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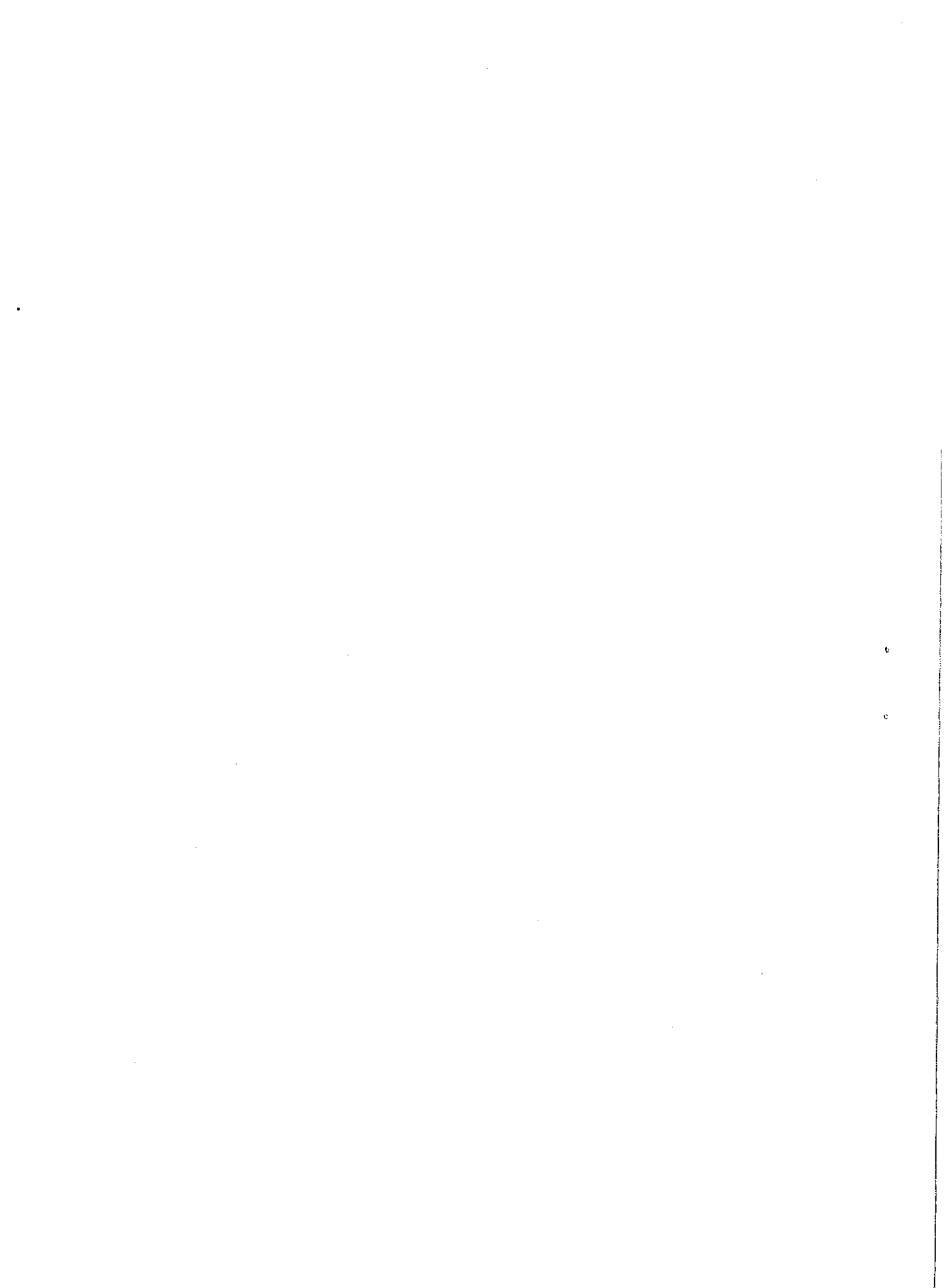
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1 PART II - FUNCTIONS AND POWERS OF THE NIGERIA CUSTOMS SERVICE

Functions of
the Customs
Service

2 4. The functions of the Service are to-

3 (a) administer, direct, manage and enforce the provisions of this Act
4 and the Customs and Excise laws;5 (b) collect and account for revenue from Customs duties, Excise
6 duties, other taxes, charges, fees and special assessments as may be assigned to
7 it by the Government from time to time;8 (c) administer trade and fiscal policies of the Government as it relate:
9 to this Act;10 (d) promote trade facilitation in line with International Conventions
11 and Agreements as it relates to Customs Administration;12 (e) Prevent smuggling, Customs fraud and all other violations under
13 this Act;14 (f) carry out all border enforcement and regulatory activities required
15 by law in collaboration with relevant agencies;16 (g) collate and publish accurate trade statistics and other relevant
17 data;18 (h) engage in regular consultations with individual traders, trade
19 associations and other relevant stakeholders;20 (i) approve and License Customs Agents, who shall be citizen of
21 Nigeria.22 (j) do all such things as necessary for or incidental to the carrying out
23 of its functions and duties under this Act and the Laws of Nigeria.Power of the
Service24 5. In the exercise of its functions under this Act, the Service shall
25 subject to approval of the Board have the powers to-26 (a) acquire, hold, purchase, mortgage and deal with property, whether
27 movable or immovable, real or personal;

28 (b) enter into contracts or obligations;

29 (c) advise or develop regulations on the management and
30 administration of Customs and Excise Management; and

1 (d) issue operational guidelines for the efficient administration and
2 operation of the provisions of this Act.

3 6. For the purpose of carrying out or enforcing the provisions of
4 this Act, all officers shall have the same powers, authorities and privileges
5 given by law to police officers. Customs officers
to have power of
Police officers, etc.

6 7.-(1) Notwithstanding anything to the contrary contained in any
7 other Law, no action shall be instituted against the Service in respect of any
8 act, neglect, or default done or omitted to be done by any officer in his
9 capacity as an officer of the Service with regard to the regulations made
10 pursuant to section (5) of this Act unless it is commenced within
11 three(3) months after the act or negligence complained of, or in the case of a
12 continuing damage or injury, within three(3) months after the ceasing
13 thereof. Limitation of
action against
the Service

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

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

22 PART III - GOVERNING BOARD, MEMBERSHIP, FUNCTIONS AND POWER

23 8.-(1) There is established for the Service a Governing Board (in
24 this Act referred to as "the Board"). Establishment
of the Governing
Board and
membership

25 (2) The Board shall supervise the administration of the Service.

26 (3) The Board shall consist of-

27 (a) A Chairman who shall be appointed by the President shall be a
28 retired Officer not below the rank of a Deputy Comptroller-General, for a
29 period of four years and may be renewed once and no more;

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

1 (c) all Deputy Comptrollers-General of the Service;
2 (d) the Legal Adviser to the Service who shall also head the Legal
3 Division to be appointed from the Office of the Attorney General of the
4 Federation.

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

7 (i) Finance;

8 (ii) Trade and Investment;

9 (iii) Transport;

10 (iv) Interior;

11 (v) Aviation; and

12 (vi) Foreign affairs.

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

14 (g) two members representing the organized private sector for a
15 period of four years and renewable for another four years;

16 (h) the Chairman Revenue Mobilization Allocation and Fiscal
17 Commission; and

18 9. Departments shall be established from time to time subject to the
19 approval of the Board.

Board Proceedings 20 10. The Board shall make guidelines for its proceedings during
21 meetings.

Functions and Powers of the Board 22 11-(1) The Board shall be responsible for-

23 (a) formulating the general policy guidelines for the Service;

24 (b) overseeing the administration of this Act;

25 (c) managing and superintending over the policies of the Service or
26 matters pertaining to the administration, assessment, collection and accounting
27 for revenues may be directed by the Minister from time to time;

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

29 (e) recruitment, promotion and discipline of officers of the Service;

30 (f) determine the remuneration, allowances, pension and other

1 benefits of officers and employees of the Service;

2 (2) In performing its functions under this Act the Board shall create
3 enabling environment for synergy with Government ministries and
4 Agencies and maintain liaison with relevant Law Enforcement Agencies for
5 the economic development and effective compliance with provisions of this
6 Act.

7 12. The Board may, subject to such conditions as it may deem fit,
8 delegate any of its powers under this Act to-

Delegation of
Board's powers

9 (a) the Service

10 (b) any Officer in the Service

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

13 13. The Chairman may give to the Service such directive without
14 prejudice to section 8(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.

Chairman to
give general
directives to the
Board

17 14.-(1) Notwithstanding anything to the contrary contained in
18 other Laws, no action shall be instituted against the Service in respect of any
19 act, neglect, or default done or omitted to be done by any officer, servant or
20 agent of the Service in his capacity as an officer, servant or agent of the
21 Service with regard to the powers in section 11 of this Act unless it is
22 commenced within three months after the act or negligence complained of,
23 or in the case of a continuing damage or injury, within three months after the
24 ceasing thereof.

Limitation of
actions against
the Board

25 (2) No suit shall be commenced against the Service 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 authorized agent and the notice shall clearly and
29 explicitly state the following:

30 (a) the cause of action;

1 (b) the particulars of the claims;

2 (c) the name and place of abode of the intending plaintiff; and

3 (d) the relief which he claims.

4 PART IV - ESTABLISHMENT OF THE MANAGEMENT, STAFF OF THE
5 SERVICE, FUNCTIONS AND POWERS OF THE MANAGEMENT

The Comptroller-
General and
Deputy
Comptroller-
Generals

6 **15.-(1)** The President shall appoint a career Officer from the Service
7 not below the rank of Assistant Comptroller-General, a Comptroller-General
8 who shall:

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

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

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

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

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

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

22 (g) managing and superintending over policies of the Service; and

23 (h) perform such other functions as may be assigned to him by the
24 Board.

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

28 (3) The numbers of and duties of the Deputy Comptrollers-General
29 and Assistant Comptrollers-General to be appointed pursuant to the provisions
30 of subsections (2) of this section shall be as may be determined by the Board.

1 (4) Every appointment pursuant to the provisions of section
2 15(2)(3) of this Act shall be in accordance with Federal Character Policy of
3 the Government.

4 (5)(a) There is hereby established for the purpose of coordinating
5 the supervision of the Service and its operations a body (in this Act referred
6 to as the "Management Committee");

Management
Committee

7 (b) The management committee shall consist of:

8 (i) the Comptroller General;

9 (ii) all Deputy Comptrollers General;

10 (iii) the Legal Adviser;

11 (iv) all Assistant Comptrollers General; and

12 (v) the Secretary of the Board.

13 (6) The functions of the management committee shall be:

14 (i) to consider all Customs matters that require professional and
15 technical expertise and make recommendations to the Board;

16 (ii) to coordinate the supervision of operations of day to day
17 administration of the Service;

18 (iii) to ensure compliance with the provisions of this Act by
19 supervision of its operation;

20 (iv) to work in collaboration with relevant agencies and ministries,
21 review Service operations to promote revenue generation, trade facilitation
22 and to stimulate economic activities and development;

23 (v) to work in collaboration with the relevant law enforcement
24 agencies to carry out compliance with the provisions of this Act;

25 (vi) to adopt measures which include compliance and regulatory
26 actions, introduction and maintenance of investigative and control
27 techniques on the detection and prevention of non-compliance;

28 (vii) to collate and continually review all policies of the
29 Government relating to Customs and Excise matters in matters connected to
30 revenue generation thereto and to undertake a systemic and progressive

1 implementation of Service policies;

2 (viii) to enforce disciplinary Regulations under Schedule 3 of this Act
3 on misconducts by officer and any other regulation made by the Board from
4 time to time; and

5 (ix) to carry out such other activities given to it by the Board which are
6 necessary or expedient for the full discharge of all or any of the functions under
7 this Act;

Other staff of
the Service

8 16.-(1) The Board shall have powers to appoint such number of staffs
9 who shall be Officer(s) as deemed necessary for the efficient discharge of the
10 functions of the Service under this Act and under other related Customs and
11 Excise laws.

12 (2) The Service shall pay its staff remuneration and allowances
13 similar to other revenue generating agencies as the Board may from time to
14 time determine in consultation with the appropriate authority of the
15 Government.

Board
Secretariat

16 17.-(1) There shall be appointed by the Board from within the
17 Service, a Secretary (in this Act referred to as the "Secretary") who shall-

18 (a) be an officer not below the rank of an Assistant Comptroller
19 General;

20 (b) be responsible for the day to day administration of the work of the
21 Board; and

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

24 (2) The Board shall also appoint such other staff within the Service as
25 may be necessary for the efficient performance of its functions and to assist the
26 Secretary to the board in the performance of his duties.

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

Pension and
Gratuity

29 18.-(1) Employment in the Service shall be pensionable and
30 accordingly, staff of the Service shall, in respect of their employment, be

1 entitled to pensions, and other retirement benefits as may be approved by the
2 Board.

3 (2) Notwithstanding the provision of subsection (1) of this section,
4 nothing shall prevent the appointment of a person to any office in the Service
5 on terms which preclude the grant of a pension in respect of that office.

6 (3) For the purposes of the application of the Pensions Reforms
7 Act, any power exercisable by the Minister under the Pension Reform Act or
8 any authority of the Government may be exercised by the Board.

9 (4) Notwithstanding the provisions of the Pension Reform Act
10 mentioned in Section 18(3) above, there shall be a body to be established for
11 the administration, management and control of Pension affairs for the
12 Service to be known as Customs Service Pensions Board.

13 PART V - FINANCING OF CUSTOMS SERVICE OPERATIONS

14 19.-(1) The Service shall keep and maintain bank accounts as may Funds of the
15 be approved by appropriate authority of the Government into which shall be Service
16 paid-

17 (a) Not less than 4% percent of the free-on-board value of imports
18 according to International best practices;

19 (b) revenues derived from assessment and collection of cost-based
20 user fees;

21 (c) annual or supplementary budgetary provisions made by the
22 Government to the Service;

23 (d) grants, aids, or donations from local or international
24 development partners; and

25 (2) The President may propose an increase to the 4% referred to in
26 subsection 1 (a) of this Section to the National Assembly pursuant to cogent
27 and verifiable factors(s) from the Service.

28 (3) The specified percentage referred to in paragraph (1)(a) of this
29 section would be determined from time to time by the Board subject to
30 approval by the National Assembly.

1 (4) The user fee referred to in paragraph (1)(b) of this section shall be
2 determined from time to time by the Board and approved by the Government.

3 (5) The tariff regime to be used by the Service or duty, taxes and
4 Excise computations shall be determined from time to time by the Board and
5 published in the Tariff handbook subject to approval by the National Assembly.

6 (6) Notwithstanding anything to the contrary contained in any law or
7 enactment, the Service, shall be empowered, subject to the provisions of this
8 Act, for the purpose and objective of promoting stability and continuity in
9 revenue generation, trade facilitation and economic development of the
10 Government-

11 (a) have power to superintend and execute as it may deem necessary
12 approved capital expenditure of each project that its cost not exceeding 10% of
13 the total approved capital projects within the Appropriation or Supplementary
14 Appropriation Act for the year;

15 (b) in exercise of the power conferred on the Service by subsection 6
16 (a) above of this section, the Service shall have power to procure materials and
17 services, incidental to the execution of the capital expenditure stipulated under
18 the said subsection 6 (a); and

19 (c) for the purpose of giving effect to the provisions of this section, the
20 Service may borrow such amount of money within 10% of its Approved
21 Capital Expenditure within the Appropriation or Supplementary Act, subject to
22 the approval of the Board.

23 20. The proceeds of the funds referred to in section 19 of this Act shall
24 be applied-

25 (a) to meet the cost of administration of the Service;

26 (b) towards reimbursing members of the Board or any committee set
27 up by the Board or the Service for expenses authorized or approved by the
28 Board or Service in accordance with such rates as may be approved on their
29 behalf by the Board;

30 (c) for the payment of remuneration, allowances, pension and other

1 benefits payable to the employees of the Service pursuant to Section 11 (I)(f)
2 of this Act;

3 (d) the maintenance of any property acquired by or vested in the
4 Service; and

5 (e) all or any of the functions of the Service under this Act and other
6 related Customs and Excise legislations.

