16 particulars as the Customs Service may by regulations prescribe.

17 (2) Where goods declared in accordance with subsection (1) of this
18 section are found, whether before or after their removal from the premises of
19 manufacture not to correspond with the ~~declaration~~ made the goods shall
20 immediately be forfeited.

21 (3) Where any person removes or causes the removal of manufactured
22 goods without an entry made in accordance with the requirement of subsection
23 (1) of this section, the person commits an offence and liable on conviction to
24 pay a fine of six times the value of the goods or one N1,000,000 whichever is
25 the greater.

Making of entries

26 **214.-(1)** Where the excise laws require a person to make entry of any
27 premises, plant, or equipment, the entry shall be made in the manner and
28 contain the particulars, and the premises, plant, or equipment shall be marked,
29 and kept marked, in such form as the Customs Service may direct.

30 (2) Where a person who is required to make entry of any premises,

1 plant, or equipment is a bod corporate, the entry shall be signed by a director,
2 general manager, secretary, or other similar officer of the body; and except
3 where authority for that person to sign has been given under the seal of the
4 body, the entry shall be made under that body's seal.

5 (3) Where any person making entry of any premises, plant, or
6 equipment fails to comply with a direction of the Customs Service under this
7 section, that person shall be liable to pay a penalty of N1,500,000.

8 **215.-(1)** The Customs Service may at any time, by notice in writing
9 to the person who made and signed an existing entry requiring that person to
10 make a new entry of any premises, plant, or equipment to which the existing
11 entry relates, and the notice is valid if addressed to the person at any
12 premises for which the person signed an existing entry.

New of further
entries of the
same premises

13 (2) The existing entry under subsection (1) of this section shall,
14 without prejudice to any liability incurred, become void at the expiration of
15 fourteen days from the delivery of the notice.

16 (3) Where the person who made the entry of any premises absconds
17 or quits possession of the premises and discontinues the trade in respect of
18 which the entry was made, the Customs Service may permit a further entry
19 to be made of the premises by some other person and the former entry shall
20 be deemed to have been withdrawn and no longer valid.

21 **216.-(1)** Where a person uses premises, plant, or equipment
22 required to be entered for excise tax purposes without entry having been
23 duly made, that person is liable to pay a fine of N1,500,000, and the plant,
24 equipment, or excisable goods found on the premises are liable to be
25 forfeited.

Offences in
connection with
entries

26 (2) Where a person who has made entry of any premises, plant, or
27 equipment fraudulently uses the premises, plant, or equipment for any
28 purpose other than for the purpose for which an entry was made, the person
29 commits an offence and liable on conviction to a fine of N1,500,000 and the
30 plant or equipment used for the fraudulent purpose shall be forfeited.

Power to enter
premises

1 **217.**-(1) An authorised customs officer may at any time enter upon
2 any premises in respect of which an entry was made, or is required under the
3 excise laws to be made, or any other premises owned or used by an excise trader
4 for the purpose of the ensuring compliance with the provisions of the excise
5 laws and regulations made pursuant to the excise laws.

6 (2) An officer who demands admission into the premises referred to in
7 subsection (1) of this section shall state his name and business at the entrance,
8 and if not immediately admitted, the customs officer and any person assisting
9 the customs officer in the execution of his duties under this Act may use
10 reasonable force to enter the premises, including, when other means are
11 ineffective, breaking open any door or window of the premises or breaking
12 through any wall of the premises for the purpose of entering the premises.

13 (3) A customs officer who has reasonable grounds to suspect that
14 anything subject to forfeiture under this Part is in or upon land or premises
15 other than those of an excise trader may enter upon those premises, if need be
16 by force, and search the land or premises and seize and remove anything the
17 officer has reasonable grounds to believe to be subject to the forfeiture.

18 (4) An officer may inspect the premises and search for, examine, and
19 take account of any machinery, vessels, utensils, goods or materials belonging
20 to or in any way connected with that trade.

21 (5) An officer is authorized to make an account of and determine the
22 balance of the quantity of stocks on hand on the premises of an excise licence-
23 holder.

24 (6) A customs officer who enters premises for excise tax purposes
25 shall carry out his duties in an efficient and professional manner and, whenever
26 compatible with effective excise tax enforcement, accommodate the
27 reasonable convenience of owners or occupiers of premises regarding the time,
28 place, and manner of a visit.

29 (7) A custom officer acting in accordance with the provisions of
30 subsections (1) or (2) of this section shall be given immediate access to

1 premises and an excise trader or any other person who refuses a customs
2 officer of immediate entry unto any land or premises premises commits an
3 offence and on conviction liable to maximum fine of N1,500,000, or
4 imprisonment up to one year, or to both fine and imprisonment.

5 **218.-(1)** The Customs Service may power require an excise trader,
6 to-

Power to obtain
information from
excise trader

7 (a) produce for inspection, as and when required by a customs
8 notice in writing, all invoices and other books or documents, including
9 electronic records, in the trader's possession that are or may be relevant to
10 goods liable to excise tax purchased or sold by the trader during the twelve
11 month period, or any part of thereof, preceding the date the notice is served;

12 (b) furnish answers to an authorised Customs officer's
13 questionnaire regarding the description, quantity, weight, volume, purchase
14 price, selling price, consignor, consignee, destination, or other matter
15 relating to excisable goods; and

16 (c) produce to any evidence that a customs officer may reasonably
17 require in support of the trader's responses.

18 (2) An excise trader who without reasonable cause fails to comply
19 with a requirement of this section is liable to pay a penalty of N1,500,000 for
20 the failure to provide the required information and N50,000 for every day
21 the default continues.

22 **219.-(1)** The Customs Service, in cooperation with or through any
23 national agency authorised by law to regulate toxic or dangerous substances,
24 by notice in the Gazette prohibit the use of a substance, whether solid, liquid,
25 or gas in the manufacture or preparation for sale of excisable goods.

Power to prohibit
the use of certain
substances

26 (2) The Customs Service may publish directly a notice referred to
27 in subsection (1) of this section if it appears to its satisfaction that-

28 (a) the substance is used, or is capable of being used, in the
29 manufacture or preparation for sale of excisable goods;

30 (b) the substance is toxic or dangerous;

1 (c) when used to manufacture excisable goods, the substance
2 produces a toxic or dangerous chemical or artificial extract, product, or by-
3 product; or

4 (d) the use of the substance may prejudicially affect the interests of the
5 revenue.

6 (3) A person who knowingly makes use of a prohibited substance in
7 the manufacture of excisable goods commits an offence and liable on
8 conviction to a fine of not less than N20,000,000 or imprisonment for a term of
9 two years or to both fine and imprisonment and the excisable goods forfeited.

10 (4) A person in whose possession any prohibited substance is found
11 commits an offence and liable on conviction to a fine of N20,000,000 or
12 imprisonment of a term of two years or to both fine and imprisonment.

13 (5) Every director and principal officers of a body corporate who
14 contravene the provisions of this section shall be personally liable and liable to
15 be proceeded against and punished as provided under subsections (3) and (4) of
16 this section.

Power to distrain
where excise tax
remains unpaid

17 **220.**-(1) Where any excise tax remains unpaid after a demand for
18 payment, in accordance with the provision of this Part has been made, the
19 Customs Service may authorise the levying of a distress upon-

20 (a) the goods, chattels and effects of the manufacturer of the goods in
21 respect of which the excise tax remains unpaid; and

22 (b) all machinery, plant, tools, ships, vehicles, animals, goods and
23 effects used in the manufacture, sale or distribution of the excisable goods
24 found in any premises or on any land in the use or possession of such
25 manufacturer or of any person on his behalf or in trust for him.

26 (2) The distrain procedure to be adopted by the Customs Service in
27 carrying the power conferred by this section shall be as prescribed in
28 regulations exercisable through a warrant authorizing a person or a customs
29 officer to levy by distress the amount taxes due.

30 (3) For the purpose of levying any distress under this section, a person

1 authorised in writing by the Customs Service may execute any warrant of
2 distress using reasonable force to enter any building if necessary as a last
3 resort, breaking open any building or place in the daytime for the purpose of
4 levying the distress.

5 (4) The authorized person or customs officer executing a warrant
6 of distress may request a police officer or any other law enforcement officer
7 to assist and it shall be the duty of any police officer or any other law
8 enforcement officer of whom the request is made to aid and assist in the
9 execution of the warrant of distress and in levying the distress, unless in
10 active pursuit of a suspect.

11 (5) The levying of any distress shall be at the cost of the owner of
12 any property, goods, chattels, things or effects which shall be kept for
13 fourteen days, at the end of which time, if the amount due in respect of the
14 excise tax and the cost and charges of and incidental to the distress are not
15 paid, may be sold.

16 (6) The proceeds of the sale are to be used for settlement of
17 amounts due in the following order-

18 (a) costs or charges of and incidental to the sale and keeping of the
19 distress;

20 (b) the amount due as excise tax; and

21 (c) the residue, if any, to the owner of the things detained upon, so
22 long as the owner makes a written request for payment within one year of
23 date of sale.

24 (7) In exercising the powers of distress conferred by this section,
25 the person to whom authority is given may detain upon all of the
26 manufacturer's goods, chattels and effects, wherever they may be found.

27 (8) Where the manufacturer asserts that the levy of distress is made
28 in error, the Customs Service may within the fourteen-day period provide
29 the manufacturer with the opportunity of an emergency hearing to prevent
30 an erroneous sale.

Removal of goods
without payment
of excise duties

1 **221.**-(1) Where goods otherwise subject to excise tax are allowed to
2 be removed tax-free from the premises of a licenced manufacturer, entered into
3 for the purpose of distrain because they are intended for an approved specified
4 use or purpose, no person shall be permitted to use or deal with the goods in a
5 way contrary to the specified use or purpose without the permission of the
6 Customs Service and then only after payment of the excise tax due.

7 (2) Where goods otherwise subject to the excise laws are allowed to
8 be removed tax-free from the premises of a licenced manufacturer entered into
9 for the purpose of distrain subject to a condition that they will not be sold or
10 disposed of in a similar manner without payment of excise tax or on payment of
11 excise tax at a reduced rate, no person is allowed to use or deal with the goods in
12 a contrary manner except with prior notification and authorization of the
13 Customs Service and only after payment of the excise tax due.

14 (3) A person who knowingly uses or deals with any goods in
15 contravention of the provision of subsections (1) or (2) of this section commits
16 an offence and liable on conviction to a fine of six times the value of the goods
17 or N1,000,000, whichever is greater, and any goods used or dealt with in
18 contravention of this section liable to forfeiture.

19 (4) The provisions of this section shall apply whether or not financial
20 guarantee, security, or collateral has been given for observance of the specified
21 use or purpose or the condition or for the payment of excise payable, and the
22 forfeiture of goods under this section shall not affect the liability of a person
23 who has given a financial guarantee, security, or collateral.

24 **222.**-(1) An applicant for an excise licence is required to post a
25 financial guarantee, which must be maintained throughout the licence period.

26 (2) The amount of the financial guarantee shall be determined by
27 regulations.

28 (3) An excise licence holder may provide the financial guarantee by
29 posting a bond, providing a deposit of funds to be held in escrow, or other form

Financial
guarantee

1 of payment guarantee, subject to conditions and procedures specified by
2 regulations.

3 223. An excise licence holder, excise trader, or other affected
4 person who is dissatisfied with a penalty, seizure, or forfeiture imposed
5 under this Part, or who objects to the conduct of a customs officer in
6 connection with the exercise of his duties under this section may, make
7 objection to and be heard by the Comptroller-General.