7 21.-(1) The Service shall prepare and forward to the National Annual estimates,
8 Assembly not later than 30th September in each year, an estimate of the accounts and
9 expenditure and income of the Service during the next succeeding year. audit

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

14 22. The Service shall not later than three months before the end of Annual Reports
15 each year, submit to the Board a report on the activities and the
16 administration of the Service during the immediate preceding year and shall
17 include in such reports, audited accounts of the Service and the Auditor's
18 report on those accounts.

19 PART VI - PROVISION OF INFORMATION FOR CUSTOMS

20 FORMALITIES AND CONTROLS

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

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

29 (a) the accuracy and completeness of the information given in the
30 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 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
9 persons concerned, the Customs representative shall also be subject to , the
10 obligations in this section.

Provision of
information
by the Service

11 24.-(1) The Service shall ensure that all relevant information of
12 general application pertaining to Customs matters is readily available to any,
13 interested persons on the Service' website and at any other designated place or
14 form.

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

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

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

23 (a) importation, exportation or transit procedures, including seaport
24 airport, and other entry-point procedures and the required forms and
25 documents;

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

28 (c) rules for the classification or valuation or determination of origin
29 of goods;

30 (d) laws and regulations relating to rules of origin;

- 1 (e) import, export or transit restrictions or prohibitions;
- 2 (f) all fees and charges imposed by the Service and other agencies
- 3 in connection with importation, exportation or transit procedures;
- 4 (g) penalty provisions applicable to breaches of import, export or
- 5 transit procedures;
- 6 (h) appeals procedures; and
- 7 (i) applicable international agreements relating to the importation,
- 8 exportation, excise or transit of goods;
- 9 (g) allowances and duty-free concessions;
- 10 (k) clearing agent and brokers notice; and
- 11 (l) the current law establishing the Service.

12 25.-(1) A person may make an application, in respect of particular

13 goods specified in the application to the Service for an advance ruling, based

14 upon the facts presented, regarding the following matters:

Request for
information on
Advance ruling
etc.

- 15 (a) the tariff classification of the goods;
- 16 (b) whether the goods are in accordance with applicable
- 17 regulations or the produce or manufacture of a particular country, ECOWAS
- 18 or another free trade area or Customs union;
- 19 (c) whether the goods are subject to a duty exemption;
- 20 (d) the correct application of Customs valuation methodology; or
- 21 (e) duty drawback, quotas fees or other Customs matters.
- 22 (2) Advance rulings under this Act;
- 23 (a) must be made pursuant to a format prescribed by the Service;
- 24 and
- 25 (b) shall be issued as soon as possible but in no event later than one
- 26 hundred and fifty calendar days of receipt of a completed application and
- 27 shall be binding only on the Service and the requesting party.
- 28 (3) the Service may at any time request for additional information
- 29 from an applicant if it considers that the additional information is relevant to
- 30 the application for an advance ruling.

1 (4) Advance rulings-
2 (a) are binding as between the Service and the recipient of the ruling;
3 (b) shall be in effect within the fiscal year of issue; and
4 (c) may be revoked by the Service upon reasonable advance notice in
5 writing to the person concerned.

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

8 (6) A person may apply for the issuance of rulings of general
9 application and the applications must be made pursuant to the format
10 prescribed by the Service.

11 (7) Rulings of general application shall be subject to the following
12 conditions-

13 (i) Published on the Service website and its online portals;

14 (ii) make reference to the right of appeal provided for in this Act and in
15 the applicable regulation;

16 (iii) applied prospectively only and become effective thirty days after
17 publication except in circumstances where the Service deems that an
18 immediate effect date is essential to protect the revenue or safeguard the
19 economic or security interest of Nigeria.

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

22 (9) The Service may charge any persons requesting for an advance
23 ruling or a ruling of general application a cost-based user fee for processing the
24 rulings request.

25 **26.-(1)** All exchange of data, accompanying documents, decisions
26 and notifications between the Service and any persons required by or under this
27 Act or any other law, shall be made using electronic data processing techniques
28 and for this purpose the Service will provide such electronic data platform at its
29 offices or at such other places or locations considered appropriate.

30 (2) The provisions of subsection (1) of this section notwithstanding,

1 paper or other medium may be used in lieu of electronic exchanges of data-

2 (a) in the transition period during which a comprehensive
3 computerized system is being installed by the Service;

4 (b) where a temporary failure occurs in the Service or a person's
5 computerized system;

6 (c) where an international agreement provides for the use of paper
7 document;

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

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

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

14 (3) The Service shall deploy a common data set and format of
15 messages to be exchanged and such data shall contain the particulars
16 necessary for risk analysis and the proper application of Customs controls.

17 **27.-(1)** All information acquired by the Service in the course of Data protection
18 performing its duties which is confidential or provided on a confidential
19 basis shall be protected by the secrecy obligation binding on officers and
20 employees of the Service as public servants.

21 (2) Except as may otherwise be provided by law, the information
22 referred to in subsection (1) of this section shall not be disclosed by the
23 Service without prior or written notice of the person that provided it.

24 (3) Communication of confidential data to the Service or other
25 Governments or Countries or Territories outside the Customs territory of
26 Nigeria shall be permitted only pursuant to an international agreement, such
27 as a mutual assistance agreement, ensuring an adequate level of data
28 protection.

29 (4) Any person who contravenes the provisions of this section shall
30 be liable to disciplinary measures in accordance with the service rules.

Exchange of
Additional
Information

1 28.-(1) The Service may exchange information with any persons not
2 specifically required under this Act, or under any other Customs legislation, in
3 particular for the purpose of mutual cooperation in the identification and
4 management of risk, provided that such exchanges shall take place pursuant to
5 a written agreement between the Service and any persons involved and may
6 include access to the computer system of traders and other persons by the
7 Service.

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

Electronic System
and use of
Information
Technology

11 29.-(1) The Service, in collaboration with other agencies and traders,
12 shall develop, maintain and employ an electronic system while the Service
13 shall be the lead agency for the exchange of information between the Service,
14 Agencies of the Government, and traders, for the exchange of information and
15 for the common registration and maintenance of records relating in particular,
16 but not limited to the following-

17 (a) all persons directly or indirectly involved in the accomplishment
18 of the Custom formalities;

19 (b) applications and authorizations concerning the Service procedure
20 or the status of specific importers, exporters, Custom representatives and
21 others involved directly or indirectly with trade transaction;

22 (c) revenue collection, protection and accounting; and

23 (d) risk management

24 (2) The Service shall specify the standard form and content of
25 electronic data, consistent with international standards and best practices and
26 the rules regarding maintenance of data.

27 (3) The Service shall also specify the rules for access to electronic
28 systems and data by Service offices, Government Agencies and traders through
29 regulations as may be issued by the Service.

30 (4) The provisions of subsection (1), (2), and (3) of this section

1 notwithstanding, paper or other medium may be used in lieu of full
2 adoptions of electronic system.

3 30.-(1) The Service shall institute and maintain formal
4 consultations with traders and with other interested persons to increase co-
5 operation and compliance, and facilitate participation in establishing the
6 most effective administrative policies, procedures and methods of working
7 commensurate with this Act, other laws of Nigeria, and applicable
8 international agreements.

Transparency
and Stakeholder
Consultation

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

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

17 PART VII - CUSTOMS SERVICE CONTROLS

18 31.-(1) The Service shall carry out all necessary controls to ensure
19 the correct application of the provisions of this Act, related to Customs and
20 Excise Laws, other Laws, Rules, Regulations or Agreements under its
21 administration and jurisdiction.

Customs controls

22 (2) The controls by the Service includes:

23 (a) examining goods;

24 (b) taking samples;

25 (c) verifying goods declaration data and the existence and
26 authenticity of documents;

27 (d) examining the accounts of traders, their records and data;

28 (e) inspecting means of transport;

29 (f) inspecting luggage and other goods carried by or on persons;

30 (g) interviewing persons who may have relevant information;

1 (h) obtaining data from foreign Customs administrations and
2 Governments;

3 (i) obtaining data from stakeholders in the trade - supply chain; and

4 (g) carrying out official enquiries and other such similar acts.

5 (3) In carrying out the examinations of goods or any means of
6 transportation, an Officer may use such reasonable and appropriate force to
7 gain access to any locked or unlocked cargo, storage compartment or any area
8 where credible and reasonable suspicion and probable grounds exist to warrant
9 the search of the compartment or area and to examine the goods or means of
10 transportation without any warrant.

Customs control
zones

11 32.-(1) The Service may designate areas within and outside the
12 Customs territory as Customs control zones for the purposes of enforcing or
13 administering the provisions of this Act and related Customs and Excise
14 legislations.

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

16 (a) a place suitable for, or already recognized as, a center of
17 international trade;

18 (b) an international sea port;

19 (c) an international land border crossing;

20 (d) an international airport; or

21 (e) an Export Processing Zone or Free Zone, suitable to provide a high
22 level of service in terms of traffic flows and clearance demands.

23 (3) Operators of a Customs control zone shall be responsible for trade
24 facilitation and shall provide adequate facilities handling the volumes of trade
25 and traffic, including access roads to facilitate traffic flows, quay side offices,
26 transport service, cranes, forklifts, equipment storage, handling of goods,
27 airfield ramp access, temporary storage sheds, Customs offices, Customs
28 representative services, adequate security, cargo inspection facilities, and other
29 such infrastructural facilities which includes space for non-intrusive and any

1 other electronic inspection equipment and area designated as Government
2 warehouse.

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

9 (5) The Comptroller-General or his duly authorized representative
10 may establish a temporary Customs control zone in circumstances where the
11 nature of the cargo to be inspected or cleared cannot be reasonably
12 facilitated at a conventional Customs control zone subject to approval of the
13 Board.

14 (6) In the event of disaster relief operations, the Comptroller-
15 General may declare any applicable location a temporary Customs control
16 zone for purposes of disaster relief operations.

17 33.-(1) Customs controls, including random checks, shall
18 primarily be based upon risk management using electronic data processing
19 techniques and other conventional methods, with the objective of
20 identifying and evaluating risks and developing necessary counter-
21 measures on the basis of risk management criteria developed and updated
22 regularly from international, national and local data.

Application of
Risk Management
Techniques

23 (2) In managing risk, the Service shall apply Customs controls to
24 risks determined to be unacceptable, based upon pre-established risk
25 criteria.

26 (3) A cost-benefit analysis may be used to determine unacceptable
27 risk and such risk shall be prioritized.

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

1 (5) A risk profile containing the description of the risk areas,
2 assessment of the risk, the counter-measures to be taken, implementation dates,
3 and an evaluation of the actions, shall be prepared and regularly updated for
4 each Customs office.

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

10 (7) Compliance measurement referred to under subsection (6) of this
11 section may also entail the use of random checks, Post Clearance Audits,
12 external Government audits and other methods.

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

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

21 (10) Any person who contravenes the provision of subsection (9) of
22 this section commits an offence and is liable on conviction to a term of
23 imprisonment for two years or to a fine of N5,000,000.00 or both.

24 (11) The penalties referred to in subsection 10 of this section shall not
25 apply to Officers carrying out their official responsibilities provided that
26 Officers who release risk registers, risk profiles, and other risk assessment data
27 to any persons not authorized to receive such information shall be subject to
28 disciplinary action as may be prescribed in extant Rules or Regulations.

29 (12) The Service shall apply the use of an organizational and
30 intelligence driven risk management in all its operations, including

1 administrative and clearance procedures.

2 (13) A central database for information and reports on all
3 administrative and operational activities and events shall be made available
4 for the purpose of risk management.

5 (14) A risk management strategy and policy documents shall be
6 maintained and shall be updated every two years to meet current realities.

7 (15) A standing risk management committee shall exist at all times
8 and its duties will include the bi-annual review of the Service risk
9 management strategy and policy documents and provide direction for risk
10 criteria setting and the treatment of risks inherent in the Service.

11 (16) A risk management unit shall be established and exist at all
12 times for the purpose of carrying out risk identification, risk analysis, risk
13 profiling, risk evaluation, risk criteria setting and post seizure analysis in
14 accordance with the risk strategy and policy of the Service as approved by
15 the Customs Management.

16 (17) The risk management unit shall have access to all data and
17 information from all units and departments required for the carrying out of
18 risk analysis and profiling.

19 (18) The Service shall take all necessary steps in the pursuance and
20 implementation of a harmonized risk management approach with other
21 border partner Government Agencies in the trade supply chain.

22 (19) Risk management shall be implemented in line with
23 international best practices as stipulated in the World Customs Organisation
24 Risk Management Compendium and other similar documents published by
25 international organizations such as the World Trade Organization, World
26 Bank and the United Nations.

27 **34.**-(1) The Service shall ensure that its control measures within a
28 Customs control zone and other control measures by other agencies on
29 goods to be imported or exported are carried out at the same time, to ensure
30 for efficient and expedient operations.

Cooperation with
relevant authorities

1 (2) The Service shall coordinate the location and timing of
2 inspections and other controls where other Agencies are involved.

3 (3) The Service shall establish an electronic data exchange facility
4 (Single Window) to coordinate the work of the Service and interface with other
5 agencies systems to reduce processing time for traders.

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

Mutual
administrative
assistance

10 **35.** The Service shall cooperate with Customs Administration in other
11 jurisdictions and where necessary-

12 (a) Conclude Mutual Administrative Assistance Agreements to
13 enhance Customs control; and

14 (b) exchange data received in connection with the entry, exit transit,
15 transfer and use of imported or exported goods, persons, and means of
16 transport, for the purpose of verifying compliance with the provisions of this
17 Act with other Customs and Excise laws.

Additional control
for the release
of goods

18 **36.** The Service may-

19 (a) render pre-arrival process, examine documents and data relating
20 to the goods in the course of commercial operations involving the goods in
21 order to ascertain the accuracy of the particulars contained in the goods
22 declaration and other documents, information and data submitted to it;

23 (b) examine and take sample of goods where necessary, at the
24 premises of the holder of the goods or his representative or any other person
25 directly or indirectly involved in the transaction or in possession of the
26 documents, information and data relevant to the examination.

Post Clearance
Audit

27 **37.**-(1) The Service may conduct a Post Clearance Audit after
28 clearance of goods.

29 (2) The risk profiles of the audits may determine the selection of
30 persons for the audit which may be conducted for compliance measurement

1 purposes in the areas of valuation, classification, origin, duty relief and
2 drawback programmes, and such other areas as may be considered
3 appropriate.

4 (3) For compliance measurement, conformity to standards and
5 other purposes as may be developed from time to time, the Service shall
6 conduct audit of traders' systems prior to authorizing special simplified
7 treatment.

8 (4) At the sole discretion of the Service, Post Clearance Audits may
9 be held at the offices of the Service or at the Consignee's premises or the
10 premises of other persons directly or indirectly involved in the relevant
11 transactions.

12 (5) Post Clearance Audits shall be based on inspection by the
13 Service of-

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

15 (b) data in electronic processing systems or the goods and the
16 transaction means identified at the time of the audit.

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

18 (i) importers and exporters;

19 (ii) Customs agents;

20 (iii) warehouse operators;

21 (iv) zone operators;

22 (v) banks and other financial institutions;

23 (vi) transport firms;

24 (vii) freight forwarders;

25 (viii) express couriers;

26 (ix) Excise traders; and

27 (x) other persons directly or indirectly engaged in international
28 trade.

29 38.-(1) An entity to undergo Post Clearance Audit shall be given-

30 (a) a written notice stating the date and time of the audit; and

1 (b) a questionnaire setting out the questions to be answered and
2 returned.

3 (2) Any person to be audited shall produce all relevant information,
4 including-

5 (a) all documents and records, paper or electronic, maintained in the
6 normal course of business containing information relevant to the Customs
7 transactions under examination, such as-

8 (i) accounting data;

9 (ii) physical inventory and inventory records;

10 (iii) records of sales and other transactions;

11 (iv) recording books;

12 (v) account records;

13 (vi) bank transfers; and

14 (vii) all documents related to import and export transactions
15 maintained in magnetic or data processing files that have a direct or indirect
16 relation to the audit.

17 (3) The Service may, where appropriate, examine the goods and mode
18 of transportation.

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

21 (a) stop the audit;

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

23 and

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

26 (5) Refusal to cooperate by a person undergoing audit under this
27 section shall attract a penalty of N1,500,000.00 for each day of such refusal and
28 where the refusal continues for more than seven days, the person may be
29 suspended from all Customs transactions.

30 (6) Where an audit discloses an attempt to evade the payment of

1 duties, taxes and fees or any criminal activity-

2 (a) the audit may be suspended; and

3 (b) the matter reported to the Comptroller-General or his
4 representative.

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

8 39. Any person undergoing audit shall-

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

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

12 (c) present all documents and electronic records required by the
13 auditors, and comply with the auditors' request within a reasonable time; and

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

16 40.-(1) On completion of an audit, where the person audited owes
17 additional duties or taxes, the Service shall-

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

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

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

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

26 41. Where a trader's system audit discloses that-

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

28 (b) records are generally in order; and

29 (c) no infractions have occurred, the person may in accordance
30 with the provisions of this Act qualify for the application of Special

Duties of a
person undergoing
audit

Payment of
additional duties
and taxes on
completion of
audit

Trader's system
audit

1 Simplified Customs Procedures.

Samples testing
and laboratories

2 42.-(1) Without prejudice to the powers conferred on other regulatory
3 agencies, an Officer may cause to be opened any mail, package or container or
4 shipment of imported goods or goods to be exported-

5 (a) to take, without payment, samples for examination, testing and
6 analysis, classification, valuation, determination of origin, and other purpose;

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

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

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

11 (3) Any sample taken shall be accounted for and where appropriate,
12 returned to the owner, importer or exporter on the completion of the measures
13 required for Customs control.

14 (4) For the purpose of determining the duty, taxes or fees assessable or
15 other requirements with regards to goods comprising a single consignment, or
16 in a vessel, tank or other container of goods, the characteristics of all the goods
17 shall be deemed to correspond to the characteristics of any sample taken.

18 (5) The Service shall maintain a laboratory to conduct scientific
19 testing and analysis of samples and in the event that such laboratory does not
20 have the resources or personnel to conduct testing and analysis for particular
21 purposes, the Customs Service may utilize the service of a Government or
22 commercial laboratory.

Use of consultants

23 43. Subject to approval by the Board the Customs Service may, from
24 time to time, employ consultants to provide services and advice on the adoption
25 of new Customs control measure; and for other purpose, provided that a
26 consultant shall not be authorized to carry out Customs control measure.

Provision of
mandatory pre-
shipment and
post-shipment
inspection

27 44.-(1) A declarant or a person who is directly or indirectly involved
28 with the importation or exportation of goods, or acts as a Customs
29 Representative, or is directly or indirectly involved with the storage or
30 transport of imported or exported goods, free zones, or any Customs control,

1 shall keep all documents, information and data related to Customs matter for
2 seven calendar years from the date the transaction occurred or the
3 documents, information and data were created.

4 (2) When an appeal from a Customs determination or ruling has
5 been lodged, all parties to the appeal shall keep all documents, information
6 and data related to the appeal for three years after the appeal procedure is
7 finally resolved.

8 45.-(1) The Comptroller-General may issue regulations
9 prescribing-

Special services
fees and costs

10 (a) the services which are performed by an Officer at the request of
11 declarant or any other person that shall be considered to be special services
12 subject to a fee;

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

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

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

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

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

24 46.-(1) The Service shall cooperate with the Customs
25 Administrations of countries that share borders with Nigeria in order to
26 enhance revenue collection, compliance with international trade rules,
27 prevention and suppression of smuggling, law enforcement and improved
28 trade facilitation.

Joint border
operation with
bordering
countries

29 (2) Memoranda of Understanding may be negotiated and
30 concluded with cooperating Customs Administrations of borders countries

1 setting out the respective responsibilities of the signatories to such
2 memoranda.

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

5 (a) alignment of Customs control measures including working days
6 and hours of borders offices;

7 (b) developing and sharing of common facilities for conducting joint
8 Customs controls;

9 (c) establishment of one stop border posts;

10 (d) establishing juxtaposed Customs offices at the border;

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

12 (f) development of procedures for the exchange of information for
13 conducting joint controls; and

14 (g) designing and operating of systems providing for special,
15 simplified treatment for authorized traders.

16 PART VIII - IMPORTATION, EXPORTATION AND TRANSIT OF GOODS

Reporting
obligation on
importation and
exportation of
goods

17 47.-(1) Report shall be made by the importer or his Customs
18 Representative in such form and manner, containing such particulars as the
19 Service may direct of every ship, aircraft, vehicle and any other means of
20 conveyance to which this section applies and of all goods carried therein.

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

23 (a) from any place outside Nigeria; or

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

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

28 (a) from any place outside Nigeria; or

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

1 (i) bound for a destination in Nigeria and not already cleared at a
2 Customs airport; or

3 (ii) bound for a destination outside Nigeria.

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

8 (5) if the person by whom the report should be made fails to make
9 report as required by or under this section, he shall be liable to a fine of
10 10,000,000 or 5 years' imprisonment, or both and any goods required to be
11 reported which are not duly reported may be detained by the proper officer
12 until so reported or until the omission is explained to the satisfaction of the
13 Service, and may in the meantime be deposited in a Government warehouse.

14 (6) The person making the report shall answer all such questions
15 and produce all such documents in his possession or control relating to the
16 ship, aircraft or vehicle, the goods carried therein, the crew and passengers
17 and the voyage, flight or journey as may be put to him or required by the
18 proper officer; and if such person refuses to answer any such question or to
19 produce any such document, he shall be liable to a fine of 2,000,000 or 2
20 years' imprisonment, or both.

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

24 (a) bulk is broken; or

25 (b) any alteration is made in the stowage of any goods carried so as
26 to facilitate the unloading of any part thereof; or any part of the goods is
27 staved, destroyed or thrown overboard or any container is opened, without
28 the knowledge and consent of the proper officer, the master of the ship or the
29 captain of the aircraft or the person in charge of the vehicle shall, unless the
30 matter be explained to the satisfaction of the Service, be liable to a fine of

1 20,000,000 or 10 years' imprisonment or both.

2 (8) The Customs Area Controller in the area within which the
3 discharge of the ship, aircraft or vehicle took place or, where there is no such
4 person, the owner of the ship, aircraft or vehicle shall deliver to the proper
5 officer within two days of the date of completing discharge, a tally slip, giving
6 full and accurate account of all the goods carried or unloaded from the ship,
7 aircraft or vehicle.

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

11 (10) If any person fails to comply with the provisions of subsection
12 (8) of this section or fails to give the additional information required by the
13 Service or its representatives he shall be liable to a minimum of 5 years
14 imprisonment but not more than 10 years.

15 48.-(1) A declaration of all goods that are imported into or exported
16 from the Customs territory and the reason for the importation or exportation
17 shall be lodged by the importer, exporter, its Customs Representative, or other
18 declarant with the Customs office designated for that purpose, provided that
19 where the lodging of a goods declaration imposes particular obligation on a
20 specific person, the declaration must be made by that person or his Customs
21 Representative.

22 (2) A declaration of goods shall be lodged whether or not the goods are
23 liable for duties, Excise taxes or other taxes, fees or charges and in the event
24 that all the required information or documents are not available to the declarant
25 at the time the declaration is lodged, the declarant shall within two weeks
26 amend the declaration to provide for the required information or documents.

27 (3) A declaration of goods shall be lodged in the English language and
28 shall be transmitted electronically to the designated Customs office in the form
29 and manner prescribed by this Act and in Customs regulations; and the Service
30 may accept paper based declarations, provided that the same level of risk

1 management associated with electronically submitted declarations can be
2 applied.

3 (4) Persons introducing goods into the Customs territory shall
4 convey the goods directly to the nearest Customs office designated to
5 receive the goods without altering their nature or their packaging.

6 (5) Goods shall be declared-

7 (a) prior to the time the goods are introduced into or exported from
8 the Customs territory in order to advise Officers of their impending arrival
9 or departure;

10 (b) at the time the goods are introduced into or exported from the
11 Customs territory;

12 (c) with the written approval of the Service, not later than twenty-
13 four hours from the time the goods were introduced into or exported from
14 the, Customs territory; or

15 (d) at the time of arrival in the case of goods in the actual possession
16 of a person arriving in the Customs territory, or that constitute part of his
17 baggage where the person is arriving by means of transport; or

18 (e) in any other case, with the written approval of the Service, by
19 the importer or by the person on behalf of whom the goods are imported or
20 exported, or his Customs Representative.

21 (6) When a declaration is lodged by a person other than the
22 operator of the means of transport by which the goods are introduced into or
23 exported from the Customs territory, that operator shall lodge with the
24 appropriate Customs office a notification of arrival or departure in the form
25 of a manifest, dispatch note or load sheet containing all the information
26 required in order to enable the Service to identify the goods covered by a
27 declaration.

28 (7) Notwithstanding the provision of subsection (6), the operator of
29 a means of transport may submit the manifest in advance by electronic
30 transmission or otherwise.

The contents
of a goods
declaration, etc.

1 49.-(1) The content of a goods declaration shall be as prescribed by
2 the Service.

3 (2) The Service shall limit the data required in the goods declaration to
4 the extent practicable.

5 (3) The Service shall request for data relevant to the goods declaration
6 only provided that the goods declarations shall contain all the information
7 necessary for application of the Customs procedure for which the goods are
8 declared.

9 (4) The Service may also by Regulations, provide for simplified
10 goods declarations for low value shipments and travelers.

11 (5) A written declaration form shall conform in all material in line
12 with international best practices and signed by a declarant or his duly
13 authorized Representative.

14 (6) Where Declarations are made by electronic means-

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

17 (b) such Declarations must be based on international standards for the
18 exchange of electronic information,

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

23 (8) Where Declarations are made by electronic means the Service
24 may allow supporting documents to be transmitted in the same manner
25 including other relevant data in the traders' zone.

Amendment of
goods declaration

26 50.-(1) Where the goods declaration lodged with the Service is found
27 to be incomplete or inaccurate in any respect, the declarant shall within two
28 weeks of the lodgment of declaration effect necessary corrections or provide
29 any additional information to the Service.

30 (2) Penalties shall not be imposed on a declarant for the lodging of an

- 1 incomplete or inaccurate goods declaration where-
- 2 (a) the missing information was not available to the declarant at the
- 3 time the goods declaration was made; or
- 4 (b) inaccuracies in the declaration were inadvertent, or immaterial
- 5 except for statistical purposes;
- 6 (c) the incomplete or inaccurate information do not constitute an
- 7 established pattern of conduct, and were not intended; and
- 8 (d) the inaccuracies were not intended to avoid the payment of
- 9 duties Excise taxes, other taxes, or fees or assessments.
- 10 (3) The incomplete and inaccurate information referred to in
- 11 subsection (2) of this section includes-
- 12 (i) errors in transcription,
- 13 (ii) arithmetical errors in the goods declaration or supporting
- 14 documents,
- 15 (iii) omissions of elements of the dutiable value, such as foreign
- 16 inland freight,
- 17 (iv) errors in the conversion of foreign currency,
- 18 (v) incorrect deductions,
- 19 (vi) an incorrect declaration of a tariff provided that the nature and
- 20 other physical characteristics of the goods have been accurately described,
- 21 (vii) a discrepancy between the quantity of the goods shown in the
- 22 shipping documents and the actual quantity where the error is typographical.
- 23 (4) Amendments to the goods declaration shall not be permitted
- 24 after the Service has-
- 25 (a) informed the declarant that it intends to examine the goods;
- 26 (b) established that the goods declaration, or any particular
- 27 contained in the declaration is incorrect except for inadvertent or immaterial
- 28 inaccuracies specified in this section; or
- 29 (c) released the goods.

Invalidation of
goods declaration

1 51.-(1) The Service shall, at the request of a declarant, invalidate a
2 declaration already accepted where it is satisfied that-

3 (a) the goods are immediately to be placed under another Customs
4 procedure; and

5 (b) as a result of special circumstances, the placing of the goods under
6 the Customs procedure for which they were declared is no longer justified.

7 (2) Where the Service has informed the declarant of its intention to
8 examine the goods, a request for invalidation of the declaration shall not be
9 accepted before the examination takes place.

10 (3) The declaration shall not be invalidated after the goods have been
11 released.

Additional
requirement
regarding
declarants, etc.

12 52.-(1) Declarants shall be persons who have Customs mandate to
13 operate in the Customs territory.

14 (2) In this Act, whenever more than one person is responsible for the
15 performance of any obligation, the performance of the obligation by any one of
16 such persons shall deemed to be performed by all of them; and whenever
17 liability for the payment of duties, Excise taxes, other taxes, fees or
18 assessments or penalties, is applicable to two or more persons, each of such
19 persons shall be jointly and severally liable for the amount due and payable.

Verification of
goods declaration
and examination
of goods

20 53.-(1) The Service may, for the purpose of verifying the accuracy of a
21 goods declaration-

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

23 (b) require the declarant to present additional information or
24 documents;

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

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

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

29 (3) Except where an examination or taking of sample is in connection
30 with an offence or a random check, a declarant shall be present or represented

1 during the examination or the taking of samples to provide the Service with
2 any assistance required to facilitate the examination or taking of samples.

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

7 54.-(1) Goods declaration which comply with the conditions
8 prescribed in the Act and Regulations made pursuant to this Act shall be
9 accepted by the Service provided that the goods to which the declaration
10 relate have been presented to the Service and are available for Customs
11 controls.

Acceptance of
goods declaration

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

16 (3) Where a goods declaration is lodged at a Customs office other
17 than the office at which the goods are presented, the goods declaration shall
18 be accepted when the office at which the goods are presented confirms the
19 availability of the goods for the application of Customs controls.

20 (4) the date of acceptance of the goods declaration by the Customs
21 Service shall be the date of the application of the Customs procedure.

22 55.-(1) Goods shall not be released from Customs control unless
23 the-

Release of goods

24 (a) goods declaration has been presented to and accepted by the
25 Service;

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

28 (c) declarant or other responsible person has made arrangements to
29 provide security as required by this Act and Regulations made under this
30 Act; and

1 (d) declarant or other responsible persons has paid all duties, Excise
2 taxes, other taxes, charges and assessments and penalties determined to be due
3 on the goods, except where the Service has authorized deferred payment under
4 any applicable provisions of this Act.

Prohibition and
restriction on
imports and
exports

5 56.-(1) Import and exports shall where applicable, be subject to
6 prohibitions and restrictions relating to-

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

8 (b) prevention or relief of critical shortage of food stuffs;

9 (c) the protection of the health and life of humans, animals or plants;

10 (d) the protection of the environment;

11 (e) the protection of national treasures possessing artistic, historic or
12 archaeological value;

13 (f) currency and other negotiable instruments as prescribed in the
14 Money Laundering Prohibition Act 2012 (as amended).

15 (g) the protection of the environment as contained in relevant Laws
16 and Conventions;

17 (h) fishery conservation; and

18 (i) controlled goods imported or exported in line with relevant
19 International Laws, Conventions and Agreements;

20 (a) relevant International Laws, Conventions and Agreements on the
21 Trade of Wild Endangered Species of Fauna and Flora (CITES);

22 (b) Chemicals monitored under the global shield program of the
23 World Customs Organization.

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

28 (3) The President may by Order-

29 (a) prohibit the importation or exportation of all or any specified
30 goods;

1 (b) notwithstanding the provisions of Section 55 (3)(a) allow the
2 importation or exportation of all or any specified goods with the general or
3 special permission in writing of a specified authority or authorities.

4 57.-(1) Goods brought into the Customs territory shall, without
5 delay be conveyed by the persons who-

Conveyance to
the appropriate
place

6 (a) brought in the goods; or

7 (b) assumes responsibility for the carriage of the goods after the
8 goods have been brought into the Customs territory, by the specific route and
9 in accordance with any instruction issued by the Service to a Customs
10 control zone, Customs office, a Special Economic Zone or to any other place
11 as may be designated by the Service.

12 (2) Goods destined for a Special Economic Zone shall be conveyed
13 directly to the free zone.

14 (3) Any person who assumes responsibility for the carriage of
15 goods after they have been brought into the Customs territory shall be
16 responsible for compliance with the provisions of subsection (1) of this
17 section.