Right of
administrative
review

8 224.-(1) Where the Customs Service has seized goods or other
9 materials subject to forfeiture under this Part, and a hearing before the
10 Comptroller-General cannot take place immediately, the licence holder,
11 excise trader, or other affected person may request for an emergency
12 hearing, which must-

Emergency
hearing

13 (a) be made within twenty four hours of the seizure of goods or
14 other materials subject to forfeiture;

15 (b) be made in writing directed to the Zonal Coordinator; and

16 (c) state the reason an emergency hearing is necessary.

17 (2) An emergency hearing may be denied unless it appears to at
18 least one member of the Zonal review body that delay will harm the affected
19 person in a manner that cannot be adequately compensated for by a decision
20 made after a hearing in the normal course, and if the case involves distraint
21 permitted under section 216 of this Act, an emergency hearing is allowed
22 only if the affected person asserts that there is a material factual error in the
23 distress warrant or by the executing officer as to the premises or things to be
24 distrained.

25 (3) An emergency hearing, if allowed, must be held within seven
26 working days of receipt of the written request.

27 (4) Where the full Zonal Review body is not available for an
28 emergency hearing within the specified period, a member sitting alone may
29 hear and decide the case.

30 (5) In this section, "Zone" refers to customs control zone, and

1 "Zonal Coordinator" and "Zonal Review body" shall be construed
2 accordingly.

3 PART XXI - GENERAL OPERATIONAL POWERS, CUSTOMS OFFENCES, ETC.

General provisions
and interpretation
applicable to
this Part

4 **225.** In this Part, unless the context otherwise requires-

5 "administrative settlement" means the procedure contained in this Part under
6 which the Customs Service is empowered to settle a customs offence either by
7 a ruling or by means of a concession settlement;

8 "concession settlement" means an agreement under which the Customs
9 Service agrees to waive prosecution of a customs offence subject to
10 undertakings by the person or persons charged with the offence;

11 "customs offence" means a breach or attempted breach of customs law, and a
12 customs offence may be subject to civil or criminal penalties depending upon
13 the type and circumstances of the offence;

14 "extended border search" means non-routine border searches that occur
15 normally near the border; and extended border searches are permissible if they
16 meet the following three-part test-

17 (a) there is a reasonable certainty that a border crossing has occurred;

18 (b) there is a reasonable certainty that no change in the condition of
19 the goods, luggage or person to be examined has occurred since the border
20 crossing; and

21 (c) there is a reasonable suspicion that criminal activity has
22 occurred.

Power to prevent
flight of aircraft

23 **226.-(1)** A Customs officer, if it appears to him that an aircraft is
24 intended or likely to depart for a destination outside Nigeria from any place
25 other than a customs control zone otherwise than as permitted in writing by the
26 Board before customs clearance is given therefrom, may give such instructions
27 and take such steps by way of detention of the aircraft or otherwise as appear to
28 him necessary in order to prevent the departure.

29 (2) Any person who contravenes any instructions given under
30 subsection (1) of this section shall be liable to a fine of 1,500,000 Naira or to

1 imprisonment for two years, or both; and if an aircraft flies in contravention
2 of any such instruction or notwithstanding any steps taken to prevent the
3 flight, the operator of the aircraft and the commander thereof shall, without
4 prejudice to the liability of any other person under this subsection, each be
5 similarly liable unless he proves that the flight took place without his
6 consent or connivance.

7 **227.**-(1) Where at the expiration of a period of twenty-one clear
8 days from the date of making report under section 45 of this Act, any ship,
9 aircraft or vehicle or, where no such report was made, the date when it
10 should properly have been made, or such longer period as the Board may
11 allow, any goods are still on board the ship, aircraft or vehicle, the Board
12 may authorise the detention of that ship, aircraft or vehicle until-

Power to detain
ships, etc.

13 (a) any expenses properly incurred in watching and guarding the
14 goods beyond the said period; and

15 (b) where the goods are removed by virtue of any provisions of this
16 Act from the ship, aircraft or vehicle to a Government warehouse, the
17 expenses of that removal, have been repaid to the Customs Service.

18 (2) Where, in the case of any dilapidated or other ship or aircraft
19 coming, driven or brought into Nigeria under legal process, by stress of
20 weather or for safety, or in the case of any vehicle which suffers any mishap,
21 it is necessary to station any officer in charge thereof, whether on board or
22 otherwise, for the protection of the revenue, the proper officer may detain
23 that ship, aircraft or vehicle until any expenses thereby incurred have been
24 repaid to the Customs Service.

25 **228.**-(1) For the purpose of the detention thereof in pursuance of
26 any power or duty conferred or imposed by or under this Act or any other
27 enactment, or for the purpose of securing compliance with any provision of
28 this Act or of any other enactment, being a provision relating to the
29 importation or exportation of goods-

Power to refuse
or cancel clearance
of ship or aircraft

30 (a) the proper officer may at any time refuse clearance of any ship

1 or aircraft; and

2 (b) where clearance has been granted to a ship or aircraft any officer
3 may at any time while the ship or aircraft is within Nigeria demand that the
4 clearance shall be returned to him.

5 (2) Any such demand may be made either orally or in writing on the
6 master of the ship or commander of the aircraft, and if made in writing may be
7 served-

8 (a) by delivering it to him personally; or

9 (b) by leaving it at his last known place of abode; or

10 (c) by leaving it on board the ship or aircraft with the person appearing
11 to be in charge or command thereof.

12 (3) Where a demand for the return of a clearance is made as aforesaid-

13 (a) the clearance shall forthwith become void; and

14 (b) if the demand is not complied with, the master of the ship or the
15 commander of the aircraft shall be liable to a fine of 1,000,000 Naira.

Power to examine
goods carried in
a coasting ship,
etc.

16 **229.**-(1) Without prejudice to any other provision of this Act, the
17 proper officer may examine any goods carried or to be carried in a coasting
18 ship-

19 (a) at any time while they are on board the ship; or

20 (b) at any place to which the goods have been brought for loading in,
21 or at which they have been unloaded from the ship, and for that purpose may
22 require any container to be opened or unpacked; and any such opening,
23 unpacking or any repacking shall be done by or at the expense of the master of
24 the ship.

25 (2) Without prejudice to any other provision of this Act the proper
26 officer-

27 (a) may board and search a coasting ship at any time during her
28 voyage;

29 (b) may at any time require the master of a coasting ship to produce or

1 bring to him for examination any document which should properly be on
2 board such ship;

3 (c) may at any time ask the master of the ship such questions
4 concerning the ship, the goods and persons carried therein and her voyage as
5 he may think fit, and if the master of the ship fails to produce or bring any
6 such document to such officer, or refuses to answer any such question, he
7 shall be liable to a fine of N1,000,000 Naira.

8 230.-(1) The Comptroller General may make regulations as to the
9 procedure to be followed by ship chandlers going on board or disembarking
10 from any ship in Nigeria where such boarding or disembarking is for the
11 purpose of trade.

Power to regulate
boarding etc. by
ship chandlers

12 (2) Without prejudice to the generality of the powers to make
13 regulations conferred by subsection (1) of this section, regulations made
14 thereunder may in particular-

15 (a) enable the Board to specify by notice, the manner in which and
16 the period during which any trade may be carried on board any such ship by
17 ship chandlers;

18 (b) provide for the inspection by officers of the Customs Service of
19 ship chandlers who are on board a ship for the purpose of trade;

20 (c) prescribe the form of application for and of the ship chandler's
21 licence to be used for the purposes of this section;

22 (3) Any person contravening or failing to comply with any
23 regulation made under this section shall be liable to a fine of 500,000 Naira,
24 and any goods or article in respect of which the offence was committed shall
25 be liable to forfeiture.

26 231.-(1) The person in charge of any ship, aircraft or vehicle
27 employed in the enforcement of the customs and excise laws-

Power to patrol
freely

28 (a) may take such ship, aircraft or vehicle to any place in Nigeria;

29 and

30 (b) keep any such ship, aircraft or vehicle at any place in Nigeria for

1 such time as he shall deem necessary, and such person shall not be liable to any
2 prosecution or action at law for so doing.

3 (2) Any officer engaged in the enforcement of the customs and excise
4 laws may for that purpose patrol upon and pass freely over and enter any place
5 in Nigeria, and such officer shall not be liable to any prosecution or action at
6 law for so doing.

7 (3) Nothing in this section shall authorise entry into any dwelling-
8 house or other building.

9 (4) Any person who interferes in any way with any ship, aircraft,
10 vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose
11 of enforcing the customs and excise laws shall be liable to a fine of two hundred
12 naira.

13 (5) Any person who fires upon any ship, aircraft or vehicle which is
14 being used for the purpose of enforcing the customs and excise laws or by an
15 officer while otherwise engaged in the execution of his duty shall be sentenced
16 to death.

Power to
investigate
offences

17 **232.**-(1) The Customs Service may without previous notice and at any
18 time enter any place, premises, or means of conveyance and make such
19 examination and inquiry as deemed necessary where there are reasonable
20 grounds to suspect that a customs and excise offence has occurred.

21 (2) For a customs officer to execute his duties under this section, he
22 shall obtain from the Comptroller-General or his designee written
23 authorization to enter any place or premises or means of conveyance and shall
24 on demand by any person concerned produce a copy of the written
25 authorization.

26 (3) A customs officer may exercise any of the powers referred to in
27 subsection (1) of this section without a written authorization if by reason of
28 exigent circumstances, or in exercising extended border search it would not be
29 practical to obtain the authorization.

30 (4) Exigent circumstances include situations in which the delay

1 necessary to obtain a written authorization would result in danger to human
2 life or safety, the loss or destruction of anything liable to seizure or evidence
3 of a suspected violation of customs and excise laws.

4 (5) A customs officer may search any person who has arrived in or
5 is departing from the customs territory if he suspects on reasonable and
6 probable grounds that the person has concealed on or about his person
7 anything which might contravene the laws of the Federal Republic of
8 Nigeria or anything that can be used as evidence with respect to the
9 contravention, or any goods or baggage the importation of which is
10 prohibited or restricted provided that-

11 (a) a person shall not be searched by a person not of the same
12 gender except that in the case of a perception of immediate threat to the
13 personal safety of the customs officer or others the search shall be limited to
14 a search for weapons;

15 (b) internal body searches shall be conducted by a qualified
16 medical practitioner using procedures and apparatus considered to be
17 reasonably safe under the circumstances; and

18 (c) the chief customs officer may terminate the search if he
19 concludes that no reasonable and probable grounds exist justifying the
20 search.

21 (6) The Customs Service by any regulations articulate reasons to
22 progress from less to more intrusive search techniques and the required
23 approvals within the Customs Service chain of command for progression to
24 more intrusive personal examinations.

25 (7) To enforce the customs laws, customs officers may enter and
26 cross any private property at any time to access the borders of the Federal
27 Republic of Nigeria.

28 (8) Subject to applicable laws, the Customs Service may order the
29 removal of any dwelling or structure that is located within five meters of the
30 border and may construct within this boundary area any fence, wall or other

1 structure or create another physical barrier to prevent the illegal crossing of the
2 border.

3 (9) The Customs service may employ the use of modern scientific
4 techniques and technologies in the course of investigations when it becomes
5 necessary.

Customs offences
subject to criminal
penalties, including
false statement,
concealment,
etc.

6 233.-(1) A person who knowingly and willfully acts or omits to act in
7 any matter, within the jurisdiction of the Customs Service whether or not
8 within the Federal Republic of Nigeria, intended or capable of depriving the
9 Customs Service of lawful duties, taxes, fees or other revenue through-

10 (a) falsifying, concealing, or covering up by any trick, scheme, or
11 device a material fact;

12 (b) making any materially false, fictitious, or fraudulent statement or
13 representation whether written, electronic or verbal; or

14 (c) making or using any false writing or document, including
15 electronic documents, knowing the same to contain any materially false,
16 fictitious, or fraudulent statement or entry commits an offence and liable on
17 conviction to a fine of N1,500,000, or imprisonment for a term of not more than
18 three years, or to both imprisonment and fine.