18 (4) Notwithstanding the provision of subsection (1) of this section,
19 special provisions may be made applicable to letters, postcards and printed
20 matter generally or their electronic forms or to goods carried by travelers,
21 goods transported in pipeline and wires, or other goods of negligible
22 economic importance provided that the special provisions do not adversely
23 affect Customs controls.

24 (5) Where, by reasons of unforeseen circumstances or force
25 majeure, the provisions of subsection (1) of this section cannot be complied
26 with, the person responsible shall promptly inform the Service of the
27 situation, including the precise location of any goods and means of transport
28 involved and the Service shall determine the Customs control measures to
29 be applied to assure that the goods and means of transport are conveyed to a
30 place designated by the Service.

Presentation of
goods to the
Customs Service

1 58.-(1) Goods brought into the Customs territory shall be presented to
2 the Service immediately upon the arrival of the goods at the place designated
3 by the Service pursuant to the provision of section 48 of this Act by the person-
4 (a) who brought the goods into the Customs territory;
5 (b) in whose name or on whose behalf the person who brought the
6 goods into the Customs territory acts; or
7 (c) who assumed responsibility for carriage of the goods after they
8 were brought into the Customs territory.

9 (2) Notwithstanding the obligation of the persons mentioned in
10 subsection (1) of this section, presentation of the goods may be effected by-

11 (a) any person who immediately places the goods under a Customs
12 procedure; or

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

15 (3) The person presenting the goods shall refer to Customs
16 declaration which has been lodged in respect of the goods.

17 (4) The provision of this section shall not preclude the application of
18 any special provisions with respect to letters, postcards and printed matters
19 generally or their electronic forms or to goods carried by travelers, goods
20 transported in pipelines and wires as well as any other goods of negligible
21 economic importance, provided that those do not adversely affect Customs
22 controls.

Unloading of
goods

23 59.-(1) The permission of the Service must be obtained prior to the
24 unloading or transshipment of goods from any means of transportation of the
25 goods to the designated places.

26 (2) The permission referred to in subsection (1) of this section shall
27 not be required in the event of an imminent danger requiring the immediate
28 unloading of all or part of the goods provided that the Service is informed in
29 writing immediately thereafter.

1 60.-(1) subject to the provisions of this Act, the Service may at any
2 time require goods to be unloaded and unpacked at designated examination
3 bays for the purpose of examining the goods, taking of samples or
4 examining the means of transport carrying the goods.

Examination of
goods at
examination bay

5 (2) Goods presented to the Service shall not be removed from the
6 place where they have been presented for examination without the
7 permission of the Service.

8 (3) Non-Intrusive Inspection equipment shall be provided by the
9 Terminal Operator or Warehouse Operator to facilitate clearance of goods.

10 61.-(1) On the thirtieth (30th) day after the completion of discharge
11 of the importing ship, aircraft or vehicle or at such times as the Service may
12 direct, the proper officer shall, in respect of every ship, aircraft or vehicle,
13 deliver to the person administering the area within which the discharge took
14 place or, where there is no such persons, to the owner of the ship, aircraft or
15 vehicle, or his agent, a list of goods unloaded from such ship, aircraft or
16 vehicle and not yet released by the proper officer.

Goods uncleared
and missing goods

17 (2) On the receipt of the list specified in subsection (1) of this
18 section, the person administering the area, or where there is no such person,
19 the owner of the ship, aircraft or vehicle, or his agent shall immediately
20 transfer all such goods to the Government warehouse, where it is not
21 available, it shall be constructively warehoused within the premises or to
22 such other place as the proper officer may approve.

23 (3) If any persons fail to comply with the provisions of subsection
24 (2) of this section he shall be liable to a fine of N500.00 per m² per day.

25 (4) Where any imported goods remain uncleared at the expiration
26 of thirty (30) days from the date of completion of discharge of the importing
27 ship, aircraft or vehicle, the proper officer shall inform the person
28 administering the area within which the discharge of the ship, aircraft or
29 vehicle took place or, where there is no person administering such area the
30 owner of the ship, aircraft or vehicle or his agent to remove or store all or any

1 such goods to or at a Government warehouse or such other place as the proper
2 officer may approve. If any person fails to comply with any such direction
3 within twenty-four (24) hours after such direction is given, he shall be liable to
4 a penalty of 1,000,000 and the proper officer shall cause all or any such goods
5 to be removed to a Government warehouse or such other place as he may
6 approve.

7 (5) Where under subsection (1) or (4) of this section, goods are
8 removed to or stored at a place approved by the proper officer such place shall
9 be deemed to be a Government warehouse and such goods shall be deemed to
10 have been removed to and deposited in a Government warehouse.

11 (6) Where any goods which have been reported in any ship, aircraft or
12 vehicle but have not been released by the proper officer nor removed to a
13 Government warehouse are not produced to the proper officer on demand, such
14 goods shall be deemed to have been imported and removed for use in Nigeria
15 and, without prejudice to any remedy in respect of any contravention of this or
16 any other Act in respect of such goods, the person responsible shall, if so
17 required by the proper officer within one year from the date of the report of such
18 goods, pay any duty chargeable on the importation of such goods, unless he
19 proves to the satisfaction of the Management Committee that the goods have
20 not been imported.

21 (7) In subsection (6) of this section "persons responsible" means-

22 (a) in respect of goods shown to the satisfaction of the Service to have
23 been uploaded into an area administered by any person other than the agent or
24 owner of the ship, aircraft or vehicle concerned or any officer in the service of
25 the Government of the Federation, the person administering that area;

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

28 (8) Where it is necessary for the purpose of determining the amount of
29 any duty chargeable under subsection (6) of this section to classify any goods
30 and assess the value, quantity, weight, measurement or strength thereof, such

1 goods shall be deemed to be of such description and of such value, quantity,
2 weight measurement or strength as may be determined by the proper officer
3 having regard to the information in his possession relating thereto.

4 (9) Without prejudice to the provision of section 120 of this Act, if
5 any goods removed to a Government warehouse under this section are not
6 cleared by the importer thereof-

7 (a) in the case of goods which are in the opinion of the Service of a
8 perishable nature, forthwith;

9 (b) in any other case, within fourteen days after have been so
10 removed or such longer time as the Customs Service may in any case allow,
11 the Customs Service may sell them.

12 62.-(1) Goods that are of Non-Preferential Origin shall be placed
13 under the Customs procedure as provided under this Act.

Customs procedure
relating to goods
that are of non-
preferential origin

14 (2) Subject to the provisions of this Act, a declarant shall be free to
15 choose the Customs procedure to place the goods, and the conditions for that
16 procedure, notwithstanding the nature, quantity, country of origin,
17 consignment or destination of the goods.

18 63.-(1) Subject to the laws applicable to the rules of preferential
19 origin, all goods originating in the Customs territory of preferential
20 Agreement shall be presumed to have the status of preferential origin, unless
21 the contrary is provided.

Goods of
preferential Origin

22 (2) The Service shall by Regulations provide for-

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

24 (b) means by which the Customs status of Economic Community
25 of West African States goods may be established; and

26 (c) how goods which originated from Economic Community of
27 West African States can be differentiated from goods, when placed under
28 certain Customs procedures, are not Economic Community of West African
29 States goods.

30 (3) Economic Community of West African States goods shall

1 become non-Economic Community of West African States goods where the-
2 (a) goods have moved out of the Customs territory of Economic
3 Community of West African States;

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

6 (c) goods are placed in a Customs procedure inconsistent with the
7 status of Economic Community of West African States goods, as may be
8 determined by regulations.

Temporary
storage of goods

9 64.-(1) Except where goods are immediately placed under a Customs
10 procedure for which a Customs declaration has been accepted, or have been
11 admitted into a free zone, non-Preferential goods and services shall be deemed
12 to have been placed under temporary storage.

13 (2) Where goods are not declared for a Customs procedure, the
14 following on-Preferential goods and services shall be deemed to be declared
15 for temporary storage of goods procedure-

16 (a) goods brought into the Customs territory; and

17 (b) goods for which the external transit procedure has ended.

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

20 (4) The Service may require the holder of the goods to provide a
21 guarantee ensuring payment of the amount of duties, Excise taxes, other taxes
22 and fees or charges which may be incurred.

23 (5) Unless extended by the Service for good cause, twenty-eight days
24 is the allowable period for temporary storage.

25 (6) If for any reason goods cannot be placed or continue to be
26 maintained under the temporary storage procedure, the Service shall promptly
27 take all necessary measures to place the goods under an appropriate Customs
28 procedure.

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

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

5 65.-(1) Goods may be moved under the transit procedure from one
6 point to another within or outside the Customs territory without being
7 subject to-

Goods moved
under transit
procedure, etc.

8 (a) import duties;

9 (b) Excise taxes and other taxes;

10 (c) other charges and fees, except for cost-based user fees for escort
11 services where required; and

12 (d) commercial policy measures where the measures do not
13 prohibit the entry or exit of goods into or from the Customs territory.

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

16 (a) from a Customs office of entry to a Customs office of exit;

17 (b) from a Customs office of entry to an inland Customs office;

18 (c) from an inland Customs office to a Customs office of exit; and

19 (d) from one inland Customs office to another inland Customs
20 office.

21 (3) To the extent practicable, physically separate transit
22 infrastructure shall be provided at border crossing for goods subject to
23 transit procedure and such transit procedure shall be simplified and
24 expedited.

25 (4) The carrier consignee or any other person responsible for the
26 carriage of goods subject to transit procedure shall have the responsibility
27 of-

28 (a) submitting goods declaration for transit procedure to the
29 Service, provided that the Service may accept as a goods declaration a
30 commercial or transport document for consignment that adequately

1 describes the goods and meets all other requirements of the Service;

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

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

5 (d) using means of transport, security measures and personnel
6 adequate to reasonably ensure the safe transport of the goods to their
7 destination.

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

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

12 (a) the use of Customs seals;

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

14 (c) full examination of the goods and recording of the results of the
15 examination on a document, based upon the application of risk management;

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

17 (e) requiring a Customs escort.

18 (7) A change in the Customs office of destination shall not be accepted
19 without prior notification to the Service.

20 (8) Transfer of the goods from one means of transport to another shall
21 be allowed without the authorization of the Service as long as the Customs seal
22 of fastenings are not broken and other security requirements are maintained.

23 (9) The Customs transit shall terminate when the goods and related
24 documents are presented at the Customs office of destination and Service
25 determines that the goods are intact and that transit has taken place in
26 compliance with the conditions imposed by the Service such as Landing
27 Certificate.

28 (10) Goods that are trans-shipped shall not be subject to the payment
29 of duties, Excise taxes, other taxes and Customs fees as long as the condition
30 for transshipment imposed by the Service are followed.

1 (11) For trans-shipped goods, the following procedure are
2 applicable-

3 (a) only a single goods declaration shall be required for trans-
4 shipment, and the Service may accept as the goods declaration any
5 commercial or transport documentation that meets its requirements;

6 (b) the Service may take action to ensure that goods to be
7 transshipped will be identifiable at exportation and that unauthorized
8 interference will be readily detectible; and

9 (c) the Service may fix a time limit for the exportation of goods
10 declared for trans-shipment.

11 66.-(1) Subject to Regulations made by the Service, goods may be
12 temporarily exported from the Customs territory without being subjected to
13 duties or Excise taxes, other taxes and fees on export or subsequent re-
14 importation into the Customs territory in the same condition.

Goods leaving
Customs territory
temporarily

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

18 67.-(1) Goods presented to the Service shall be placed under a
19 Customs procedure.

Customs
Procedure

20 (2) Except as otherwise provided, the declarant shall be free to
21 choose the Customs procedure for the goods, the conditions for that
22 procedure, notwithstanding the nature, quantity, the country of origin,
23 consignment or destination of the goods.

24 PART IX - DETERMINATION OF DUTIES AND TAXES

25 68.-(1) When lodging a Declaration pursuant to the provisions of
26 this Act, declarants shall-

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

27 (a) determine and declare the classification, valuation and origin of
28 the goods applying:

29 (i) the nomenclature of the Relevant International Convention and

1 Agreements on the Harmonized Commodity Description and coding system;
2 (ii) the provisions of the Relevant International Conventions and
3 Agreements on Implementation of Article VII of the General Agreement on
4 Tariffs and Trade;

5 (iii) the official currency of the Federal Republic of Nigeria, using the
6 prevailing official exchange rate issued by the Central Bank of Nigeria, and
7 applicable at the time of submission of declaration of the goods into Nigeria or
8 the exportation of the goods from Nigeria;

9 (iv) rules of origin as may be specified in applicable international
10 Agreements and this Act; and

11 (v) international best practice

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

14 (2) A declarant shall be liable to penalties for any negligent or false
15 statements made knowingly or intentionally in contravention of the provisions
16 of this Act or its Regulations.

17 69.-(1) The Service shall be responsible for-

18 (a) applying in accordance with classification to the provisions of the
19 Relevant International Convention and Agreements on the Harmonized
20 Commodity Description and coding system as contained in this Act to
21 imported, exported and Excise goods;

22 (b) applying for valuation in accordance with the provision of the
23 Relevant International Convention and Agreements on Implementation of
24 Article VII of the General Agreement on Tariffs and Trade as contained in this
25 Act to imported, exported and Excise goods;

26 (c) accept origin declaration in accordance with specific agreements
27 on preferential rules of origin as contained in this Act to imported, exported
28 and Excise goods;

29 (d) determining the correctness of declarants' statements and
30 documentation regarding the classification, valuation and origin of imported,

Determination
of classification,
valuation origin
of imported and
exported goods
by the Service
and Dispute
Resolution
Mechanisms

1 exported, and Excise goods; and

2 (e) providing general information to the traders regarding the
3 standards governing the classification, valuation and determination of
4 origin through publications, educational programmes and enquiry points.

5 (2) the Service shall carry out the responsibilities referred to in
6 subsection (1) of this section in a timely and efficient manner providing
7 sufficient details to enable declarants to carry out their responsibilities under
8 this Act and its Regulation.

9 (3) Without prejudice to the provision of World Trade
10 Organization, Trade Facilitation Agreement, there shall be a Dispute
11 resolution mechanism in the Service. Disputes shall be resolved through the
12 following process-

13 (a) any discrepancy on declaration shall be entered into Inspection
14 Act and appropriately modified;

15 (b) if the dispute persists, the importer / exporter and Excise traders
16 may be allowed to carry his goods on bank guarantee pending resolution;

17 (c) importer/exporter and Excise traders may thereafter apply for a
18 tariff/valuation/origin decision; and

19 (d) if not satisfied with the decision, the importer / exporter and
20 Excise traders may appeal to the Honorable Minister of Finance.

21 71.-(1) The primary basis for the Customs value of goods shall be
22 the transaction value.

Transaction
value

23 (2) The transaction value is the price actually paid or payable for
24 the goods when sold for export to the Federal Republic of Nigeria adjusted,
25 when necessary, in accordance with the provisions of Article 8 of the
26 Agreement on Customs Valuation.

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

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

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

4 (i) are imposed or required by Law or by the Federal Republic of
5 Nigeria;

6 (ii) limit the geographic area in which the goods may be resold; or

7 (iii) do not substantially affect the value of the goods.

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

10 (c) no part of the proceeds of any subsequent resale, disposal or use of
11 the goods by the buyer will accrue directly or indirectly to the seller, unless an
12 appropriate adjustment can be made in accordance with the provision of this
13 section; and

14 (d) the buyer and seller are not related, or where the buyer and seller
15 are related, that the transaction is acceptable under the provisions of this
16 section.

17 (5) For the purpose of this section, persons shall be deemed to be
18 related if-

19 (a) they are officers or directors of one another's businesses;

20 (b) their relationship is one of employer and employee;

21 (c) any of such person directly or indirectly owns, controls or holds
22 five percent or more of the outstanding voting stock or shares of either of the
23 person;

24 (d) one of the persons directly or indirectly controls the other;

25 (e) the persons are directly or indirectly controlled by a third person;

26 (f) together the persons directly or indirectly control a third person; or

27 (g) the persons are members of the same family

28 (6) The fact that the buyer and seller are related shall not solely
29 constitute grounds for rejecting a transaction value.

30 (7) Where the buyer and seller are related, the circumstances

1 surrounding the sale shall be examined and the transaction value shall be
2 accepted provided that there is no proof to the contrary that the relationship
3 influenced the price.

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

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

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

14 (b) the Customs value of identical or similar goods as determined
15 under section 71 and 72 of this Act.

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

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

20 (i) commissions and brokerage, except buying commission;

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

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

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

1 (i) materials, components, parts and similar items incorporated in the
2 imported goods,

3 (ii) tools, dies, moulds and similar items used in the production of the
4 imported goods,

5 (iii) material consumed in the production of the imported goods,

6 (iv) engineering, development artwork, design work and plans and
7 sketches undertaken elsewhere than in the country of importation and
8 necessary for the production of the imported goods, and

9 (v) royalties and License fees related to the goods being valued that
10 the buyer must pay either directly or indirectly, as a condition of sale of the
11 goods being valued, to the extent that such royalties and fees are not included in
12 the price actually paid or payable;

13 (c) the cost of transport of the goods to the port or place of
14 importation;

15 (d) the loading, unloading and handling charges associated with the
16 transport of the goods to the port or place of importation; and

17 (e) the cost of insurance.

18 (11) Any additions to the price actually paid or payable shall be made
19 only on the basis of objective and quantifiable data.

20 (12) Additions shall not be made to the price actually paid or payable
21 in determining the Customs value except as provided in this section.

Transaction
value of identical
goods

22 72.-(1) Where the Customs value of goods cannot be determined
23 under the provisions of section 71 of this Act, the Customs value shall be the
24 transaction value of identical goods sold for export to Nigeria and exported at
25 or about the same time as the goods being valued.

26 (2) In the application of the provision of this section, the transaction
27 value of identical goods in a sale at the same commercial level and in
28 substantially the same quantity as the goods being valued shall be used to
29 determine the Customs value and where no such sale is found, the transaction
30 value of identical goods sold at a different commercial level or in different

1 quantities, adjusted to take account of differences attributable to
2 commercial level or to quantity, shall be used, provided that such adjustment
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
8 of the imported goods.

9 (4) In determining Customs value under this section, the addition
10 to transaction value authorized by subsection 10 of section 71 of this Act
11 shall be taken into account.

12 73.-(1) Where the Customs value of the imported goods cannot be
13 determined under the provision of sections 71 and 72 of this Act, the
14 Customs value shall be the transaction value of similar goods sold for export
15 to Nigeria and exported at or about the same time as the goods being valued.

Transaction
value of similar
goods

16 (2)-(a) in the application of the provision of this section, the
17 transaction value of similar goods in a sale at the same commercial level and
18 substantially the same quantity as the goods being valued shall be used to
19 determine the Customs value;

20 (b) when no such sale is found, the transaction value of similar
21 goods sold at a different commercial level or in different quantities, adjusted
22 to take account of difference attributable to commercial level or to quantity,
23 shall be used,

24 (c) provided that such adjustments can be made on the basis of
25 demonstrated evidence which clearly establishes the reasonableness and
26 accuracy of the adjustment, whether the adjustment leads to an increase or a
27 decrease in value.

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

1 (4) In determining Customs value under this section, the additions to
2 transaction value authorized by subsection (10) of section 71 of this Act shall
3 be taken into account.

Deductive
value

4 74.-(1) Where the Customs value of the imported goods cannot be
5 determined under the provisions of sections 71, 72 and 73 of this Act, the
6 Customs value shall be determined under the provisions of this section, or
7 where not possible, under the provisions of section 75 of this Act, except that at
8 the request of the declarant, the order of application of this section and section
9 75 of this Act shall be reversed.

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

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

20 (b) the usual cost of transport and insurance and associated costs
21 incurred within the country of importation; and

22 (c) the Customs duties and other taxes and charges payable in Nigeria
23 by reason of the importation or sale of the goods.

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

1 (4) Where neither the imported goods nor identical nor similar
2 imported goods are sold in Nigeria in the condition imported, then, if the
3 declarant so requests, the Customs value shall be based on the unit price at
4 which the imported goods, after further processing, are sold in the greatest
5 aggregate quantity to persons in Nigeria who are not related to the persons
6 from whom such goods were bought, due allowance being made for the
7 value added by the further processing and the deductions provided for in
8 section (2) of this section.

9 75.-(1) The Customs value of imported goods under the provisions Computed value
10 of this section shall be based on a computed value consisting of the sum of-

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

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

17 (c) in determining Customs value under this section, the additions
18 to transaction value authorized by section 71 of this Act shall be taken into
19 account.

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

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

28 76.-(1) Where the Customs value of the imported goods cannot be Residual value
29 determined under the provisions of sections 71, 72, 73, and 74 of this Act,
30 the Customs value shall be determined using reasonable means consistent

1 with the principles and general provisions of relevant International Convention
2 on Implementation of Article VII of General Agreement on Tariff and Trade
3 1994 and on the basis of data available in Nigeria.

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

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

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

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

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

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

15 (f) minimum Customs values; or

16 (g) arbitrary or fictitious values.

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

Delay in the
determination
of Customs
value

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

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

26 78. The valuation methodology contained in sections 71, 72, 73, 74,
27 75 and 76 of this Act shall be used to determine the value of goods for export
28 and for the assessment of all duties, taxes and fees on imports, exports and the
29 collection of statistics.

- 1 79. Nothing in the valuation methodology contained in sections 71, Right of the
2 72, 73, 74, 75 and 76 of this Act shall be construed to restrict or question the Customs Service
3 right of the Customs Service to satisfy itself as to the truth or accuracy of any to investigate
4 statement, document or declaration presented for Customs valuation value claims
5 purposes.
- 6 80. The country of origin of goods shall be determined to enable Origin of goods
7 the application of-
- 8 (a) the respective rate of Customs duties pursuant to applicable
9 law; and
- 10 (b) any quantitative restrictions on the importation of goods in
11 Nigeria.
- 12 81.-(1) Goods wholly obtained in a single country or territory shall Rules of origin
13 be 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 exploited from its soil, territory water 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
27 territory solely from products of the kind covered by paragraph (f) of this
28 subsection;
- 29 (h) products extracted from marine soil or subsoil outside that
30 country's or territorial waters provided that the Country or Territory has sole

1 rights to work that soil or subsoil;

2 (i) scrap and waste from manufacturing and processing operations
3 and used article collected in that Country or Territory and fit only for the
4 recovery of raw materials;

5 (j) goods produced in that Country or Territory solely from products
6 referred to in paragraphs (a)-(i) of this subsection.

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

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

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

Preferential
rules of origin

14 **82.-(1)** Rules of origin shall be divided into non- preferential and
15 preferential rules.

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

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

23 (4) Goods shall be deemed to be of Economic Community of West
24 African States and other preferential origin if they originate from an Economic
25 Community of West African State and other preferential origin, as determined
26 by the applicable preferential rules of origin.

Non-preferential
rules of origin

27 **83.** Non-preferential rules of origin apply to all goods except those
28 good that benefit from preferential rules of origin as result of an applicable
29 International Agreement or unilateral action by the Government.

1 84.-(1) When an origin has been indicated in the Customs Evidence of origin
2 declaration, the Customs Service may require the declarant to prove the
3 origin of the goods.

4 (2) Documentary evidence of origin shall be a declaration of origin
5 in English Language by the manufacturer or exporter or a certificate issued
6 by a designated authority in the country of production.

7 (3) Declarations and certificates of origin may be verified pursuant
8 to Mutual Assistance Agreements between the Service and other Customs
9 administrations of other countries and by other means.

10 (4) Where the declarant provides proof of origin of goods, the
11 Service may, in the event of reasonable doubt, request for any additional
12 evidence needed in order to prove origin.

13 PART X - CUSTOMS DEBT AND PAYMENT

14 85.-(1) A Customs debt on importation shall be incurred through Customs debt
15 the placing of goods liable to import duties, Excise taxes, other taxes and on importation
16 fees under the following Customs procedures-

17 (a) release for free circular; and

18 (b) any other Customs procedure that results in the imposition of
19 import duties, Excise taxes, other taxes and fees.

20 (2) A Customs debt shall be incurred at the time of acceptance of
21 the Customs Declaration by the Service,

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

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

Customs debt
on exportation

1 86.-(1) A Customs debt on exportation shall be incurred through the
2 placing of goods liable to export duties, Excise taxes, other taxes and fees under
3 the export procedure, the outward processing procedure, or any other export
4 procedure that result in imposition of duties, Excise taxes, other taxes and fees
5 where applicable.

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

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

Customs debt
through non-
compliance

16 87.-(1) For goods liable to import or export duties, Excise taxes, other
17 taxes and fees, a Customs debt on importation or exportation is incurred for
18 non-compliance with any of the following-

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

23 (b) an obligation laid down in any Customs legislation concerning the
24 end-use of goods within the Customs territory; and

25 (c) a condition governing the placement of goods, under a Customs
26 procedure or the granting, by virtue of the end-use of goods, of a duty,
27 Excise tax, other tax or fee exemption or reduce rate.

28 (2) A Customs debt is incurred when-

29 (a) an obligation giving rise to the Customs debt is not fulfilled or
30 ceases to be fulfilled;

1 (b) a Customs declaration is accepted for the placing of goods
2 under a Customs procedure where it is established subsequently that a
3 condition governing the placing of the goods under that procedure or the
4 granting of a duty, Excise tax, tax or fee exemption or reduced rate was not
5 fulfilled.

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

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

9 (b) was aware or ought reasonably to have been aware that an
10 obligation under any Customs legislation was not fulfilled and who acted on
11 behalf of the person who was under a duty to fulfill the obligation;

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

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

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

19 88. Where two or more persons are liable for payment of one
20 Customs debt, they shall be jointly and severally liable for the full amount of
21 the debt.

Joint and several
liability of debtors

22 89.-(1) A Customs debt is incurred at the place where the Customs
23 declaration is lodged and in all other cases, at the place where the event from
24 which the debt arose took place

Place where
Customs debt is
incurred

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

28 (3) Where the good have been entered for a Customs procedure
29 which has not been discharged, and the place cannot be determined as
30 provided in subsection (1) of the section within a specified period of time,

1 the Customs debt shall be deemed to have been incurred at the place where the
2 goods were placed under the applicable Customs procedure or were introduced
3 into or exported from the Customs territory under that procedure.

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

Notification of
Customs debt
and entry into
accounts

7 90.-(1) The debtor shall be notified of the Customs debt in the form
8 prescribed by the Service, at the place where the Customs debt is incurred or is
9 deemed to have been incurred.

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

12 (a) where, pending a final determination of the amount of duty, Excise
13 tax, other tax and fees owed, a provisional Customs debt determination has
14 been made; and

15 (b) In other cases, where the Service is exempted by legislation or
16 regulation from notifying the debtor of the Customs debt.

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

20 (4) A person shall not be liable for a Customs debt for which a notice
21 was not served as required under this section and section 90 of this Act.

22 (5) Notice of Customs debts which are negligible shall not be served
23 to a debtor and for the purpose of this subsection negligible shall have the
24 meaning assigned to it by Regulations.

Limitation on
Customs debt

25 91.-(1) A debtor shall not be notified of a Customs debt after the
26 expiration of seven years' period from the date on which the Customs debt was
27 incurred.

28 (2) Where a Customs debt was incurred as a result of an act for which a
29 criminal prosecution was conducted, the seven years' period referred to in
30 subsection (1) of this section shall not apply.

1 (3) Where an appeal is lodged in accordance with the provisions of
2 this Act, the period referred to in subsections (1) and (2) of this section shall
3 not apply from the date on which the appeal is lodged until the appeal is
4 finally determined.

5 92.-(1) A Customs debt shall be paid by the debtor within the
6 period prescribed by the Service and stated in the notification.

Payment of
Customs debt

7 (2) Unless extended by the Service, the prescribed period for
8 payment of a Customs debt shall not exceed thirty days following a
9 notification.

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

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

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

16 (c) where the Customs debt was incurred as a result of non-
17 compliance with this Act or other relevant Legislations involving more than
18 one debtor; or

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

20 (4) Payment shall be made by the debtor to the Service by
21 electronic funds transfer or by other electronic means.

22 (5) Cash payments of Customs debt shall not be accepted.

23 (6) Notwithstanding the provision of subsection (5) of this section,
24 the Service may accept credit cards, bank cheques and cash payments to
25 facilitate travelers and low value shipments as may be defined by
26 Regulations, or where electronic means of payments as may be defined by
27 Regulations, or where electronic means of payment are not available.

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

Deferment of
payment

1 93.-(1) At the request of a debtor and upon the provision of a
2 guarantee and a proof of fulfilling the criteria set out in Part XII of this Act for
3 special simplified treatment, the Service may permit deferment of payment of
4 the duty, Excise tax, other taxes and fees for a period of thirty days.

5 (2) Where payment is deferred, the period of deferment shall begin on
6 the day following the day on which the debt is notified to the debtor.

Enforcement,
payment arrears
and interest

7 94.-(1) Where a Customs debt remains unpaid within the prescribed
8 period, the Service shall take all necessary legal measures to recover the debt.

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

Repayment and
Remission of
Customs duties,
taxes and fees

14 95.-(1) A Customs duty, Excise tax, other taxes and fees made to the
15 Service may be repaid or remitted by the Service on the grounds that-

16 (a) payee was overcharged;

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

18 (c) Customs declaration was invalidated;

19 (d) an error was made by Service; or

20 (e) there are equitable considerations requiring repayments.

21 (2) Repayment and remissions may be made at the request of the
22 person concerned, his representative or by the Service.

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

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

1 (5) The interest paid shall be the Monetary Policy Rate or other
2 appropriate rate applied by the Central Bank of Nigeria at the time
3 repayment was due.

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

9 96.-(1) A Customs debt shall be terminated or cancelled by-

Termination of
cancellation of
Customs duties

10 (a) payment of the amount of the debt;

11 (b) remission by the Service of the amount of the debt;

12 (c) invalidation of the Customs declaration giving rise to the debt;

13 (d) confiscation of the goods giving rise to the debt; or

14 (e) the total destruction and irretrievable loss of the goods.

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

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

24 PART XI - CUSTOMS GUARANTEES AND SECURITY

25 97.-(1) The Service may require a guarantee to be provided to
26 ensure-

Guarantee for
existing of potential
Customs debt and
performance of
conditions on
requirement

27 (a) the payment of the amount of duties, Excise taxes, other taxes
28 and fees corresponding to a Customs debt; and

29 (b) the performance or conditions or requirements imposed under
30 any applicable law.

1 (2) In special circumstances, where a monetary penalty has been
2 imposed or goods subject to seizure are released pending the resolution of the
3 penalty action, the Service may, at its discretion, request for a guarantee equal
4 to the lesser of the value of the goods or the monetary penalty may be required.

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

8 (4) The third person guarantor' referred to in subsection (3) of this
9 section is an Authorized Dealer Bank.

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

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

23 (7) Guarantees shall be required from Federal or State Government
24 Agencies or Local Government Councils in respect of the activities in which
25 they engage as public authorities.

Compulsory
guarantee

26 98.-(1) Guarantees shall be required for-

27 (a) Customs Licensed Agents;

28 (b) Customs Warehouse and Free zones;

29 (c) freight forwarders and transport firms;

30 (d) traders that import or export goods valued at an annual amount to

1 be determined from time to time by the Service; and

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

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

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

12 (4) When a comprehensive guarantee as defined in subsection (6)
13 of section 97 of this Act is provided for the Customs debts, the amount of
14 such guarantee shall be set by the Service at a level enabling the Service debt
15 to be covered by the guarantee at all times.

16 99.-(1) A person may opt to submit a guarantee to the Service and
17 the submission of such a guarantee shall be taken into consideration in
18 determining whether expedited treatment as provided in part XIII of this Act
19 is to be given to the person's goods.

Optional
guarantee

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

24 100.-(1) A guarantee may be provided in anyone of the following
25 forms-

Forms and choice
of guarantee

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

29 (b) by an undertaking given by a guarantor such as financial
30 Institutions, insurance or similar person approved by the Service;

1 (c) by any other forms of guarantee defined in Regulations made
2 under this Act, and approved by the Service Board, providing an equivalent
3 assurance that the amount of a Customs debt, present or future, will be paid.