19 (2) Nothing in this section shall be construed to relieve goods from
20 forfeiture under other provisions of law.

Entry of goods
for less than
legal duty

21 234. A person who knowingly enters any goods upon payment of less
22 than the amount of duty, excise taxes, other taxes and fees legally due, shall on
23 conviction be liable for the payment of a fine of N1,500,000 or to not more than
24 two years, or to both term of imprisonment and fine.

Concealing or
destroying
invoices or other
documents

25 235. A person who-

26 (a) willfully conceals or destroys any invoice or other document,
27 including electronic documents, relating to goods imported into or exported
28 from the Federal Republic of Nigeria after an inspection of the goods has been
29 demanded by the Customs Service; or

30 (b) conceals or destroys at any time any such invoice or other

1 document, including electronic documents, for the purpose of suppressing
2 any evidence of fraud in the invoice or other document, including electronic
3 document:

4 commits an offence and liable on conviction to a fine of N2,000,000 or
5 imprisonment for a term of not more than three years, or to both fine and
6 imprisonment.

7 **236.** A person who-

Counterfeiting
documents

8 (a) counterfeits or falsifies any document which is required by or
9 under the customs and excise laws or which is used for the transaction of any
10 business relating to customs and excise;

11 (b) knowingly accepts, receives or uses any counterfeited or
12 falsified document;

13 (c) alters any document after it is officially issued; or

14 (d) counterfeits any seal, signature, initials or other mark of, or
15 used by, any officer for the verification of such a document or for the
16 security of goods or for any other purpose relating to customs and excise:

17 commits an offence and liable on conviction to a fine of N5,000,000 or to
18 imprisonment for seven years, or to both fine and imprisonment.

19 **237.** A person who knowingly and willfully submits any false or
20 fraudulent claim for the payment of drawback or the refund of duties, excise
21 taxes, other taxes or fees in respect of the importation or exportation of
22 goods, or knowingly or willfully makes or files any false affidavit or other
23 document, including electronic documents, with a view to securing the
24 payment to himself or others of a drawback or refund greater than that
25 legally due thereon, commits an offence and on conviction liable to pay a
26 fine not exceeding N5,000,000 or imprisonment not of more than five years,
27 or to both fine and imprisonment.

False claims for
refunds

28 **238.**-(1) Where a person-

29 (a) lands, or unloads in the customs territory, or removes from their
30 place of importation or from any approved wharf, airport, examination

Smuggling of
goods into the
customs territory

1 station, customs station or customs area-

2 (i) any goods imported contrary to any prohibition;

3 (ii) assists or is otherwise concerned in such landing, unloading or
4 removal; or

5 (b) imports or is concerned in importing any goods contrary to any
6 prohibition, whether or not the goods are landed or unloaded, with intent to
7 evade any prohibition,

8 commits an offence and on conviction, liable to imprisonment for a term of five
9 years without the option of a fine if the goods are subject to an absolute
10 prohibition or three years imprisonment and forfeiture in case of a prohibition
11 for trade.

12 (2) A person who-

13 (a) imports or causes to be imported any goods concealed in a
14 container holding goods of a different description; or

15 (b) directly or indirectly imports or causes to be imported or entered
16 any goods found, whether before or after delivery, not to correspond with the
17 entry delivered on the goods;

18 commits an offence and liable on conviction, if the goods are chargeable with
19 duty, excise tax or other taxes to imprisonment for a term of three years and to a
20 fine of six times the true value of revenue lost and forfeiture of the item
21 smuggled.

Possession of
smuggled goods

22 239.-(1) Where a person is found anywhere in Nigeria in possession
23 of any goods to which this section applies, the person commits an offence
24 unless he proves-

25 (a) that the goods were lawfully imported into Nigeria or as the case
26 may be, that the duty chargeable on the goods has been paid; or

27 (b) in the case of any person other than a seller of those goods, that he
28 had no reason to suspect that the goods were unlawfully imported or that the
29 duty chargeable on the goods had not been paid.

30 (2) This section applies to any goods, not being goods manufactured

1 or otherwise produced in Nigeria-

2 (a) the importation of which is prohibited under this Act or any
3 other enactment; or

4 (b) which have been imported into Nigeria without the duty
5 chargeable on the goods having been paid.

6 (3) A person found guilty of an offence under this section shall on
7 conviction be sentenced to imprisonment for one year or six times the value
8 of the lost revenue.

9 (4) The Customs Service shall for the purpose of subsection (1) of
10 this section issue regulations providing the cases where purchasers of
11 imported goods have a duty to verify that imported duties and taxes have
12 been paid.

13 **240.** A person who-

14 (a) without lawful authority, affixes or attaches a customs seal,
15 fastening or mark, or any seal fastening or mark purporting to be a customs
16 seal, fastening or mark, to any vessel, vehicle, warehouse, or package;

17 (b) without authority, willfully removes, breaks, or defaces any
18 customs seal or other fastening or mark placed upon any vessel, vehicle,
19 warehouse, or package containing goods or baggage in customs custody;

20 (c) maliciously enters any bonded warehouse or any vessel or
21 vehicle containing bonded goods with intent to unlawfully remove from the
22 bonded warehouse, vessel, or vehicle any goods or baggage therein, or
23 unlawfully removes any goods or baggage in such vessel, vehicle, or bonded
24 warehouse or otherwise in customs control; or

25 (d) receives or transports any goods or baggage unlawfully
26 removed from any vessel, vehicle, or warehouse, knowing the same to have
27 been unlawfully removed,

28 commits an offence and liable on conviction to a fine of six times the value
29 of the lost revenue or to a term of imprisonment of not more than ten years, or
30 to both fine and imprisonment.

Removing goods
from customs
control

Importation or
exportation of
stolen means
of transport

1 **241.** A person who knowingly imports, exports, or attempts to import
2 or export any-
3 (a) motor vehicle, vessel, aircraft, or part of any motor vehicle, vessel,
4 or aircraft, knowing the same to have been stolen; or
5 (b) motor vehicle or part of motor vehicle knowing that the
6 identification number of such motor vehicle or part of motor vehicle has been
7 removed, obliterated, tampered with, or altered:
8 commit an offence and liable on conviction to a fine N1,500,000 or to
9 imprisonment of not more than ten years, or to both fine and
10 imprisonment.

Unlawful border
passages

11 **242.-(1)** Any person who knowingly constructs or finances the
12 construction of a route, tunnel or passageway that crosses the international
13 border between the Federal Republic of Nigeria and another country, other than
14 a lawfully approved route, tunnel or passageway known to the Customs
15 Service and subject to inspection by the Customs Service and other
16 enforcement agencies, shall on conviction liable to a fine of least N5,000,000
17 and a term of imprisonment of not more than twenty years, or to both fine and
18 imprisonment.

19 (2) A person who knows of or recklessly disregards the construction
20 or use of a tunnel or passageway described in subsection (1) of this section on
21 the land owned by any person or under his controls commits an offence and
22 shall on conviction liable to a fine of not less than N3,000,000 or to
23 imprisonment for a term of not more than ten years, or to both fine and
24 imprisonment.

25 (3) A person who uses a route, tunnel or passageway described in
26 subsection (1) of this section to unlawfully smuggle goods in violation of
27 customs and excise laws commits an offence and shall on conviction be liable
28 to a fine of not less than N5,000,000 or to a term of imprisonment of not more
29 than twenty years, or to both fine and imprisonment.

1 **243.**-(1) A person-

Offences
involving the use
of weapons, etc.

2 (a) who, while concerned in the commission of any offence against
3 the customs and excise laws, is armed with any weapon; and

4 (b) so armed found in Nigeria in possession of any goods liable to
5 forfeiture under the customs laws:

6 Commits an offence and shall on conviction be liable to imprisonment for a
7 term of ten years.

8 (2) A person who threatens a customs officer with a weapon or
9 threatens to physically strike a customs officer either by body or weapon,
10 commits an offence and liable on conviction to a fine of N3,000,000 or a
11 minimum mandatory imprisonment term of two years or to both fine and
12 imprisonment.

13 **244.**-(1) A person who threatens a customs officer with a weapon or
14 threatens to strike a custom officer with a weapon or threatens to inflict
15 bodily harm on a customs officer commits an offence and liable on
16 conviction to a fine of N5,000,000 or imprisonment for a term not exceeding
17 five years or to both fine and imprisonment.

Penalties for armed
or bodily assault
of officers of the
Customs Service,
etc.

18 (2) A person who strikes a customs officer with a weapon or by
19 assault causes bodily injury to a customs officer commits an offence and
20 liable on conviction to a term of not less than ten years imprisonment or a
21 fine of N10,000,000 or to both fine and imprisonment.

22 (3) Where death to a customs officer occurs as a result of the
23 offences under subsections (1) and (2) of this section, the accused person
24 shall be proceeded against as provided under the penal or the criminal code.

25 (4) The Court at its discretion may order payment of any penalty
26 arising out of the provision of subsections (1) and (2) of this section to be
27 paid to the customs officer concerned or to his estate in the event of death.

28 **245.**-(1) Any person who disguises as a customs officer or as any
29 law enforcement officer or agent and commits an offence against the
30 customs and excise laws shall on conviction be liable to-

Disguising as a
Customs Officer,
impersonation,
obstruction, etc.

1 (a) a term of five years imprisonment; and

2 (b) any proceeds involved in the commission of the offence shall be
3 forfeited.

4 (2) Where a person, not being a customs officer for the purpose of
5 carrying out any unlawful act, assumes the name, designation or character of a
6 customs officer, the person commits an offence and shall be liable to
7 imprisonment for a term of two years or to a fine of N1,500,000, or to both fine
8 and imprisonment in addition to any other punishment to which he may be
9 liable.

10 (3) Where a person-

11 (a) obstructs, hinders, molests or assaults any customs officer in the
12 performance of any duty or the exercise of any power imposed or conferred on
13 him, or any person acting in his aid, in carrying out the provisions of this Act or
14 any other customs and excise law; or

15 (b) does anything which impedes or is intended to impede the
16 carrying out of any search for anything liable to forfeiture under the provisions
17 of this Act, the customs and excise laws or the detention, seizure or removal of
18 anything liable to forfeiture;

19 (c) rescues, damages or destroys anything liable to forfeiture or does
20 anything intended to prevent the procuring or giving of evidence as to whether
21 or not anything is liable to forfeiture; or

22 (d) prevents the arrest of any person by a person duly authorized for
23 that purpose or authorized to carry out the actions referred to in this section or
24 rescues any person arrested for an alleged unlawful act:

25 the person commits an offence and liable on conviction to a term of two years
26 imprisonment or to a fine of N1,500,000, or to both fine and
27 imprisonment.

28 **246.-(1)** It is unlawful for any person, without due regard to whether
29 the Customs Service is deprived of all or a portion of any lawful duty, excise
30 tax, other tax or fee to-

1 (a) enter or introduce goods into the customs territory by means of
2 any document or electronically transmitted data or information;

3 (b) enter or introduce any goods into the customs territory by
4 means of written or oral statement which is false in any material particular;

5 (c) aid or abet any other person in connection with the provisions of
6 paragraph (a) or (b) of this subsection.

7 (2) Unless a part of a pattern of negligent conduct-

8 (a) clerical errors or mistakes; or

9 (b) repetition by electronic system of an initial clerical error:

10 shall not constitute a contravention of the provision of subsection (1) of this
11 section provided that the burden of proof of a clerical error shall be that of
12 the defendant.

13 (3) A grossly negligent violation of the provision of this section is
14 punishable by a penalty in an amount not exceeding the lesser of-

15 (a) the value of the goods; or

16 (b) four times the duties, excise taxes, other taxes and fees of which
17 the Customs Service is or may be deprived; or

18 (c) forty percent of the value of the goods if the violation did not
19 affect the collection of a customs debt.