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

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

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

Guarantor and
for of Guarantee
to be approved
by the Service

11 101.-(1) For the purpose of this Act, a guarantor must be a third person
12 established in the Customs territory and approved by the Service.

13 (2) The guarantor shall enter into a binding agreement to pay the
14 secured amount of duties, Excise taxes, other taxes and fees constituting
15 a Customs debt.

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

Comprehensive
Guarantee

20 102.-(1) Comprehensive guarantee provided for pursuant to the
21 provision of subsection (6) of section 97 of this Act may be granted only to
22 persons that-

23 (a) are established in the Customs territory;

24 (b) have a demonstrated record of compliance with the Customs and
25 tax requirements;

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

29 (2) Where a comprehensive guarantee is to be provided for a Customs
30 debt, a person may be authorized to use a comprehensive guarantee with a

1 reduced amount provided that the following criteria are met-

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

5 (b) proven financial solvency based upon audited accounting
6 records.

7 **103.** When the Service establishes that a guarantee provided does
8 not adequately ensure payment of the amount guaranteed within the
9 prescribed period, it shall require the persons responsible for the guarantee
10 to provide an additional guarantee covering any additional liability or to
11 replace the original guarantee with a new guarantee, provided all such
12 guarantees are duly confirmed.

Additional of
replacement
guarantee

13 **104.** The Service shall release a guarantee upon the full and [mal
14 payment of the Customs debt covered by the guarantee.

Release of
guarantee

15 **PART XII - CUSTOMS REPRESENTATIVES AND AUTHORISED**

16 **ECONOMIC OPERATORS**

17 **105.**-(1) A person shall have the choice of transacting the business
18 of importation, exportation, movement and storage of goods, and other
19 business with the Service either directly or by designating a Licensed
20 Customs Representative to act on his behalf.

Appointment of
Customs
representative
Licensed Agent,
etc.

21 (2) Any such person electing to transact business with the Service
22 on his own account shall have fulfilled all the licensing requirements
23 imposed by this Act or Regulations made under this Act.

24 (3) Where a person elects to do Customs business on his own
25 account shall not be treated favorably nor be subject to more stringent
26 requirements than those transactions which are handled for the person
27 concerned by a Customs Representative and a Customs representative shall
28 have the same rights as his principal when conducting Customs business.

29 (4) A Customs Representative shall be established within the
30 Customs territory and shall be subject to-

1 (a) the licensing and regulatory requirements imposed by this Act and
2 Regulations made under this Act;

3 (b) must be a certified member of a Freight Forwarding Association as
4 approved by the Federal Government .

Customs
representative
require to disclose
identity of principal

5 106.-(1) Customs Representative may be either directly, in which
6 case the Customs Representative shall act in the name of and on behalf of
7 another person, or indirectly, in which case the Customs Representative shall
8 act in his own name but on behalf of another person.

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

Customs officer
and not as the
Customs
representatives

12 107.-(1) An Officer under employment in the Service shall not engage
13 in business as a Customs representative for any person.

Requirements
for acting as a
Customs
Representative

14 108.-(1) A person shall not for compensation make entry of, or lodge a
15 goods declaration for another person or act for another person in connection
16 with other Customs transactions unless Licensed pursuant to the provisions of
17 this Act and Regulations made under this Act.

18 (2) The Service shall make regulations concerning the licensing and
19 regulating of Customs Representatives, including qualifications regarding
20 citizenship, residence, and knowledge of the Laws, Regulations and Customs
21 procedures of the Federal Republic of Nigeria required for a person to engage
22 in the business of a Customs Representative.

23 (3) A person shall not be Licensed as a Customs representative, or
24 maintain a License as a Customs Representative if he has-

25 (a) been convicted of a Customs offence or other criminal offence in
26 the past ten years; or

27 (b) consistently failed to fulfill his obligations to Principals or to the
28 Service, including repeated instance of gross negligence or infringement of
29 Customs Rules and Regulations; or

30 (c) failed to pay the License fee required by the Service and to comply

1 with other licensing requirements;

2 (d) Is not a registered member of an approved Freight Forwarding
3 Association in Nigeria; or

4 (e) If he is not a citizen of Nigeria.

5 (4) The Service shall provide prompt written notice to a Customs
6 Representative of a decision not to conduct business with that
7 Representative, setting forth reasons for its refusal to conduct business.

8 (5) Customs Representatives shall be liable to the Service for the
9 prompt payment of all Customs debts imposed on their Principals and on
10 themselves and they shall be subject to penalties for failure to meet these
11 obligations, as may be provided in this Act and in Regulations made under
12 this Act.

13 (6) Before any person is licensed as a Customs Representative, he
14 shall furnish a guarantee in the form and for the amount as the Service may
15 require pursuant to Regulations made under this Act.

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

20 (8) The Service shall also maintain a registry of authorized
21 Customs Representatives on the Service's website.

22 (9) The record keeping provisions contained in this Act shall apply
23 to Customs Representatives.

24 (10) Any person who carries on business as a Customs
25 Representative in violation of the provisions of subsection (1) of this section
26 commits an offence and is liable on conviction to two years' imprisonment
27 or a fine of N1,500,000.00 or both.

28 (11) Any licensed Customs Representative who violates the
29 provisions of this Act or Regulations made under this Act shall be liable to
30 such penalties as may be prescribed in the Regulations.

Right to formal
consultants with
the Customs
Service

1 109. The Service shall from time to time hold consultations with
2 Customs Representatives together with the traders.

Authorized
Economic
Operators

3 110.-(1) A person who is established in the Customs territory and who
4 meets the conditions set out in this part may apply to the Service to be
5 designated as an Authorized Economic Operator as set out in section 113 of this
6 Act.

7 (2) The Service may designate an applicant as a "Customs
8 Simplification Authorized Economic Operator" or as a security and
9 safety authorized economic operator".

10 (3) A Customs Simplification Authorized Economic Operator shall be
11 entitled to simplified Customs procedures, as is provided in this Act and I
12 Regulations made under this Act.

13 (4) A security and safety Authorized Economic Operator shall be
14 entitled to simplified Customs procedures relating to security and safety; as is
15 provided in this Act and Regulations made under this Act.

16 (5) The provisions of this Part shall become effective ninety days after
17 the Service issues regulations providing for the procedures for this Part.

Customs
simplification
Authority
Economic
Operator

18 111. A Customs Simplification Authorized Economic Operator may
19 be authorized by the Service to use the following special procedures-

20 (a) release of goods from Customs control on the provision of
21 minimum information necessary to identify the goods and permit subsequent
22 completion of a goods declaration;

23 (b) clearance of good at the declarant's premises;

24 (c) use of single goods declaration for all imports or exports during a
25 given time period when goods are imported and exported frequently by the
26 same person;

27 (d) use of commercial records to self-assess duty, Excise tax, other tax
28 and fee liability and to ensure compliance with other Customs requirements;

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

1 (f) other simplified procedures that may from time to time be
2 authorized by the Service.

3 112. A security and safety Authorized Economic Operator may be
4 authorized by the Service to use the following special procedures-

Security and
safety Authorized
Economic Operator

5 (a) a reduced data set for release of good from Customs control;

6 (b) expedited processing and release of goods;

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

8 (d) priority use of non-intrusive inspection techniques when
9 inspection is required;

10 (e) access to Customs offices and Customs personnel after normal
11 hour in order to expedite shipments, provided the safety of the Officer is
12 guaranteed;

13 (f) priority processing during periods of elevated threat conditions
14 or security incidents;

15 (g) priority consideration of applications for Customs
16 Simplification Authorized Economic Operator status; and

17 (h) other simplified procedures relating to security and safety that
18 may from time to time be authorized by the Service.

19 113.-(1) The criteria for granting the status of Customs
20 Simplification Authorized Economic Operator are-

Criteria for granting
status as Authorized
Economic Operator

21 (a) demonstrated compliance with Customs and tax requirements;

22 (b) a satisfactory system of managing commercial and, where
23 appropriate, transport records, allowing appropriate Customs controls;

24 (c) good financial standing;

25 (d) established procedures for communicating with the Service and
26 measurement, analysis and adequacy and integrity of the prompt reporting
27 violations of Customs law to the Service;

28 (e) regular education and training of personnel regarding Customs
29 procedures;

30 (f) demonstrated practical standards of competence and

- 1 professional qualifications directly related to simplified procedures;
2 (g) provision of a financial guarantee;
3 (h) use of modern information and communications technology
4 including electronic data exchange; and
5 (i) implementation of required security standard.

6 (2) The criteria for granting the status of Security and Safety
7 Authorized Economic Operator shall be the following-

- 8 (a) demonstrate compliance with Customs and tax requirements;
9 (b) a satisfactory system for managing commercial, and where
10 appropriate, transport records, allowing appropriate Customs controls;
11 (c) good financial standing;
12 (d) established procedures for communicating with the Service and
13 promptly reporting security concerns to the Service;
14 (e) regular education and training of personnel regarding security,
15 procedures;
16 (f) a system to protect confidential security information;
17 (g) use of modern information and communication technology,
18 including electronic data exchange;
19 (h) implementation of crisis management and incident recovery
20 procedures; and
21 (i) implementation of monitoring, improvement processes to ensure
22 the security management system.

23 (3) The Service shall issue Regulation providing necessary
24 clarification for the criteria contained in this section, and the development of
25 these Regulations and specifics of the criteria shall be in collaboration with
26 private sector stakeholders.

27 114. The status of a Customs Simplification Authorized Economic
28 Operator or security and safety authorized economic operator may be
29 suspended or revoked by the Service if the Authorized Economic Operator fails
30 to comply with the conditions contained in this Part and regulations made

1 pursuant to the provisions of this Part.

2 PART XIII - STATUS OF GOODS AND CUSTOMS PROCEDURES

3 115.-(A) Types of Declarations and Customs Procedures:

4 (1) A Customs Declaration appropriate for a particular procedure
5 shall be submitted to the Service by the person concerned for goods intended
6 to be placed under a Customs procedure.

Customs
declaration of
goods placed
under Customs
procedure etc.

7 (2) The Service shall require the lodgment of an original
8 declaration electronically, except for simplified declarations for low value
9 shipments or personal declarations and other exceptions, as may be
10 provided for by regulations.

11 (3) To support goods declaration, the Service shall demand for
12 documents required for Customs control or for compliance with applicable
13 Customs procedure and to ensure that all requirements of Customs and
14 Excise laws have been complied with.

15 (4) All supporting documents used to facilitate the processing of
16 the declaration must be in English language.

17 (5) A goods declaration shall be lodged in connection with
18 following procedures-

19 (a) release for free circulation;

20 (b) re-importation;

21 (c) exportation;

22 (d) transit or transshipment;

23 (e) warehousing or duty free shops;

24 (f) drawback;

25 (g) temporary admission into the Customs territory with the
26 declared intention of subsequent exportation;

27 (h) destruction of goods or rejection of goods in favour of the
28 Government; and

29 (i) special procedures.

Simplified
Declaration

1 116.-(1) The Service may authorize declarants to place goods under a
2 Customs procedure on the basis of a simplified declaration which may not
3 require some of the particulars and supporting documents normally requested
4 for.

5 (2) The use of simplified declarations may be authorized III the
6 following circumstances-

7 (a) for low value shipments;

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

11 (c) for travelers; or

12 (d) for authorized economic operators; or

13 (e) for emergency relief consignments.

14 (3) For Authorized Economic Operators, a simplified declaration may
15 take the form an entry in the declarant's records.

16 (4) The Service shall make regulations containing the required
17 content of simplified declarations providing for when such simplified
18 declaration may be used.

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

Post Entry
Modification

22 117.-(1) When a declarant submits a simplified declaration to the
23 Service pursuant to the provision of section 116 of this Act and the declarant is
24 an Authorized Economic Operator or has submitted a simplified declaration
25 because the declaration did not have all the information required to make a full
26 declaration, the declarant shall submit to the Service further particulars
27 necessary to complete a full declaration for the Customs procedure concerned.

28 (2) For authorized economic operators, this further submission of
29 particulars for the goods concerned may be of periodic and recapitulative
30 nature.

1 (3) The time periods for submission of such further particulars
2 shall be set by Regulations issued by the Service.

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

6 (5) When the simplified declaration takes the form of an entry in
7 the declarant's record and access to those records by the Service using
8 electronic data exchange, the declaration shall take effect from the date on
9 which the goods are entered in the declarant's records.

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

12 118.-(1) The Service shall determine by regulations the location
13 and competence of the various Customs offices situated in the Customs
14 territory.

Competent
Customs Officers

15 (2) Where a Customs office is located at a common border
16 crossing, to the extent possible, the Service shall correlate the business hours
17 and competence of such an office with the Customs administration of the
18 concerned foreign country.

19 (3) At common border crossings the Service shall, as far as
20 practicable, operate joint Customs controls with the Customs administration
21 of the concerned foreign country.

22 (4) To the extent possible, the Service shall establish adjacent or
23 joint Customs office at common border crossings to facilitate joint controls
24 with the Customs administration of the concerned foreign country.

25 (5) To facilitate trade, Customs offices shall operate reasonable and
26 appropriate hours, taking into account the nature of the traffic and of the
27 goods and Customs procedure at the location or place in question.

28 (6) The Service may extend the normal working hours of a
29 Customs offices to facilitate trade and in such instances; a cost-based user
30 fee may be assessed by the Service on persons using these special services.

Centralized
Customs clearance

1 119.-(1) The Service may authorize a person to lodge at the Customs
2 office with jurisdiction over that person's principal place of business, a
3 Customs declaration for goods which are to be presented to another Customs
4 office and in such cases, the Customs debt shall be deemed to be incurred at the
5 Customs office at which the Customs declaration is lodged.

6 (2) The custom office at which the Customs declaration is lodged
7 shall carry out the formalities for verification of the declaration, payment of the
8 Customs debt, and for granting release of the goods.

9 (3) The Customs office at which the goods are presented shall carry
10 out any examination requested by the Customs office at which the Customs
11 declaration is lodged and shall release the goods, taking into account
12 information received from that office.

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

17 (5) The Service shall issue regulations for this section governing the-

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

20 (b) conditions when such authorizations may be suspended or
21 revoked;

22 (c) specific roles of the Customs' offices involved; and

23 (d) time for completion of all Customs formalities.

24 PART XIV - RELEASE OF GOODS

Release to free
circulation
procedure

25 120.-(1) Goods intended for use or consumption within the Customs
26 territory shall be placed under the release for free circulation procedure.

27 (2) Release for free circulation entails the-

28 (a) collection of duties, Excise taxes, other taxes fees, and the
29 Customs debt due;

30 (b) application of any commercial policy measures, prohibitions and

1 restrictions so long as the procedure were not applied at an earlier stage; and

2 (c) completion of any other formalities required in respect of the
3 importation of the goods.

4 121.-(1) The Service shall with the order of court, direct the
5 disposal of goods by sale, destruction as prescribed in this Act or as the
6 Customs Management may deem fit, in cases where-

Sale, disposal
or destruction
of goods

7 (a) one or more of the obligations imposed by the Customs Law
8 concerning the introduction of goods into the Customs territory has not been
9 fulfilled, or the goods have been withheld from Customs control;

10 (b) the goods cannot be released on the ground that-

11 (i) it has not been possible, for reasons solely attributable to the
12 declarant, to undertake or continue examination of the goods within the
13 period prescribed by the Service; or

14 (ii) the documents which must be produced before the goods can be
15 placed under, or release from, a Customs procedure requested have not been
16 made available by the declarant;

17 (iii) payment or a guarantee which should have been made or
18 provided in respect of a Customs debt have not been made or provided
19 within the period prescribed; or

20 (iv) the goods are subject to prohibitions or restrictions.

21 (c) the goods have not been removed from Customs custody within
22 such time as Customs regulations may provide after their release;

23 (d) after their release, the goods are determined by the Service not
24 to have fulfilled the condition for their release; and

25 (e) goods are abandoned to the Government in accordance with the
26 provisions of this Part.