20 (4) A negligent violation of the provision of this section is
21 punishable by a penalty in an amount not exceeding the lesser of-

22 (a) the value of the goods;

23 (b) two times the duties, excise taxes, other taxes and fees of which
24 the Customs Service is or may be deprived; or

25 (c) twenty per cent of the value of the goods, if the violation did not
26 affect the collection of a customs debt.

27 (5) Where a defendant discloses the circumstances of a violation of
28 the provision of subsection (1) of this section before, or without knowledge
29 of, the commencement of a formal investigation of a violation by the
30 Customs Service, the goods concerned shall not be seized and any monetary

1 penalty to be assessed pursuant to this section shall not exceed-

2 (a) one hundred percent of the duties, excise taxes, other taxes and
3 fees due as long as the person tenders the unpaid amount due at the time of
4 disclosure or within such longer period as the Customs Service may determine;

5 (b) ten per cent of the value of the goods, if such violation did not
6 affect the assessment of duties, excise taxes, other taxes and fees; or

7 (c) the interest on the unpaid customs debt computed from the date the
8 debt was incurred, if the violation resulted from negligence or gross negligence
9 and the person tenders the unpaid amount due at the time of disclosure or within
10 such longer time as the Customs Service may determine.

11 (6) Any person asserting lack of knowledge of the commencement of
12 a formal investigation has the burden of proof in establishing such lack of
13 knowledge; and a formal investigation of a violation is deemed to be
14 commenced on the date recorded in writing by the Customs Service as the date
15 on which facts and circumstances were discovered or information was received
16 which caused the Customs Service to believe that a possibility of a violation
17 exists.

18 247.-(1) Where the Customs Service has reasonable cause to believe
19 that there has been a violation of section 246 of this Act and decides that further
20 proceedings are required, it shall issue to the person concerned a written notice
21 of its intention to claim for monetary penalty and such notice shall-

22 (a) describe the goods;

23 (b) set out the details of the entry or introduction, the attempted entry
24 or introduction, or the aiding or procurement of the entry or introduction;

25 (c) specify all laws and regulations allegedly violated;

26 (d) disclose all material facts which establish the alleged violation;

27 (e) state whether the alleged violation occurred as a result of gross
28 negligence, or negligence;

29 (f) state the estimated loss of duties, excise taxes, other taxes and fees,
30 if any, and taking into account all the circumstances, the amount of the

1 proposed monetary penalty; and

2 (g) inform such person of his right to make representations, both
3 oral and written, as to why a claim for a monetary penalty should not be
4 issued in the amount stated.

5 (2) The provision of subsection (1) of this section shall not apply
6 where-

7 (a) the importation with respect to which the violation of section
8 246 of this Act occurs is non-commercial in nature; or

9 (b) the minimum rule is applicable to the amount of penalty claimed.

10 (3) After considering representations, if any, made by the person
11 concerned pursuant to the notice issued under subsection (1) of this section,
12 the Customs Service shall determine whether any violation of section 247 of
13 this Act, as alleged in the notice, has occurred.

14 (4) Where the Customs Service determines that there was no
15 violation, it shall promptly issue a written statement of the determination to
16 the person to whom the notice was sent.

17 (5) Where the Customs Service determines that there was a
18 violation, it shall issue a written penalty claim to such person; and such
19 written penalty claim shall specify all changes in the information provided,
20 if any, in the penalty notice.

21 (6) A person shall have a reasonable opportunity to make
22 representations both oral and written, seeking remission or mitigation of the
23 monetary penalty.

24 (7) At the conclusion of any proceeding, the Customs Service shall
25 provide to the person concerned with a written statement which sets out the
26 final determination and the findings of fact and conclusions of law on which
27 such determination is based.

28 (8) The severity of any penalties applied in an administrative
29 settlement of a customs offence shall depend upon the seriousness of the
30 offence committed and the record of the person concerned in his dealings

1 with the Customs Service.

Concessionary
settlement and
mitigation of
penalties

2 **248.**-(1) On the petition of any person subject to a civil penalty, the
3 Customs Service may remit or mitigate civil penalties assessed under this Part
4 by an administrative settlement if it finds that such fine, penalty, or forfeiture
5 was incurred without willful negligence or without any intention on the part of
6 the petitioner to defraud the revenue or to violate the law, or finds the existence
7 of such mitigating circumstances as to justify the remission or mitigation of
8 such penalties.

9 (2) The Customs Service may by regulation establish criteria for the
10 mitigation and settlement of administrative penalties with the agreement of the
11 party in breach and at the option of the party charged with the contravention,
12 the Customs Service may at any time refer a possible settlement to a higher
13 level within the Customs Service.

14 (3) A person subject to a civil penalty may at any time reject a
15 concessionary settlement offered by the Customs Service and lodge an appeal
16 with the courts in Nigeria pursuant to the provisions of this Act.

17 (4) A concessionary settlement of a customs offence shall be final and
18 conclusive as between all parties to the settlement and no appeal may be taken
19 from such a settlement.

False scales

20 **249.**-(1) Where under the provisions of a customs and excise law, a
21 person is required to provide a scale for the purposes of that law and that person
22 provides, uses, or permits to be used a scale which is false or unjust, the person
23 commits an offence under this section.

24 (2) Where a person is required by or under a customs and excise law to
25 provide scales for any purpose of those laws, provides, uses, or permits to be
26 used scales which are false or unjust, that person commits an offence under this
27 section.

28 (3) Where goods are to be weighed, counted, gauged or measured for
29 the purposes of taking accounts of examinations by a the customs officer, and
30 where a person referred to in subsection (1) of this section, or any person by

1 whom or on whose behalf the goods are weighed, counted, gauged or
2 measured, does anything either before, during or after the weighing,
3 counting, gauging or measuring, whereby the customs officer is or might be
4 prevented from, or hindered or deceived in, taking a just account or making a
5 due examination, the person commits an offence under this section.

6 (4) A person who commits an offence under this section is liable on
7 conviction to a fine of N1, 500,000 and any false or unjust scales and any
8 goods in ~~connection~~ with which the offence was committed shall be
9 forfeited.

10 (5) In this section, the word "scales" includes weights, measures
11 and weighing and measuring machines or such similar instruments used for
12 the weighing of goods.

13 PART XXII - SEIZURE AND FORFEITURE

14 250.-(1) A customs officer or any other person authorised in that
15 behalf by the Customs Service, may at any time seize or detain anything
16 liable to forfeiture under the customs and excise laws or which such officer
17 or other person has reasonable grounds to believe is liable to forfeiture under
18 the customs and excise laws.

Provisions as to
the detention,
seizure, and
condemnation of
goods

19 (2) Anything seized or detained under the customs and excise laws
20 shall without delay be delivered into the care of the Customs Service and,
21 subject to the provisions of this Part and the Second Schedule to this Act,
22 pending the determination as to its forfeiture or disposal, be dealt with, and,
23 if condemned or deemed to have been condemned as forfeited, be disposed
24 of, in such manner as the Customs Service may direct.

25 (3) The provisions of this Part and the Second Schedule to this Act
26 shall have effect for the purposes of forfeiture, and all proceedings for the
27 condemnation of anything as being forfeited, under the customs and excise
28 laws.

29 251. Where-

30 (a) except as provided by or under this Act, any goods chargeable

Provisions as to
forfeiture

1 with a duty, excise tax, other tax or fee on exportation are exported without
2 payment of the duty, excise tax, other tax or fee;

3 (b) any goods are exported or loaded for exportation or as stores or are
4 brought to any place in Nigeria for the purpose of being exported or loaded as
5 stores and the exportation of the goods is or would be contrary to any
6 prohibition;

7 (c) except as provided by or under this Act, goods are loaded into any
8 ship or aircraft for exportation or as stores, or are removed from any customs
9 station for exportation, before declaration outwards of the goods has been
10 signed by the appropriate customs officer;

11 (d) any goods, being goods chargeable with any duty on exportation
12 or goods the exportation of which is prohibited, are found after having been
13 loaded for exportation to have been concealed in any manner on board any ship
14 or aircraft or in any vehicle; or

15 (e) any goods are exported or brought to any place in Nigeria for
16 exportation concealed in a container holding goods of a different description;

17 (f) any goods are exported or brought to any place in Nigeria for
18 exportation concealed or packed in any manner appearing to be intended to
19 deceive a customs officer; or

20 (g) any goods declared outwards are found, whether before or after
21 loading, not to correspond with the entry made in respect of the goods, the
22 goods concerned shall be forfeited.

Forfeiture of
excisable goods

23 **252.** Where, by or under any provision of this Act, goods of a kind
24 subject to excise duty become liable to forfeiture by reason of an offence
25 committed by an excise trader, and the goods of the kind subject to excise duty
26 are not available for forfeiture, the Customs Service may seize from the stock
27 of that trader, goods of that kind and to such quantity as would attract the same
28 amount of duty and taxes as the amount of duty and taxes on the goods liable to
29 forfeiture.

1 253.-(1) Without prejudice to any other provision of this Act,
2 where goods including any property and articles, have become forfeited
3 under the customs and excise laws, any ship, aircraft, vehicle, animal,
4 container (including any article of passenger's baggage) or anything
5 whatsoever which has been used for the carriage, handling, deposit or
6 concealment of the goods, including any article or property subject to
7 forfeiture either at a time when it was liable or for the purposes of the
8 commission of the offence for which it later became subject to the forfeiture;
9 shall also be forfeited unless it is established that ownership of the means of
10 conveyance is different from the ownership of the goods forfeited and that
11 the act of the owner of the goods is without the knowledge and consent of the
12 owner, in that the means of transport shall not be subject to forfeiture.

Forfeiture of ships
and other means
of transport or
conveyance

13 (2) The burden of proof shall rest on the owner of the conveyance to
14 prove that the person or persons engaged in the offence acted without his
15 knowledge and that he had exercised reasonable care in permitting the use of
16 the means of transport by the person responsible for the violation.

17 (3) Any other thing mixed or packed in such a way to deceive an
18 officer or found with the thing forfeited, shall also be forfeited provided that
19 they are packed in a way to conceal the forfeited goods, or the proportion of
20 the goods so mixed is significant compared to the goods forfeited.

21 (4) Where any ship, aircraft, vehicle or animal has become
22 forfeited under the customs and excise laws, whether by virtue of subsection
23 (1) of this section or otherwise, equipment affixed to the means of transport,
24 all tackle, apparel, furniture or other thing used in operating the means of
25 transport shall also be forfeited.

26 254.-(1) Where any ship, aircraft or vessel which is liable to
27 forfeiture or inspection under the customs and excise laws does not bring to
28 or stop when required to do so by a customs officer and remain still for such
29 period as the customs officer may require, the master of the ship, captain of
30 the aircraft or person in charge of the vessel commits an offence and liable

Penalty for failure
of master to bring
to or stop ship
when required
to do so

1 on conviction to a fine of N2,000,000.

2 (2) Where any ship liable to forfeiture or inspection under subsection
3 (1) of this section fails to bring to or stop when required to do so by a
4 government ship and, after the commanding officer of the government ship has
5 hoisted the proper ensign and caused a shot to be fired as a signal, the ship liable
6 to forfeiture or inspection still fails to bring to or stop, such government ship
7 may, on the instruction of the commanding officer, fire upon the ship liable to
8 forfeiture or inspection with any weapon lawfully carried.

9 (3) In this section "government ship" means a ship lawfully armed in
10 the service of the Government.

Ships and other
means of transport
constructed for
concealing goods

11 **255.** Any ship, aircraft, vehicle or other means of transport which is
12 found to be engaged in, to have been engaged in or to be about to depart on, a
13 voyage, flight or journey while constructed, adapted, altered or fitted in any
14 manner for the purpose of concealing goods shall be forfeited.

Ships jettisoning
cargo

15 **256.**-(1) If any part of the cargo of a ship is thrown overboard, or
16 staved or destroyed to prevent seizure after the ship has been properly
17 summoned to bring to a stop by any ship employed in the enforcement of the
18 customs and excise laws, the ships from which such cargo was thrown
19 overboard or on which such cargo was staved or destroyed shall be forfeited
20 and the captain or master of the ship commits an offence and liable on
21 conviction to a fine of N1,500,000 or two years imprisonment or to both fine
22 and imprisonment.

23 (2) For the purpose of this section, a ship shall be deemed to have been
24 properly summoned to bring to a stop if the ship making the summons did so by
25 means of an international signal code or other recognized means and while
26 flying her proper ensign.

Special provisions
as to forfeiture
of larger ships or
aircraft

27 **257.**-(1) Notwithstanding any other provision of this Act, a ship of
28 two hundred and fifty or more tons register or a commercial aircraft engaged in
29 regular scheduled flights shall not be forfeited under or by virtue of any
30 provision of this Act, unless the offence in respect of or in connection with

1 which the forfeiture is claimed-

2 (a) was substantially the object of the voyage or flight in
3 connection with which the offence was committed;

4 (b) in the case of a ship, was committed while the ship was under
5 chase by a ship employed in the enforcement of the customs laws after
6 failing to bring to or stop when properly summoned to do so; or

7 (c) was used in repeated offences by crew, or other parties in the
8 employ of the vessel or aircraft operator and the operator has failed to
9 exercise reasonable care in the prevention of the use of the means of
10 transport for illegal activities.

11 (2) For the purposes of this section, a ship shall be deemed to have
12 been properly summoned to bring to or stop if the ship making the summons
13 did so by means of an international signal code or other recognized means
14 and while flying her proper ensign.

15 (3) The exemption from forfeiture of any ship or aircraft under this
16 section shall not affect any liability to forfeiture of goods carried in the ship
17 or aircraft.

18 258.-(1) Where any ship of two hundred and fifty or more tons
19 register or any aircraft would but for the provision of section 258 of this Act
20 be liable to forfeiture for or in connection with any offence under the
21 customs and excise laws and, in the opinion of the Customs Service, a
22 responsible officer of the ship or aircraft is implicated either by his own act
23 or by neglect in that offence, the Customs Service may fine that ship or
24 aircraft such sum as it may deem fit but not less than N1,500,000.

25 (2) Where any ship or aircraft is liable to a fine under subsection (1)
26 of this section but the Customs Service considers that a penalty of a fine is
27 inadequate for the offence, it may take proceedings in accordance with the
28 Second Schedule to this Act, in like manner as it might but for section 258 of
29 this Act have taken proceedings for the condemnation of the ship or aircraft
30 if notice of claim had been given in respect thereof, for the condemnation of

Penalty in lieu
of forfeiture of
larger ships or
aircraft where
responsible officer
is implicated in
offence

1 the ship or aircraft in such sum of not less than N1,500,000 as the court may
2 deem fit.

3 (3) Where any fine is to be imposed or any proceedings are to be taken
4 under this section, the Customs Service may, require such sum as it deems fit,
5 but not less than N1,500,000 to be deposited with the Customs Service to await
6 its final decision or, as the case may be, the decision of the court, and may
7 detain the ship or aircraft until that sum has been so deposited.

8 (4) No claim shall lie against the Customs Service for damages in
9 respect of the payment of any deposit or the detention of any ship under this
10 section.

11 (5) For the purposes of this section, the expression "responsible
12 officer" includes-

13 (a) in the case of a ship not carrying a passenger certificate, the master,
14 a mate, the chief steward and an engineer;

15 (b) in the case of a ship carrying a passenger certificate, the master, the
16 purser, the chief steward and the chief engineer; and

17 (c) in the case of an aircraft, the captain, a pilot, a navigator, the chief
18 steward and the chief engineer.

19 (6) Without prejudice to any other grounds upon which a responsible
20 officer may be held to be implicated by neglect, he may be so held if goods not
21 owned to by any member of the crew are discovered in a place under that
22 officer's supervision in which the goods could not reasonably have been put if
23 he had exercised proper care at the time of the loading of the ship or after.

24 **259.**-(1) Where, in any proceedings for the condemnation of anything
25 seized as liable to forfeiture under the customs and excise laws, judgment is
26 given for the claimant, the court may, if it deems fit, certify that there were
27 reasonable grounds for the seizure.

28 (2) Where any proceedings, whether civil or criminal, are brought
29 against the Customs Service or any person authorized by or under this Act to
30 seize or detain anything liable to forfeiture under the customs and excise laws

1 on account of the seizure or detention of anything, and judgment is given for
2 the plaintiff or prosecutor, then if either-

3 (a) a certificate relative to the seizure has been granted under
4 subsection (1) of this section; or

5 (b) the court is satisfied that the Customs Service and customs
6 officers acted in good faith believing reasonable grounds exist for seizing or
7 detaining that thing under the customs and excise laws, the plaintiff or
8 prosecutor shall not be entitled to recover any damages or costs and the
9 defendant shall not be liable to any punishment, provided that nothing in this
10 Act shall affect any right of any person to the return of the thing seized or
11 detained or to compensation in respect of any damage to the thing or in
12 respect of its destruction.

13 (3) Any certificate under subsection (1) of this section may be
14 proved by the production of either the original certificate or its certified copy
15 purporting to be signed by an officer of the court by which it was granted.

16 PART XXIII - LEGAL PROCEEDINGS RELATING TO CUSTOMS OFFENCES

17 260.-(1) Where or under any provision of the customs and excise
18 laws, a fine or imprisonment is prescribed for any offence, such fine or
19 imprisonment shall be enforceable by the ordinary procedure applicable in
20 respect of criminal matters in the place in Nigeria where the proceedings are
21 brought.

Institution of legal
proceedings

22 (2) Legal actions for the enforcement of a civil right under this Act
23 may be brought within seven years from the time the cause of action arose.

24 (3) Criminal action may be instituted at any time from the date of
25 the commission of the offence.

26 261.-(1) Where a criminal offence under the customs and excise
27 laws is committed on the water or in the air outside the area covered by the
28 jurisdiction of any court in Nigeria, the offence shall, for the purpose of
29 conferring jurisdiction, be deemed to have been committed at any place in
30 Nigeria where the offender is found or to which he is first brought after the

Jurisdiction over
offences committed
in places other
than land in
Nigeria

1 commission of the offence.

2 (2) The jurisdiction conferred under subsection (1) of this section
3 shall be in addition to and not in derogation of any jurisdiction or power
4 conferred under any other enactment.

Adjustment of
prescribed fees

5 **262.**-(1) Where, by or under this Act, a fine is prescribed in
6 connection with an offence arising from the administration of the customs and
7 excise laws, the Customs Service may, by regulations, review and adjust such
8 fines, after seven years from the commencement of this Act and thereafter
9 every other four years.

10 (2) The adjustment factor to be used by the Customs Service for the
11 review and adjustment referred to in subsection (1) of this section shall be as
12 follows-

$$13 \qquad \qquad \qquad \text{CPI}(y-1)$$

$$14 \text{ Adjustment Factor} = \frac{\text{-----}}{\text{CPI}(2009)}$$

$$15 \qquad \qquad \qquad \text{CPI}(2009)$$

16 (3) The Formula:

17 "CPI (y-1)" means the average Nigerian Consumer Price Index (Annual) for
18 All Urban Consumers (CPI-U) for All Item, 2009=100, unadjusted for
19 seasonal variation, as announced by the Nigerian Bureau of Statistics, for the
20 calendar year prior to the April 1 date under consideration; and

21 "CPI (2011)" means the average Nigerian Consumer Price Index (Annual) for
22 All Urban Consumers (CPI-U) for All Item, 2009=100, unadjusted for
23 seasonal variation, as announced by the Nigerian Bureau of Statistics, for the
24 calendar year 2011.

25 (4) Fines under this Act shall be reviewed as follows-

26 Adjusted fine = Fine x Adjustment factor

27 (5) The Term:

28 "Adjusted fine" means the new fine to be introduced pursuant to this section;

29 "Fine" means the fine under this Act in the first instance and adjusted fines for
30 the subsequent years; and

1 "Adjustment factor" means the figure calculated pursuant to subsection (2)
2 of this section.

3 (6) The provisions of this section shall also apply in the adjustment
4 of other monetary provisions under this Act.

5 263. Subject to the provisions of section 173 of the Constitution of
6 the Federal Republic of Nigeria 1999 relating to the power of the Attorney-
7 General of the Federation to institute, continue or discontinue criminal
8 proceedings against any person in any court of law, the Customs Service
9 may request for the consent of the Attorney-General of the Federation for a
10 legal officer of the Customs Service to prosecute criminal or other
11 proceedings in respect of matters relating to customs and excise under the
12 customs and excise laws.

Conduct of
proceedings

13 264.-(1) Subject to the applicable rules, any offence under the
14 customs and excise laws-

Offences
punishable on
indictment of
summary

15 (a) where punishable with imprisonment for a term of two years or
16 more, with or without a fine, shall be punishable either on summary
17 conviction or on conviction on indictment; and

18 (b) in any other case, shall be punishable on summary conviction.

19 (2) Without prejudice to the powers of any other court of competent
20 jurisdiction, any proceedings for condemnation under the Second Schedule
21 to this Act or for the recovery of any duty or other sum payable under the
22 customs and excise laws may be heard and determined, without limit of
23 amount, by a court of summary jurisdiction.

24 265.-(1) Where liability for any offence under the customs and
25 excise laws is incurred by two or more persons jointly, those persons shall
26 each be liable for the full amount of any fine and may be proceeded against
27 jointly or severally.

Other provisions
pertaining legal
proceedings

28 (2) In any proceedings for an offence or for the condemnation of
29 anything as being forfeited under the customs and excise laws, the fact that
30 security has been given by bond or otherwise for the payment of any duty or

1 for compliance with any condition in respect of the non-payment of which or
2 non-compliance with which the proceedings are instituted shall not be a
3 defence.

4 (3) Where, by or under any provision of the customs and excise laws a
5 punishment is prescribed for an offence, and any person is convicted in the
6 same proceedings of more than one such offence, that person shall be liable to
7 that punishment for each such offence of which he is so convicted.

8 (4) Where a fine for any offence under the customs and excise laws is
9 required to be fixed by reference to the value of any goods, that value shall be
10 taken as the price which those goods might reasonably be expected to have
11 fetched, after payment of any duty chargeable on the goods, if they had been
12 sold in the open market at or about the date of the commission of the offence for
13 which the fine is imposed; and a certificate as to the value of the goods under
14 the hand of a customs officer shall be accepted as proof of such value, and shall
15 be conclusive unless challenged by the person charged, in which event the
16 court may proceed to hear evidence of value.

17 (5) Where an offence under the customs and excise laws which has
18 been committed by a body corporate is proved to have been committed with the
19 consent or connivance of, or to be attributable to any neglect on the part of, any
20 director, manager, secretary or other similar officer of the body corporate or
21 any person purporting to act in any such capacity, he as well as the body
22 corporate shall be deemed to be guilty of that offence and shall be liable to be
23 proceeded against and punished accordingly.

24 (6) In subsection (5) of this section the word "director", in relation to a
25 body corporate established for the purpose of carrying on a business under
26 public ownership in any industry or part of an industry or undertaking, being a
27 body corporate whose affairs are managed by the members thereof, means a
28 member and employee of that body corporate.