27 (2) Goods which have been abandoned to the Government, seized
28 or confiscated shall be deemed to be placed under the temporary storage
29 procedure;

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

1 final sales, destruction or disposal of the goods;

2 (4) The Goods shall be disposed by Public auction or tender whose
3 dates shall be adequately publicized in advance through national newspapers,
4 television and the website of the Nigerian Customs in English;

5 (5) The Value so determined shall form the reserve price; in all cases
6 the procedure for the auction of all goods under this section shall be established
7 by the Board from time to time.

8 (6) The sales by Auction Act shall not apply to sales under the
9 Customs and Excise Laws when conducted by an officer authorized by the
10 Board.

Abandonment
of goods

11 122. Where a person imports goods into the Customs territory and
12 abandons such goods, the person or the holder of the goods shall bear the cost of
13 destruction or disposal of the goods.

14 PART XV - WAREHOUSES

Warehousing
of goods, etc.

15 123.-(1) Goods may be admitted to a Customs warehouse under the
16 warehouse procedure by any person with the right to dispose the goods stored
17 or to be stored without the payment of duties, Excise taxes, other taxes and fees.

18 (2) A general Customs warehouse may be used by any person and a
19 private Customs warehouse may be used by the person designated where
20 necessary to meet the special requirement of trade.

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

23 (4) A government warehouse is a place provided by the Government
24 and designated by the Service for the deposit of seized or forfeited goods and
25 for other purposes relating to the enforcement of the Customs and Excise laws,
26 where not available, the Terminal Operators shall provide a place designated as
27 Government Warehouse.

Licensing of
warehouses
and warehouse
keepers

28 124.-(1) A warehouse shall not be operated as a Customs warehouse
29 without a License issued by the Service to the warehouse keeper.

30 (2) The Service may make regulations for licensing warehouses and

1 warehouse keepers which Regulations may make provisions-

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

3 (b) for proof of financial solvency; and

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

6 (3) The Service may, upon application made to it on the prescribed
7 form-

8 (a) License any building as a warehouse for the deposit of goods for
9 warehouse purposes; or

10 (b) may, where the application has failed to fulfill the prescribed
11 conditions for the grant of a License, refuse to issue a License to the
12 applicant.

13 (4) Where the Service has issued a License to the applicant
14 pursuant to the provision of this section, it may at any time revoke the
15 License.

16 (5) A building may be Licensed by the Service as-

17 (a) a general bonded warehouse, for the warehousing of goods
18 which are the property of the warehouse keeper or of any other person; or

19 (b) a private bonded warehouse, only for the warehousing of goods
20 which are the property of the warehouse keeper.

21 (6) A License issued under this section shall-

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

23 (b) conform with such terms and conditions as the Service may by
24 regulations prescribe;

25 (c) be subject to the payment of such fees as may be specified by the
26 Service; and

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

28 (7) A License shall not be issued to an applicant under this Part until
29 the applicant has-

30 (a) furnished a bank guarantee for the due payment of all duties,

1 Excise taxes, other taxes and fees in an amount as the Service may require;

2 (b) provide any additional guarantee as the Service may require; and

3 (c) give an undertaking to comply with Customs and Excise Laws.

4 (8) A warehouse keeper who without the prior written approval of the
5 Service makes any alteration to, or addition to, a warehouse shall be liable to a
6 penalty of N10,000,000 and upon review may, at the determination of the
7 Service, have the License revoked.

8 (9) A warehouse keeper who uses his warehouse, or permits the
9 warehouse to be used, in contravention of the conditions of the License shall be
10 liable to a penalty of N10,000,000.00 or revocation of the License or to both.

11 (10) An owner or occupier of a building who use the building or
12 permits it to be used, for the deposit of goods for warehousing purposes without
13 a valid License issued pursuant to the provision of this section shall be liable to
14 a penalty of N20,000,000.00 and, in addition to a penalty of N1,000,000.00 for
15 each day, or part of a day, during which the building is used or is permitted to be
16 so used for warehousing purposes.

Termination of
Warehouse
License

17 **125.-(1)** The Service shall give a written notice of intention to revoke
18 or not to renew the License of a warehouse three months prior to the date the
19 revocation is to take effect or the License is due to expire.

20 (2) The notice referred to in subsection (1) of this section shall specify
21 the date the License is due to terminate and shall be deemed to have been served
22 on all persons interested in any goods deposited in that warehouse if addressed
23 and served on the warehouse keeper.

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

27 (4) Where-

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

1 (b) after the notice has been served, any goods deposited for
 2 warehousing in the warehouse, the proper Officers may, take the goods to a
 3 Government warehouse, and the Service may, for good cause, permit such
 4 goods to be re-warehoused in another warehouse.

5 **126.-(1)** A bonded warehouse keeper shall at his own expense-

Warehouse
keeper to provide
facilities

6 (a) provide and maintain at the warehouse office accommodation
 7 and related facilities conducive for work by a proper Officer and other
 8 employees at the warehouse as the Service may prescribe;

9 (b) provide and maintain appropriate working tools, equipment
 10 and appliances, and such other facilities, for examining, securing and taking
 11 account of goods, as the Officer in charge may require;

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

15 (d) provide all necessary labour and materials for the storing,
 16 examining, packing, marking, coopering, weighing and taking stock of the
 17 warehouse goods whenever the Officer so requires.

18 (2) Where any warehouse keeper fails to comply with any of the
 19 provisions of this section, the Service may direct that no further goods shall
 20 be warehoused by that warehouse keeper until compliance by the warehouse
 21 keeper with any requirement prescribed to the satisfaction of the Service.

22 (3) A warehouse keeper who contravenes any direction given by
 23 the Service under the provision of subsection (2) of this section shall be
 24 liable to a penalty of 20,000,000 in addition to a fine of 1,000,000.00 for each
 25 day, or part of a day, during which such contravention continues.

26 **127.-(1)** The Service may by Regulations specify the times at
 27 which goods may be received and removed from a warehouse.

Removal of goods
and receiving of
goods into a
warehouse

28 (2) Where goods are received or removed in contravention of this
 29 section, or Regulations made by the Service in pursuant to this section, the
 30 bonded warehouse keeper and the person responsible for removing the

1 goods shall be liable on conviction to 5 years' imprisonment or a penalty of
2 20,000,000.00 or both and repeated violations of the provision of this section
3 may result in the revocation of the warehouse License.

Warehousing
procedure

4 **128.**-(1) Upon the arrival of any goods at a bonded warehouse, the
5 warehouse keepers shall immediately report the arrival to the Proper Officer,
6 and where the warehouse keeper fails to report the arrival of any goods, he shall
7 be liable to a fine of N3,000,000.

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

11 (3) Except as otherwise provided in this Part or as may be permitted
12 by the Service, all goods shall be warehoused in containers or lots in which they
13 were entered for warehousing; and any goods warehoused in contravention of
14 the provision of this subsection shall be forfeited.

15 (4) The warehouse keeper shall mark the containers or lots of
16 warehoused goods in such manners as the Proper Officer in charge may direct
17 and shall, subject to any such further directions, the warehouse keeper shall
18 keep the goods so marked while they are warehoused.

19 (5) A warehouse keeper who fails to comply with the provisions of
20 subsection (4) of this section shall be liable to a penalty of N3,000,000.00.

21 (6) The Service shall issue regulations governing warehousing
22 procedures.

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

25 (8) Information and communication technology shall be applied to
26 warehousing procedures and record keeping to the extent practicable in
27 international best practice.

Customs control
of warehouses,
etc.

28 **129.**-(1) The Service shall maintain Customs control over public and
29 private Customs warehouses and such control measures may include-

30 (a) a requirement that warehouses be double locked, secured by both a

1 lock of the warehouse keeper and of the Service;

2 (b) permanent or intermitted supervision by Proper Officers;

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

4 (d) unannounced spot checks.

5 (2) The Customs office responsible may give direction to the
6 warehouse keeper on the parts of a warehouse where goods may be kept and
7 the manner in which goods are to be deposited and kept.

8 (3) Where goods are deposited contrary to any directions of the
9 Service, the warehouse keeper shall be liable to a fine of N3,000,000.00.

10 (4) The Service may by regulations impose special conditions,
11 consistent with industrial standards for the storage of hazardous materials.

12 (5) The Service may place restrictions on any part of the warehouse
13 at any time for administrative purpose.

14 (6) Goods of a combustible or inflammable nature or with
15 characteristics requiring special care, storage or treatment shall not be
16 warehoused together with other goods not requiring such special care or
17 storage or treatment shall not be warehoused together with other goods not
18 requiring such special care or treatment.

19 (7) Except as otherwise provided for in this section or is permitted
20 or directed by the Service, if goods deposited in a warehouse are moved
21 from the part of the warehouse in which they were deposited, or any
22 alteration is made to the goods, marks, numbers of such goods, their
23 containers or lots, such goods shall be forfeited.

24 (8) Goods admitted into a warehouse shall be withdrawn from the
25 warehouse not later than one (1) year after admission into a warehouse.

26 130. The warehouse keeper shall produce to the Service, on
27 request, any goods deposited in his warehouse which have not been lawfully
28 removed from the warehouse and where he fails to produce the goods, he
29 shall on conviction be liable to a fine of six times the value of the goods or
30 imprisonment for a term of five (5) years or to both.

Responsibility
for production
and safe custody
of warehouse
goods

Repacking and
other authorized
operations

1 131. A person entitled to dispose warehoused goods shall be allowed,
2 for reasons deemed valid by the Service, to perform the following operations in
3 respect of the warehoused goods, to-

4 (a) Inspect them;

5 (b) take samples, without payment of duties, Excise taxes, other taxes
6 and fees;

7 (c) carry out operations necessary for the preservation of the goods;
8 and

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

12 (e) Any person who contravenes any condition imposed by the
13 Service under this section shall be liable to a fine of N500,000.00.

Additional
provision regarding
warehoused goods

14 132.-(1) The transfer of ownership of warehoused goods shall be
15 allowed.

16 (2) Where goods are found to have deteriorated, spoilt or damaged,
17 for reasons other than force majeure while under the warehouse procedure,
18 such goods shall be allowed to be declared under the release for free circulation
19 procedure in their deteriorated or damaged state or for destruction at owner's
20 expense if the claimed deterioration or damage is substantiated through
21 examination by the Service.

22 (3) The Service may direct the disposal of goods deteriorated, spoilt
23 or damaged for reasons other than force majeure at the owners' expense in
24 cases where the goods may endanger health or contamination of other goods in
25 storage.

Removal of
warehouse goods

26 133.-(1) Before any goods are removed from a warehouse, the
27 proprietor or owner of the goods shall deliver to the Officer responsible, a
28 declaration in such form and manner as provided for in this Act and regulations
29 made under this Act.

30 (2) Goods shall be deemed to have been duly declared under this

1 section when the declaration has been accepted and signed by the Officer.

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

5 (4) Warehoused goods shall not be removed from a warehouse
6 except with the authority of, and in accordance with any direction given by,
7 the Customs office responsible.

8 134.-(1) Where a Customs warehouse is closed, the person
9 concerned shall be given ninety days after written notice of the closure to
10 remove their goods to another Customs warehouse or place the goods under
11 another Customs procedure.

Closure of a
warehouse

12 (2) Failure to remove goods from a closed warehouse within the
13 time allotted by the Services shall result in forfeiture of the goods.

14 135.-(1) Any person who, except with the authority of the proper
15 officer, opens any of the doors or locks of a bonded warehouse or
16 Government warehouse or makes or obtains access to any such warehouse
17 or Government warehouse or to any goods warehoused therein shall be
18 liable to a fine of ten million naira (N10,000,000.00), or to imprisonment for
19 five years, or both.

General offence
relating to
warehouse

20 (2) Any person who fails to leave any bonded warehouse or
21 Government warehouse or any part of a bonded warehouse or Government
22 warehouse when requested to do so by any officer shall be liable to a fine of
23 five million naira (N5,000,000.00), or to imprisonment for three years, or
24 both.

25 (3) Any person who, except as permitted under this Act, willfully
26 destroys or damages any goods in a bonded warehouse or Government
27 warehouse shall be liable to a fine of ten million naira (N10,000,000.00), or
28 to imprisonment for five years, or both.

29 (4) If-

30 (a) except as permitted by the Service, any goods which have been

1 entered for warehousing are removed without being duly warehoused or are
2 otherwise not duly warehoused; or

3 (b) any goods which have been deposited in a warehouse or
4 Government warehouse are unlawfully removed therefrom; or

5 (c) any goods entered for warehousing are concealed either before or
6 after they have been warehoused, those goods shall be liable to forfeiture, and
7 any person who removes or conceals any goods as aforesaid shall be liable to a
8 fine of Twenty-Five Million Naira (25,000,000), or to imprisonment of ten
9 years, or both.

10 PART XVI - SPECIAL ECONOMIC ZONE PROCEDURE

Relationship
between the
Customs Service
and free zones

11 136.-(1) The location and area of operation of a Special Economic
12 Zone shall be as may be determined by applicable Laws, Rules and Regulations
13 on Export Processing Zone or Oil and Gas Special Economic Zone or such
14 other Laws and as may be made from time to time.

15 (2) The perimeter, entry and exit points of the area of Special
16 Economic Zone shall be subject to Customs supervision, and persons, goods
17 and means of transport entering or leaving a shall be subject to Customs
18 controls.

19 (3) Goods admitted into a Special Economic Zone shall undergo
20 processes necessary for operations, improved packaging, marketable quality,
21 or preparation for shipment, consumption in the zone or delivery into the
22 Customs territory.

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

26 (5) The Service in collaboration with administrative authority of a
27 Special Economic Zone may issue regulations governing examination,
28 unstuffing, value addition, processing and manufacturing operations
29 conducted in a free zone.

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

1 pertaining to Special Economic Zone procedure, or the implementing
2 regulations, shall be liable to a penalty of N30,000,000.00 or imprisonment
3 for five years, or both.

4 137.-(1) Subject to the provisions of any law establishing Special
5 Economic Zone generally or relating to any specific free zone, any
6 industrial, commercial or service activity shall be permitted in a Special
7 Economic Zone and the carrying on of such activities, shall be subject to
8 advance notification to the Service.

Buildings and
activities in a
free zone

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

13 138.-(1) Foreign or domestic goods admitted into a Special
14 Economic Zone shall undergo the prescribed Customs procedures
15 applicable to Special Economic Zone.

Goods brought
into a Special
Economic Zone
and requirement
for guarantee

16 (2) Evidence of the Special Economic Zone status for the goods as
17 obtained by the Licensee from the relevant authority shall be a part of the
18 document to be submitted to the Customs office responsible before the
19 goods are moved to the designated stacking area.

20 139.-(1) Where goods are admitted from a Special Economic Zone
21 into the Customs territory, such goods shall be placed under the appropriate
22 Customs procedure and extant import Laws including payment of duties,
23 taxes and fees.

Special Economic
Zone goods
imported into
Customs territory

24 (2) Where goods are admitted from a Special Economic Zone into
25 the Customs territory and placed under a Customs procedure the goods shall
26 be deemed as non- Economic Community of West African States goods or
27 other non-preferential goods unless their origin as Economic Community of
28 West African States or preferential goods has been established pursuant to a
29 Special Economic Zone procedure.

30 (3) Goods may be admitted into the Customs territory from a

1 Special Economic Zone using special expedited treatment procedures,
2 including the Customs Scheduling System also referred to as the 'urgent release
3 procedure, for time sensitive operations, provided that the payment of all
4 Customs debts are guaranteed by a transaction bond.

5 (4)(a) Where goods are exported from a Free Zone, for the purpose of
6 applying export formalities, the goods shall not be regarded as goods unless it
7 is established that the goods have Customs status of Economic Community of
8 West African States goods;

9 (b) and be processed in accordance with all extant taxes, duties and
10 Excise fees.

Customs control
measures
applicable into
Special Economic
Zone

11 140. The following Customs control measures shall be applicable in
12 free zone-

13 (a) Special Economic Zone shall be managed in a manner that ensures
14 safety and accounting of goods consistent with Customs procedure applicable
15 in free zone;

16 (b) proper accounts of goods introduced into Special Economic Zone
17 shall be kept using special registers or the relevant declaration and information
18 technology shall be used for effective control of the circulation of goods;

19 (c) the Service may at any time carry out checks of goods stored in
20 warehouses or any storage facilities located within a free zone;

21 (d) periodic audits of records, quantity counts of goods in a Special
22 Economic Zone inventory, spot checks of selected transactions or procedures,
23 and review of record keeping, security or conditions of storage in a Free Zone;

24 (e) Officers knowledgeable in a Special Economic Zone procedures
25 shall be assigned to Free Zones as may be necessary for the proper application
26 of Customs control measures and Special Economic Zone operators shall
27 provide sufficient office space in the Special Economic Zone for Officers to
28 carry out their responsibilities; and

29 (f) additional control measures may be applied, in consultation with a
30 Special Economic Zone authority, in accordance with the provisions of this Act

1 and as may be prescribed by Regulations made under this Act.