29 (7) Where, in any proceedings for an offence under the customs and
30 excise laws, any question arises as to the duty or the rate chargeable on any

1 goods, and where it is not possible to ascertain the relevant time of
2 importation or exportation pursuant to Part VIII of this Act, that duty or rate
3 shall be determined as if the goods had been imported or exported, as the
4 case may be, without declaration at the time when the proceedings were
5 commenced.

6 266.-(1) Where a person suspected of fraudulently evading
7 payment of duty due on any goods or evading a prohibition relating to the
8 goods is detained for any period not exceeding twenty-four hours by a
9 customs officer in exercise of his powers under this Act and proceedings,
10 whether or not a charge is preferred in respect of that person are thereupon or
11 thereafter compounded under the provisions of this Act, any measurements,
12 photographs or fingerprint impression taken under the authority of the
13 Police Act during any such detention may be retained and kept in the custody
14 of the Customs Service.

Power to retain
measurements
taken in certain
cases

15 (2) Accordingly, section 30 (1) of the Police Act shall in any such
16 case be read and construed as if the proviso of that section which requires in
17 certain cases the disposal of items, including measurements, photograph or
18 fingerprint so taken, had been omitted, so however that measurements,
19 photographs or fingerprint impressions retained under the powers conferred
20 by the foregoing subsection shall not be received in evidence without the
21 consent of the judge or magistrate hearing the case, in any prosecution of a
22 person for an offence thereafter committed otherwise than under this Act.

23 267. Without prejudice to any right to require the statement of a
24 case for the opinion of a superior court, a prosecutor may appeal to a superior
25 court against any decision of a court of summary jurisdiction in proceedings
26 for an offence under the customs and excise laws.

Appeals by
prosecutor from
court summary
jurisdiction

27 268. Any sum paid or recovered on account of any fine imposed
28 under the customs and excise laws and all costs awarded in any proceedings
29 relating to customs and excise laws to the Customs Service or to any person
30 discharging any duty under those laws shall be accounted for and paid to the

Application of
penalties

1 Customs Service or as the Customs Service may direct.

Power of Customs
Service to
compound
proceedings

2 **269.** Customs may-

3 (a) without prejudice to the provisions of section 174 of the
4 Constitution of the Federal Republic of Nigeria 1999 and subject to such
5 directions whether general or special as may be given by the Attorney-General
6 of the Federation, stay or compound any proceedings for an offence or for the
7 condemnation of anything forfeited under the customs and excise laws; or

8 (b) without prejudice to other provisions of this Act and subject to
9 such directions whether general or special as may be given by the Minister,
10 restore anything forfeited or seized under the customs and excise law.

Proof of certain
documents

11 **270.**-(1) Subject to the provision of any application law on the matter
12 where, in any court any book or document in the official custody of the
13 Customs Service or any customs officer is required to be used as evidence as to
14 the transactions to which it refers, copies of such books or documents or of
15 extracts there from certified by the Customs Service shall be admissible for that
16 purpose, without the production of the original.

17 (2) In any proceedings under the customs and excise laws, certificates
18 and copies of official documents purporting to be certified under the hand and
19 seal or stamp of office of any of the principal officers of the Customs Service or
20 of Customs and Excise in a Commonwealth country, or of any Nigerian Consul
21 or Vice-Consul in any foreign country, shall be sufficient evidence of the
22 matters therein stated unless the contrary is proved.

Proof of other
matters

23 **271.**-(1) An averment in any process in proceedings under the
24 customs and excise laws that-

25 (a) those proceedings were instituted by the order of the Customs
26 Service;

27 (b) any person is or was a customs officer;

28 (c) any person is or was appointed or authorised by the Customs
29 Service to discharge or is engaged by the order or with the concurrence of the
30 Customs Service in the discharge of any duty;

1 (d) the Customs Service is or is not satisfied as to any matter as to
2 which it is required by any provision of the customs and excise laws to be
3 satisfied;

4 (e) any goods thrown overboard, staved or destroyed were so dealt
5 with in order to prevent the seizure of those goods;

6 (f) any person was engaged in, or any ship, aircraft, vehicle or other
7 thing was employed or used in, the enforcement of the customs and excise
8 laws; or

9 (g) the offence was committed or that any act was done in a
10 specified place in Nigeria, shall unless the contrary is proved be sufficient
11 evidence of the matter in question.

12 (2) Where in any proceedings relating to customs or excise laws,
13 any question arises as to the place from which any goods have been brought
14 or as to whether or not any-

15 (a) duty has been paid or secured in respect of any goods;

16 (b) duty alleged to be payable is correctly assessed;

17 (c) goods or other things whatsoever are of the description or
18 nature alleged in the process;

19 (d) goods have been lawfully imported or lawfully unloaded from
20 any ship, aircraft or vehicle;

21 (e) goods have been lawfully loaded into any ship, aircraft or
22 vehicle or lawfully exported;

23 (f) goods were lawfully brought to any place for the purpose of
24 being loaded into any ship, aircraft or vehicle or exported; or

25 (g) goods are or were goods prohibited to be imported, exported or
26 carried coastwise, then, where those proceedings are brought by or against
27 the Attorney-General of the Federation, the Customs Service, or having
28 been commenced by the police, are continued by the Customs Service, the
29 burden of proof shall lie upon the other party to the proceedings.

Evidence of Customs officers	1	272. If in any proceedings under the customs and excise laws the
	2	question arises whether any person is a customs officer, his own evidence that
	3	he is customs officer shall be deemed sufficient unless the contrary is
	4	proved.
Scope	5	273. The provisions in this Part relate only to appeals from the
	6	decisions or omissions of the Customs Service and shall not apply to appeals
	7	from convictions on criminal offences.
Right of Appeal	8	274. -(1) A person directly affected by a decision or alleged omission
	9	of the Customs Service shall, on application, be given the reasons in writing for
	10	such decision or omission within a reasonable period of time.
	11	(2) A person shall have the right to appeal against any decision or
	12	alleged omission by the Customs Service relating to the-
	13	(a) classification, valuation or determination of the origin of goods; or
	14	(b) application of other customs and excise laws which affects him
	15	directly and individually.
	16	(3) An appeal shall be-
	17	(a) lodged in writing and shall state the grounds upon which it is being
	18	made;
	19	(b) accompanied by supporting evidence; and
	20	(c) lodged no later than thirty days after the date of the decision or
	21	omission in question.
	22	(4) In addition to the provision of subsection (3) of this section, an
	23	additional time may be permitted for the submission of evidence not
	24	reasonably available at the time the appeal is lodged.
Stages of appeal	25	275. The right of appeal shall be exercised in accordance with the
	26	three stages-
	27	(a) an appeal shall first be lodged with the Customs Service
	28	Command responsible for the decision or omission, which shall give its
	29	decision on the appeal in writing within seven days and where the custom

1 office dismisses the appeal, it shall furnish to the applicant the reason for the
2 dismissal;

3 (b) where the appellant is dissatisfied with the decision of the
4 customs office referred to in paragraph (a) of this subsection an appeal may
5 be lodged by the appellant to the Comptroller-General within thirty days of
6 the decision complained of; and

7 (c) where the appellant is dissatisfied with the decision the
8 Comptroller-General, a further appeal may be lodged with a court of
9 competent jurisdiction.

10 **276.-(1)** The lodging of an appeal by an applicant shall not
11 constitute a stay of execution or suspension of the implementation of a
12 decision in dispute.

Suspension of the
implementation
of a decision in
dispute

13 (2) Where there is an application for a stay of execution or
14 suspension of implementation of a decision pending appeal, the Custom
15 Service or a court of competent jurisdiction shall suspend implementation of
16 the decision or order the stay of execution in whole or in part pending appeal
17 where there is a good cause to believe that-

18 (a) the disputed decision is inconsistent with existing customs and
19 excise laws; and

20 (b) there is a likelihood of irreparable damage to the subject matter
21 of the appeal or the person concerned.

22 (3) When an appeal is allowed, the Customs Service shall execute
23 the decision as soon as possible, except where-

24 (a) the Customs Service filed an appeal against the decision;

25 (b) there is a further appeal against the decision by any of the
26 parties to the appeal; or

27 (c) the parties entered into an agreement with the Customs Service
28 not to execute the decision.

29 **277.** Where a decision or alleged omission by the Customs Service
30 or the Board is a subject of an appeal to a court of competent jurisdiction, the

Presumption of
correctness

1 decision or alleged omission shall be presumed to be correct unless the
2 appellant demonstrates to the court that it is clearly erroneous as a matter of law
3 or that it is not supported by substantial evidence on the record.

SuaSponte
re-determinations

4 **278.**-(1) The Customs Service may re-examine goods and may re-
5 determine the classification, valuation or the country of origin of the goods at
6 any time within one year after the lodgment of the goods' declaration provided
7 that a written notice to that effect shall be served on the declarant, stating
8 reasons for the re-determination.

9 (2) Where the Customs Service does not make a re-determination
10 within one year pursuant to this section, the original determination of the
11 classification, valuation or country of origin of the goods shall be final, except
12 in cases where the original determination was arrived at on the basis of false
13 evidence or negligent or fraudulent action on the part of any concerned person.

14 (3) Subject to the provisions of this Act, re-determinations are not
15 subject to review.

16 **PART XXV - MISCELLANEOUS PROVISIONS**

Professionalism
and work ethics

17 **279.**-(1) Subject to the approval of the Board, the Customs Service
18 shall develop policies and programmes to ensure professionalism,
19 transparency and accountability by its officers, employees, consultants and
20 contractors in the carrying out of their duties and responsibilities in this Act and
21 under other customs and excise laws.

22 (2) For the purpose of attaining the standards required under the
23 provision of subsection (1) of this section, the Customs Service shall develop a
24 code of conduct to guide against corrupt practices, conflict of interests and
25 other related malpractices for customs officers, its contractors and consultants.

26 (3) In developing the code of conduct referred to in subsection (2) of
27 this section, the Customs Service shall make provisions for appropriate
28 sanctions and penalties for any violation of the code of conduct which may
29 include provisions for the dismissal of a customs officer or any other
30 appropriate sanctions and penalties as deemed fit to be meted out by the

1 Customs Service to any employee, contractor or consultant that violates the
2 code of conduct.

3 280.-(1) Any sale of goods arising from the operation of this Act or
4 under any other customs and excise law shall be carried out by an officer
5 authorised by the Customs Service to carry out such sales.

Sales under the
Customs and
Excise laws

6 (2) Any sale of goods arising from the operation of this Act or under
7 any other customs and excise law shall not be sold at a price less than the
8 duty payable for such goods.

9 281. Where a claim is made to the Customs Service for the
10 repayment of any sum in respect of an amount paid by way of duty in excess
11 of the amount chargeable in respect of that duty, the Custom Service may, if
12 it thinks fit, require the claimant to defray, in accordance with such
13 reasonable scales as the Customs Service may determine, the administrative
14 expenses incurred by the Customs Service in connection with the
15 repayment, provided that the excess duty payment did not originate from the
16 error of the Customs Service.

Recovery of
Customs expenses
in refunding excess
payment of duty

17 282.-(1) Notwithstanding anything in any other enactment, it shall
18 be lawful for officers of the Customs Service, to carry firearms and
19 ammunition on their persons or under their control on such occasions as may
20 be specified by regulations.

Possession of arms
by members of
the Nigeria
Customs Service

21 (2) Provision shall be made by regulations for the safe custody of
22 firearms and ammunition provided pursuant to the provision of subsection
23 (1) of this section.

24 (3) The authorisation to possess and control arms and ammunition
25 conferred under the provision of subsection (1) of this section to officers of
26 the Nigeria Customs Service not below the rank of Assistant
27 Superintendent, shall extend to officers of the Custom Service not below the
28 rank of Inspector of Customs and to officers of the Custom Service below
29 that rank when acting under the personal supervision of such an officer.

Rewards	1	283. The Customs Service may, with the approval of the Minister,
	2	reward exceptional and meritorious service rendered to it by any person in
	3	relation to any customs or excise matter; provided that a ministerial approval
	4	may not be required for a reward not exceeding 1,000,000 Naira.
Procedure for coming into effect of regulations made pursuant to this Act	5	284. Regulations made pursuant to this Act shall become effective
	6	upon publication in the Official Gazette.
Repeals and savings	7	285. -(1) The-
	8	(a) Customs and Excise Management Act, Cap. C45, Laws of the
	9	Federation of Nigeria, 2004;
	10	(b) Customs and Excise Management (Disposal of Goods) Act, Cap.
	11	C46, Laws of the Federation of Nigeria, 2004;
	12	(c) Customs and Excise (Special Penal and other Provisions) Act,
	13	Cap. C47, Laws of the Federation of Nigeria, 2004;
	14	(d) Customs and Excise Management (Amendment) Act No. 20 of
	15	2003;
	16	(e) Nigerian Customs Excise Board Act, Cap. N100, Laws of the
	17	Federation of Nigeria, 2004;
	18	(f) Pre-shipment Inspection of Imports Act, Cap. P26, Laws of the
	19	Federation of Nigeria, 2004, are hereby repealed.
	20	(2) The repealed enactments listed in subsection (1) of this section are
	21	hereinafter referred to as 'the repealed enactments').
	22	(3) Without prejudice to the provision of section 6 of the
	23	Interpretation Act, the repeal of the enactments listed under subsection (1) of
	24	this section, shall not affect anything done under or pursuant to the repealed
	25	enactments.
	26	(4) Every order, requirement, certificate, notice, direction, decision,
	27	authorization, consent, application, request or thing made, issued, given or
	28	done under any of the repealed enactments and in force at the commencement
	29	of this Act, shall continue to be in force and have effect as if made, issued, given
	30	or done under the corresponding provisions of this Act.

1 (5) All Orders, regulations, directions, terms, conditions,
2 restrictions or forms having effect under any of the repealed enactments
3 immediately before the commencement of this Act relating to any customs
4 and excise matter with respect to which the President, the Minister, the
5 Board or the Customs Service has under this Act power to make orders or
6 regulations or to give directions or impose terms, conditions or restrictions
7 shall, have effect as if made, given, imposed or directed under this Act
8 unless-

9 (a) revoked or varied as the case may be, by the President, the
10 Minister, the Board or the Customs Service; or

11 (b) inconsistent with the provisions of this Act.

12 (6) Any appointment, licence granted or approval given by the
13 President, Minister, Federal Civil Service Commission, the Board,
14 Customs Service or any officer under any of the repealed enactments and in
15 force immediately before the commencement of this Act shall have effect as
16 if made, granted or given under the corresponding provisions of this Act.

17 (7) Any document referring to any of the repealed enactments shall
18 be construed as referring to the corresponding provision of this Act.

19 (8) All assets, funds, resources and other movable property which,
20 immediately before the commencement of this Act was vested in any
21 institution established under any of the repealed enactments shall be vested
22 in corresponding institutions established under this Act.

23 286.-(1) In this Act, unless the context otherwise requires-
24 "advance rulings" mean a written decision provided by the Customs Service
25 to an applicant prior to the importation of the goods covered by the
26 application that sets forth the treatment that shall be provided to the goods at
27 the time of importation, based upon the facts presented by the applicant
28 which may pertain to tariff classification, valuation, origin, the method to be
29 used to determine customs value, duty drawback, quotas, fees and charges
30 applicable or additional matters;

Interpretation

- 1 "appeal" means the act by which an aggrieved person affected by a decision or
2 omission of the Customs Service seeks redress before a competent authority or
3 court;
- 4 "assessment of duties, taxes and other charges" means the determination of the
5 amount of duties, taxes and other charges payable;
- 6 "audit-based control" means measures by which the Customs Service verifies
7 or satisfies the accuracy and authenticity of declarations through the
8 examination of the relevant books, records, business systems and commercial
9 data held by persons concerned;
- 10 "Board" means the governing Board of the Nigeria Customs Service;
- 11 "carrier" means the person actually transporting goods, in charge of or
12 responsible for the operation of the means of conveyance;
- 13 "carriage of goods coastwise" means the procedure under which certain goods
14 are loaded on board a vessel at a place in Nigeria and are transported to another
15 place in Nigeria, where they are unloaded;
- 16 "certificate of origin" means the specified form identifying certain goods, in
17 which the authority empowered to issue it certifies expressly that the goods to
18 which the certificate relates originate in a specific country, and which may
19 include a declaration by the manufacturer, producer, supplier, exporter or other
20 competent person with knowledge concerning the origin of the goods;
- 21 "checking the goods declaration" means the action taken by the Customs
22 Service to satisfy themselves that the Goods declaration is correctly made out
23 and that the supporting documents required fulfill the prescribed conditions;
- 24 "clearance" means the accomplishment of the customs formalities necessary to
25 allow goods to enter home use, or to be exported, or to be placed under another
26 customs procedure;
- 27 "Comptroller-General" means the Comptroller-General of the Nigeria
28 Customs Service;
- 29 "cost-based user fees" mean all fees and charges, excluding import and export
30 duties and other taxes, imposed in connection with the importation, exportation

1 and transit of goods and such fees and charges are imposed only for services
2 rendered in connection with the importation and exportation of goods or for
3 any formality required for undertaking such importation and exportation;

4 "Customs" means the Nigeria Customs Service established under section 1
5 of this Act;

6 "customs control or customs controls" means measures applied by Customs
7 to ensure compliance with customs law;

8 "Customs control zone" means an area-

9 (a) within or outside the customs territory; and

10 (b) suitable for, or already recognized as, a center of international
11 trade, and is normally part of an international port, an international land
12 border crossing, an international airport, or export processing or free zone,
13 and is suitable and able to provide a high level of service in terms of traffic
14 flows and clearance demands;

15 which may be designated by the Comptroller-General as Customs Control
16 Zones for the purposes of administering or enforcing customs control.

17 "customs debt" means the obligation on a person to pay the amount of duties,
18 taxes and other charges which apply under customs legislation;

19 "customs duties" means the duties provided for in the customs tariff to
20 which goods are liable on entering or leaving the customs territory;

21 "customs formalities" means all the operations which must be carried out by
22 the persons concerned and by the Customs Service in order to comply with
23 the customs law;

24 "customs law" means the statutory and regulatory provisions relating to the
25 importation, exportation, movement or storage of goods, the administration
26 and enforcement of which are specifically charged to the Customs Service,
27 and any regulations made by the Customs Service under their statutory
28 powers;

29 "customs office" means the Customs administrative unit competent for the
30 performance of customs formalities, and the premises or other areas

- 1 approved for that purpose by the competent authorities;
- 2 "customs officer" means any officer employed by the Customs Service whose
3 duty it is to require the performance of, or to perform, acts relating to
4 enforcement of the customs laws;
- 5 "customs representative" or "third party" means any person who deals directly
6 with the Customs Service, for and on behalf of another person, relating to the
7 importation, exportation, movement or storage of goods, and customs
8 representatives are sometimes referred to as customs brokers;
- 9 "customs territory" means the territory in which the customs laws of Nigeria
10 applies;
- 11 "decision" means the individual act by which the Customs decide upon a matter
12 relating to Customs law;
- 13 "declarant" means any person who makes a goods declaration or in whose
14 name such a declaration is made;
- 15 "due date" means the date when payment of duties, taxes and other charges is
16 due;
- 17 "ECOWAS" means the Economic Community of West African States;
- 18 "ECOWAS goods" means goods originating in the customs territory of
19 ECOWAS which shall be presumed to have the status of ECOWAS goods
20 unless it is established that they are not ECOWAS goods;
- 21 "examination of goods" means the physical inspection of goods by the
22 Customs Service or designee of the Customs Service to satisfy themselves that
23 the nature, origin, condition, quantity and value of the goods are in accordance
24 with the particulars furnished in the Goods declaration;
- 25 "Exporter" means any person who at the time of exportation-
- 26 (i) owns any of the goods exported;
- 27 (ii) carries the risk of any good exported;
- 28 (iii) represents the exporter or owner of any goods exported;
- 29 (iv) actually takes any goods out of the customs territory;
- 30 (v) is beneficially interested in any goods exported; or

- 1 (vi) bears ultimate legal liability for the exportation of goods.
- 2 "FAAC" means Federal Allocation Account Committee;
- 3 "Free Zone" means an export processing zone, free trade zone, free port, or
4 special economic zone or similar region, which is a part of the territory of the
5 Federal Republic of Nigeria where goods introduced are regarded as being
6 outside the customs territory and therefore not subject to duties and taxes.
- 7 "goods declaration" means a statement made in the manner prescribed by
8 Customs, by which the persons concerned indicate the customs procedure to
9 be applied to the goods and furnish the particulars which the Customs
10 Service require for its application;
- 11 "Government" means the Government of the Federal Republic of Nigeria.
- 12 "guarantee" or "security" means that which ensures to the satisfaction of the
13 Customs Service that an obligation to the Customs Service will be fulfilled;
14 and security is described as "general" when it ensures that the obligations
15 arising from several operations will be fulfilled;
- 16 "he" includes "she", and "his" includes "her"
- 17 "importer" means any person whom, at the time of importation-
- 18 (i) owns any of the goods imported,
19 (ii) carries the risk of any goods imported,
20 (iii) represents the importer or owner of any goods imported,
21 (iv) actually brings any goods into the customs territory,
22 (v) is beneficially interested in any goods imported, or
23 (vi) bears ultimate legal liability for the importation of goods;
- 24 "Minister" means the Minister charged with responsibility for matters
25 pertaining to finance;
- 26 "mutual administrative assistance" means actions of a customs
27 administration on behalf of or in collaboration with another customs
28 administration for the proper application of customs law and for the
29 prevention, investigation and repression of customs offences;
- 30 "omission" means the failure to act or give a decision required of the

- 1 Customs Service by customs law within a reasonable time on a matter duly
2 submitted to them;
- 3 "NAFDAC" means National Agency for Food, Drugs Administration and
4 Control;
- 5 "person" means both natural and legal persons, including Nigerian and foreign
6 government agencies;
- 7 "preferential tariff rates" means tariff rates that are lower rates (including zero
8 rates) than the normal tariffs applied to imports and preferential tariff rates may
9 be applied to the imports originating in countries that have acceded to bilateral
10 or regional trade agreements with the Federal Republic of Nigeria;
- 11 "release of goods" means the action by the Customs Service to permit goods
12 undergoing clearance to be placed at the disposal of the persons concerned;
- 13 "repayment" means the refund, in whole or in part, of duties and taxes paid on
14 goods and the remission, in whole or in part, of duties and taxes where payment
15 has not been made;
- 16 "risk" means the likelihood of an event that may occur, with regard to the entry,
17 exit, transit, transfer or end-use of goods moved between the customs territory
18 and territories outside that customs territory, which would-
- 19 (i) prevent the correct application of customs laws or national legal
20 measures,
- 21 (ii) compromise the financial interests of Nigeria,
- 22 (iii) pose a threat to the security and safety of Nigeria and its residents,
23 human or plant health, or the environment;
- 24 "risk management" means the systematic identification of risk and the
25 implementation of all measures necessary for limiting exposure to risk;
- 26 "security" or "guarantee" means that which ensures to the satisfaction of the
27 Customs Service that an obligation to Customs will be fulfilled; and security is
28 described as "general" when it ensures that the obligations arising from several
29 operations will be fulfilled;
- 30 "single window" means a facility by which a person can submit documentation

1 and data requirements for exportation, importation and transit procedures to
2 a single entry point by electronic means: provided that where such person is
3 not resident in Nigeria, he has a representative resident in Nigeria who shall
4 be legally responsible for submissions so made; and the single window then
5 undertakes onward distribution of documents and data to all relevant
6 authorities or agencies which require them;

7 "SON" means Standard Organization of Nigeria;

8 "temporary storage of goods" means the storing of goods under customs
9 control in premises and enclosed or unenclosed spaces approved by the
10 Customs Service, pending lodgment of the goods declaration;

11 "third party" or "customs representative" means any person who deals
12 directly with the Customs Service, for and on behalf of another person,
13 relating to the importation, exportation, movement or storage of goods, and
14 such customs representatives are sometimes referred to as 'customs brokers'.

15 "traders" means any non-government person or persons involved directly or
16 indirectly with import or export transactions;

17 "transshipment" means the customs procedure by which goods are
18 transferred under customs control from the importing means of transport to
19 the exporting means of transport;

20 "transit procedure" means the customs procedure by which goods are
21 transported under customs control from one customs office to another; and

22 (2) The provisions of this Act shall be interpreted to be consistent
23 with the provisions of the following international agreements-

24 (a) World Customs Organization's International Convention on the
25 Simplification and Harmonization of Customs Procedures (the Revised
26 Kyoto Convention), General Annex and the SAFE Framework of
27 Standards; and

28 (b) World Trade Organization Agreements, including but not
29 limited to the General Agreement on Tariffs and Trade (1994) and the
30 Agreement on Implementation of Article VII of the General Agreement on

Short Title 1 Tariffs and Trade (1994) ('the Agreement on Customs Valuation').
2 287. This Bill may be cited as the Nigeria Customs Service Bill,
3 2017.

4 SCHEDULES

5 FIRST SCHEDULE

6 *Section 9*

7 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC

8 *Proceedings of the Board*

9 1. Subject to this Act and section 27 of the Interpretation Act, which
10 provides for decisions of a statutory body to be taken by a majority of its
11 members and for the persons presiding at any meeting, to have a second or
12 casting vote, the Board may make standing orders regulating its proceedings or
13 that of its committees.

14 2. At every meeting of the Board, the Chairman shall preside and in
15 his absence the members present at the meeting shall appoint one of their
16 number to preside at the meeting.

17 3. The quorum at a meeting of the Board shall consist of the
18 Chairman or, in an appropriate case, the person presiding at the meeting
19 pursuant to paragraph 2 of this Schedule and nine other members.

20 4. The Board shall for the purposes of this Act, meet not less than
21 three times in each year and subject, thereto, the Board shall meet whenever it
22 is summoned by the members, and the chairman shall summon a meeting of the
23 Board to be held within 14 days from the date on which the notice is given.

24 5. Where the Board desires to obtain the advice of any person on a
25 particular matter, the Board may co-opt such a person for such a period as it
26 thinks fit, but a person who is a member by virtue of this subparagraph shall not
27 be entitled to vote at any meeting of the Board and shall not count towards a
28 quorum.

29 *Committees*

30 6.-(1) Subject to its standing orders, the Board may appoint such

1 number of standing and ad hoc committees as it thinks fit to consider and
2 report on any matter.

3 (2) A committee appointed under this paragraph shall-

4 (a) consist of such number of persons not necessarily members of
5 the Board as may be determined by the Board, and a person, other than a
6 member of the Board, shall hold office on the committee in accordance with
7 the terms of his appointment; and

8 (b) be presided over by a member of the Board.

9 (3) The quorum of any committee set up by the Board shall be as
10 may be determined by the Board.

11 (4) A decision of a committee of the Board shall be of no effect until
12 it is confirmed by the Board.

13 *Miscellaneous*

14 7. The fixing of the seal of the Board shall be authenticated by the
15 signature of the Chairman or any other person generally or specifically
16 authorised by the Board to act for that purpose.

17 8. Any contract or instrument which, if made by a person not
18 being a body corporate, would not be required to be under seal may be made
19 or executed on behalf of the Board by the Chairman or by any other person
20 generally or specifically authorised by the Board to act for that purpose.

21 9. Any document purporting to be a contract, instrument or other
22 document duly signed or sealed on behalf of the Board shall be received in
23 evidence and shall, unless the contrary is proved, be presumed without
24 further proof to have been so signed or sealed.

25 10. The validity of any proceedings of the Board or of any of its
26 committees shall not be affected by-

27 (a) any vacancy in the membership of the Board, or committee; or

28 (b) any defect in the appointment of a member of the Board or
29 committee; or

30 (c) reason that any person not entitled to do so took part in the

1 proceedings of the Board or committee.

2 11. A member of a committee who has a personal interest in any
3 contract or arrangement entered into or proposed to be considered by the
4 committee shall disclose his interest to the committee and shall not vote on any
5 question relating to the contract or arrangement.

6 12. No member of the Board shall be personally liable for any act or
7 omission done or made in good faith while engaged on the business of the
8 Board.

9 13. The members of the Board shall subscribe to and be bound by a
10 code of ethics to be approved by the Board.

11 SECOND SCHEDULE

12 *Section 251(2)*

13 PROVISIONS RELATING TO FORFEITURE

14 *Notice of Seizure*

15 1. The Customs Service shall give thirty days notice of the seizure of
16 anything as forfeited and of the grounds therefore to any person who to its
17 knowledge was at the time of the seizure the owner or one of the owners
18 thereof. Provided that notice shall not be required to be given under this
19 paragraph if that seizure was made in the presence of-

20 (a) the person whose offence or suspected offence occasioned the seizure; or

21 (b) the owner or any of the owners of the thing seized or any servant or
22 agent of his; or

23 (c) in the case of anything seized in any ship, aircraft or vehicle, the
24 master of that ship, captain of that aircraft or person in charge of that vehicle.

25 2. Notice under paragraph 1 of this Schedule, shall be given in
26 writing and shall be deemed to have been duly served on the person concerned-

27 (a) if delivered to him personally;

28 (b) if addressed to him and left or forwarded by post to him at his or
29 her usual or last known place of abode or business, or, in the case of a body
30 corporate, at their registered or principal office; or

1 (c) where he has no address within Nigeria, or his address is
2 unknown, by publication of notice of seizure in the Federal Gazette.

3 *Notice of Claim*

4 3. Any person claiming that anything seized as forfeited is not so
5 liable shall, within one month of the date of the notice of seizure or, if no
6 such notice has been served on him, within one month of the date of the
7 seizure, give notice of his or her claim in writing to the Customs Service:
8 Provided that the Customs Service may, at its discretion, extend the period in
9 which notice of a claim may be given.

10 4. Any notice under paragraph 3 of this Schedule shall specify the
11 name and address of the claimant and, in the case of a claimant who is
12 outside Nigeria, shall specify the name and address of a legal practitioner in
13 Nigeria who is authorised to accept the service of process and to act on
14 behalf of the claimant and service of process upon a legal practitioner so
15 specified shall be deemed to be proper service upon the claimant.

16 *Condemnation*

17 5. If on the expiration of the relevant period aforesaid for the
18 giving of notice of claim no such notice has been given to the Customs
19 Service, or if, in the case of any such notice given, any requirement of
20 paragraph 4 is not complied with, the thing in question shall be deemed to
21 have been duly condemned as forfeited.

22 6. Where notice of claim is duly given in accordance with the
23 foregoing provisions of this Schedule, the Customs Service shall take
24 proceedings for the condemnation of that thing by the court, and if the court
25 finds that the thing was at the time of seizure liable to forfeiture, the court
26 shall condemn it as forfeited.

27 7. Where anything is in accordance with either of the two last
28 foregoing paragraphs condemned or deemed to have been condemned as
29 forfeited then, without prejudice to any delivery by or sale of the thing by the
30 Customs Service under paragraph 15 of this Schedule, the forfeiture shall

1 have effect as from the date when the liability to forfeiture arose.

2 *Proceedings for condemnation by the court*

3 8. Proceedings for condemnation shall be civil proceedings and may
4 be instituted in a court of summary jurisdiction.

5 9. Proceedings for the condemnation of anything instituted in a court
6 of summary jurisdiction may be so instituted in any such court having
7 jurisdiction in the place where-

8 (a) any offence in connection with that thing was committed or where
9 any proceedings for such an offence are instituted; or

10 (b) that thing was found, detained or seized or to which it is first
11 brought after having been found, detained or seized.

12 10.-(1) In any proceedings for condemnation, the claimant or his legal
13 practitioner shall make oath that the thing seized was, or was to the best of his
14 knowledge or belief, the property of the claimant at the time of the seizure.

15 (2) If the requirements of sub-paragraph (1) of this paragraph are not
16 complied with, the court shall give judgment for the Customs Service.

17 11. Where an appeal has been made against the decision of the court
18 in any proceedings for the condemnation of anything, that thing shall, pending
19 the final determination of the matter, be left with the Customs Service.

20 *Provisions as to proof*

21 12. In any proceedings arising out of the seizure of anything, the
22 effect, form and manner of the seizure shall be taken to have been as set forth in
23 the process without any further evidence thereof, unless the contrary is proved.

24 13. In any proceedings, the condemnation by a court of anything as
25 forfeited may be proved by the production either of the order or certificate of
26 condemnation or of a certified copy thereof purporting to be signed by an
27 officer of the court by which the order or certificate was made or granted.

28 *Special provisions as to certain Claimants*

29 14. For the purpose of a claim to, or proceedings for the
30 condemnation of, anything, where that thing is at the time of the seizure the

1 property of a body corporate, of two or more partners or of any number of
2 persons exceeding five, the oath required by this Schedule to be taken and
3 anything required by this Schedule or by the rules of the court to be done by,
4 or by any person authorised by, the claimant or owner may be taken or done
5 by, or by any other person authorised by, the following persons respectively,
6 that is to say-

7 (a) where the owner is a body corporate, the secretary or some duly
8 authorised officer of that body;

9 (b) where the owner are in partnership, any one of those owners;

10 (c) where the owners are any number of persons exceeding five,
11 not being in partnership, any two of those persons on behalf of themselves
12 and their co-owners.

13 *Power to deal with seizures before condemnation, etc.*

14 15. Where anything has been seized as forfeited, the Customs
15 Service may at any time, at its discretion, and notwithstanding that the thing
16 has not yet been condemned or is not yet deemed to have been condemned as
17 forfeited-

18 (a) deliver it up to any claimant upon his or her paying to the
19 Customs Service a sum representing any duty chargeable thereon which has
20 not been paid; or

21 (b) if the thing seized is a living creature or is in the opinion of the
22 Customs Service of a perishable nature, sell or destroy it.

23 16.-(1) If, where anything is delivered up, sold or destroyed as
24 aforesaid, it is held in proceedings taken under this Schedule that the thing
25 was not liable to forfeiture at time of its seizure, the Customs Service shall
26 on demand by the claimant tender to him-

27 (a) an amount equal to any sum paid by him under sub-paragraph
28 (a) of paragraph 15 of this Schedule;

29 (b) where the Customs Service has sold the thing, an amount equal
30 to the proceeds of sale; or

1 (c) where it has destroyed the thing, an amount equal to the market
2 value of the thing at the time of its seizure:

3 Provided that where the said amount includes any sum on account of any duty
4 chargeable on the thing which has not been paid before its seizure the Customs
5 Service may deduct so much of that amount as represents that duty.

6 (2) If the claimant accepts any amount tendered to him under sub-
7 paragraph (1) of this paragraph, he shall not be entitled to maintain any action
8 on account of the seizure, detention, sale or destruction of the thing.

9 THIRD SCHEDULE

10 Section 4(a)

11 *Customs and Excise Legislations*

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the reform of administration and management of customs and excise in Nigeria; the establishment of the Nigeria Customs Service; and the repeal of the Customs and Excise Management Act and other customs and excise legislations.