2 141. Goods admitted into a Special Economic Zone which is
3 entitled to exemption from or repayment of import duties and taxes when
4 exported shall qualify for such exemption or repayment when introduced
5 into a Free Zone.

Exemptions and
refunds of duties
and taxes

6 142. For Customs control measures, persons carrying on business
7 in a Special Economic Zone shall maintain manual or automated inventory
8 control and record keeping systems or combination of both systems capable
9 of-

Inventory and
record keeping
systems

10 (a) accounting for all goods, including goods of Nigerian,
11 Economic Community of West African States origin or other countries
12 temporarily deposited, admitted, stored, exhibited, manipulated,
13 manufactured, destroyed, transferred, or removed from a Free Zone;

14 (b) producing accurate and timely reports and documents as may
15 be required by the Service;

16 (c) identifying shortage and overages of goods in a Special
17 Economic Zone in sufficient detail to determine the quality, description,
18 tariff classification, Special Economic Zone status, and value of the missing
19 or excess goods;

20 (d) providing all the information necessary to make entry for goods
21 being transferred to the Customs territory; and

22 (e) providing an audit trail to Customs forms from admission
23 through manipulation, manufacture, destruction or transfer of merchandise
24 from a Special Economic Zone either by Special Economic Zonal or
25 Customs authorized inventory method.

26 143.-(1) In exceptional circumstances as may from time to time be
27 determined by the Special Economic Zone authority, a limit may be imposed
28 on the duration of stay of goods in a Free Zone.

Duration of stay
of goods and
closure of zone

29 (2) In the event of the closure of a Free Zone, persons carrying on
30 approved activities in the Special Economic Zone shall be given six-month

1 notice from the date of closure of the Special Economic Zone to remove their
2 goods to another Special Economic Zone or to place the goods under another
3 Customs procedure.

4 (3) Goods not removed or placed under another Customs procedure
5 within the six months' period provided in subsection (2) of this section shall be
6 forfeited.

7 (4) The Service may extend the period referred to in subsection (3) of
8 this section where reasonable grounds exist for the extension.

9 PART XVII - TEMPORARY ADMISSION PROCEDURE

Scope of
temporary
admission

10 144.-(1) Under the temporary admission procedure, non- Economic
11 Community of West African States goods intended for re-export may be
12 admitted into the Customs territory with total or partial relief from duties,
13 Excise taxes and other taxes, and fees without subjecting the goods to
14 commercial policy measures where the entry of the goods are not prohibited.

15 (2) Customs regulations shall provide circumstance in which
16 temporary admission may be granted.

17 (3) In appropriate cases, temporary admission shall not be granted to
18 goods already admitted under another Customs procedure or consumable
19 goods.

20 (4) Goods admitted on temporary basis shall be permitted to undergo
21 procedure necessary for preservation while in the Customs territory.

22 (5) The temporary admission procedure may be used where-

23 (a) the goods are not intended to undergo any change, except normal
24 depreciation resulting from use;

25 (b) It is possible to ensure that the goods placed under the temporary
26 admission procedure can be identified, except where, due to the nature of the
27 goods or the intended use, the absence of identification measures is not likely to
28 result in abuse of the procedure;

29 (c) the person using the temporary admission procedure must not be
30 established outside the Customs territory;

1 (d) there is a clear intention to re-export the goods on the part of
2 persons who owns or controls the goods;

3 (e) a guarantee is submitted covering the duties, Excise taxes, other
4 taxes and fees that the goods will be assessed if the goods are not re-
5 exported;

6 (f) the Service specifies a time limit for re-exportation as provided
7 for in section 145 (3) of this Act;

8 (g) use of the goods is limited to the declared purpose of the
9 temporary admission; and

10 (h) all additional requirement for total or partial duty relief
11 imposed by International Agreement or Customs Regulations are met.

12 145.-(1) The Service shall determine the period within which
13 goods placed under the temporary admission procedure must be re-exported
14 or placed under a different Customs procedure.

Period for
temporary
admission
procedure

15 (2) The maximum period during which the goods may remain
16 under the temporary admission procedure for the same purpose and under
17 the responsibility of the same authorization holder shall be twelve months.

18 (3) In exceptional cases, when the authorized use cannot be
19 achieved within the allotted time period, the Service may extend the period
20 for temporary admission for an initial one year and extension of 6 months,
21 and another 6 months if necessary, which shall be final.

22 (4) Where the extension is not enough for authorized use, the goods
23 shall be converted for home use, otherwise the goods shall be re-exported.

24 146. Prior authorization may be required by the Service for certain
25 temporary admissions and in those instances that are in line with the
26 provision of this Act or where temporary admission procedure accords with
27 Government acceptable Convention on Temporary Admission, documents
28 and guarantee issued by an International Organization recognized by
29 Government acceptable Convention, shall be accepted by the Service in lieu
30 of the submission of a declaration for temporary admission procedure and

Prior authorization
and acceptance of
international
documents

1 guarantee as provided for in this Part.

2 PART XVIII - DRAWBACKS

Meaning and
application of
the drawback
procedure

3 147.-(1) "Drawback" means the amount of duties, Excise taxes,
4 remissions, abatement and other taxes repaid under the drawback procedure.

5 (2) A drawback of duties, Excise taxes, remissions, abatement and
6 other taxes may be paid in respect of-

7 (a) imported goods subsequently exported in the same condition as
8 imported;

9 (b) imported goods used or consumed in goods manufactured in the
10 Federal Republic of Nigeria which are subsequently exported; or (c) imported
11 goods, where the same quantity of domestic or imported goods of the same
12 class or kind is used in goods manufactured in the Federal Republic of Nigeria
13 which are subsequently exported.

14 (3) For the purpose of subsection (2) of this section, goods shall be
15 deemed to be exported if they are-

16 (a) placed in any area that may be declared a Special Economic Free
17 Zone, a Customs warehouse, a duty-free shop, or otherwise exported;

18 (b) designated as stores pursuant to this Act and supplied for use on
19 board a conveyance outside the Customs territory;

20 (c) used for equipment, repair or construction of ships or aircraft as
21 may be prescribed by Regulations; or

22 (d) used or designated for use in such other manner as may be
23 prescribed by the Service.

24 (4) An application for drawback shall be in such form and manner as
25 may be prescribed by Regulations;

26 (5) An application for drawback of duties, Excise taxes and other
27 taxes paid on imported goods shall be made within one year from the date of
28 exportation of the imported goods.

29 (6) Notice of an intent to apply for drawback shall be submitted to the
30 Service at the time a declaration is lodged to import goods that will be subject to

1 the drawback procedure; provided that the Service shall not deny the
2 payment of drawback on grounds that at the time of importation of the
3 goods, the declarant did not declare the intention of claiming a drawback
4 upon exportation.

5 (7) A drawback shall not be granted unless the person applying for
6 drawback provides such documentary evidence in support of the application
7 as may be required by the Service.

8 (8) A drawback shall be paid as soon as possible after the claim has
9 been verified and the payment of drawback shall be made, whenever
10 possible, by electronic means.

11 (9) The Service shall issue regulations for the effective
12 implementation of the provisions of this section.

13 148.-(1) Drawbacks shall be calculated by deducting from the
14 amount of duties, Excise taxes and other taxes paid on the goods, an amount
15 equivalent to the proportionate cost to the Service for administering the
16 drawback programme.

Calculation of
drawbacks

17 (2) The amount of drawback shall be reduced by the value of any
18 merchantable scrap or waste resulting from the manufacturing process.

19 149.-(1) Where any person obtains or attempts to obtain, or does
20 anything for any person to obtain any amount as drawback of any duty or tax
21 in respect of any goods which a person is not lawfully entitled to or which is
22 greater than the amount he is entitled to, such a person commits an offence
23 and-

Offences and
penalties relating
to drawback

24 (a) if the offence is committed with intent to defraud, the person
25 shall on conviction be liable to a fine of N10,000,000.00, or three years'
26 imprisonment, or both.

27 (2) Any goods in respect of which an offence under subsection (1)
28 of this section is committed, shall be forfeited.

1 PART XIX - EXPORT PROCEDURE AND COASTWISE CARRIAGE OF GOODS

Exporter to lodge
export declaration

2 150.-(1) Goods destined to leave the Customs territory including Oil
3 and Gas shall be covered by an export declaration lodged at the relevant
4 Customs office before the goods are taken out of the Customs territory.

5 (2) The provision of subsection (1) of this section shall not apply to
6 goods carried on any means of transport passing through the territorial waters
7 or air space of Nigeria only or that are subject to the international transit
8 procedure.

Customs
supervision and
exit formalities

9 151.-(1) Goods leaving the Customs territory shall be subject to
10 Customs supervision and may be subject to Customs controls and where
11 appropriate, the Service may determine the route to be used for exportation and
12 the time limit for the goods to leave the Customs territory.

13 (2) Goods leaving the Customs territory shall be presented to the
14 Customs office at the place of exit or at any other place designated by the
15 Service and the following exit formalities shall apply-

16 (a) collection of export duties and fees, if applicable;

17 (b) repayment or remission of import duties, Excise taxes, and other
18 taxes; and

19 (c) application of prohibitions and restrictions on exports relating to-

20 (i) public morality, policy or security;

21 (ii) protection of the health and life of humans, animals or plants;

22 (iii) protection of the environment;

23 (iv) protection of national treasures possessing artistic, historical or
24 archaeological value;

25 (v) the protection of intellectual property;

26 (vi) money laundering and other cash transfers contrary to law;

27 (vii) fishery conservation; and

28 (viii) commercial policy measured.

29 (3) Goods leaving the Customs territory shall be presented to the
30 Service by the-

- 1 (a) exporter; or
2 (b) person in whose name or on whose behalf the person who
3 exports the goods acts; or
4 (c) person who assumed responsibility for carriage of the goods
5 prior to their export.
6 (4) Release for exit shall be granted to condition that the goods
7 leave the Customs territory in the same condition as when the export
8 declaration was accepted.
9 (5) The Service may not require evidence of the receipt of the
10 goods at their destination.

11 152.-(1) Where any person-

12 (a) except as provided under this Act, exports or is involved in
13 exporting-

14 (i) any goods chargeable with a duty which has not been paid; or

15 (ii) any goods contrary to any prohibition; or

16 (b) loads for exportation or as stores or brings to any place in
17 Nigeria for the purpose of exporting or loading as stores any goods the
18 exportation of which is contrary to any prohibition, or assists or is involved
19 in the loading/bringing of the goods with intent to evade any duty or any
20 prohibition, the person commits an offence and liable on conviction to-

21 (i) imprisonment for a term of two years without the option of a
22 fine;

23 (ii) forfeiture of the goods where the exportation is prohibited; or

24 (iii) where duty is chargeable, a fine of 3,000,000.00 or two times
25 the value of goods, whichever is greater.

26 (2) Where a person, except as provided under this Act-

27 (a) loads or causes to be loaded any goods into a ship, aircraft or
28 vehicle for exportation or as stores, or removes or causes to be removed any
29 goods from a Customs territory for exportation before the export declaration
30 has been accepted by the Service;

Penalties for
improper
exportation of
goods

1 (b) exports or causes to be exported, or brings or causes to be brought
2 to any place in Nigeria for exportation before goods concealed in a container
3 holding goods of a different description; or

4 (c) directly or indirectly exports or declares for exportation or causes
5 to be exported or declare for export any goods found not to correspond with the
6 declaration made, he shall be liable on conviction to imprisonment of a term of
7 five years without the option of a fine.

8 (3) Where goods loaded or retained on board any ship, aircraft or
9 vehicle for exportation or as stores are unloaded in Nigeria without a written
10 authorization or permit by the Proper Officer, and unless any duty chargeable
11 and unpaid on the goods is paid or and drawback paid in respect of the goods
12 repaid; the master of the ship, the captain of the aircraft, or any person in charge
13 of the vehicle or involved in the unloading, reloading, landing or carrying of the
14 goods from the ship, aircraft or vehicle without authorization, permit, payment
15 or repayment, shall upon conviction, be liable to a fine of N50,000,000.00 or
16 ten years imprisonment, and the goods shall be forfeited.

Temporary
export procedure
and return of
goods in the
same state

17 153.-(1) Goods that were exported may be imported into the Customs
18 territory free of duties, Excise taxes and other taxes under temporary export
19 procedures, provided that the goods have not undergone any manufacturing
20 processing or repairs aboard.

21 (2) Temporary export may be made applicable to both Economic
22 Community of West African States origin goods and non- Economic
23 Community of West African States origin goods.

24 (3) Goods declared as temporary export are not eligible for the refund
25 or remission of import duties, Excise taxes and other taxes on exportation.

26 (4) Imports of temporary exports in the same state shall be allowed,
27 where-

28 (a) only a part of the exported is imported;

29 (b) the temporary exports are imported by a person other than the
30 person who exported the goods;

1 (c) the goods have been used or damaged or have deteriorated
2 during their stay outside the Customs territory;

3 (d) the goods have undergone operations or necessary maintenance
4 processes, provided that their value at exportation has not been enhanced by
5 those processes; and

6 (e) the goods returned were initially placed under another Customs
7 procedure, provided that any duties, excise taxes and other taxes remitted or
8 refunded on exportation are repaid.

9 (5) The declaration for goods placed under the temporary exports
10 procedure shall include a notice of the exporter's intent to return the goods;
11 provided that the import of temporary exports may be allowed without a
12 declaration of intent on justifiable grounds.

13 (6) The Service shall specify by Regulations the requirement
14 relating to the identification of the goods subject to the notice of intent to
15 return.

16 (7) Goods exported with a notice of intent to return may be granted
17 conditional relief from any applicable export duties and taxes.

18 (8) Return of temporary export in the same state shall be allowed
19 for a period not exceeding eighteen months from the date of the exportation
20 of the goods or in exceptional cases, when the authorized use cannot be
21 achieved within the allotted time period, the Service may extend the period
22 for temporary exportation.

23 (9) Goods declaration in writing shall not be required for
24 temporary exports of packings, containers, pallets and means of transport
25 for commercial use which are in use for international transport of goods;
26 unless the Service is satisfied that these packings, containers, pallets and
27 means of transport for commercial use can be properly identified and that
28 any duties, Excise taxes, other taxes and fees chargeable have been paid.

29 154.-(1) Coastwise carriage of goods procedure means the
30 Customs procedure under which goods in free circulation and imported

Procedure of
coastwise carriage
of goods

1 goods are conveyed when the goods are-

2 (a) transported in a vessel other than the vessel in which the goods
3 were brought into the Customs territory; and

4 (b) loaded on board a vessel at a place in the Customs territory and
5 transported to another place in the Customs territory, where the goods are
6 unloaded.

7 (2) The Service may, subject to such condition and restriction as it
8 may impose, permit goods brought by an importing ship to a Customs port in
9 the Customs territory but consigned to and intended to be delivered at some
10 other Customs port to be transferred under the coastwise carriage of goods
11 procedure to another ship for carriage by sea to that other Customs port.

12 (3) For the purpose of this Act, goods transferred and carried in
13 accordance with subsection (2) of this section shall be deemed to be carried
14 coastwise.

15 (4) Imported goods carried coastwise pursuant to the provision of this
16 section shall not be unloaded at the Customs port of destination until a
17 declaration under another Customs procedure has been made, except where the
18 goods are-

19 (a) unloaded for deposit in a Customs control zone pursuant to the
20 temporary storage procedure provided for in this Act and duly deposited in the
21 Customs control zone; or

22 (b) admitted into a Special Economic Zone.

23 (5) The Service shall allow goods to be transported under the
24 coastwise carriage of goods procedure on board a vessel carrying other goods
25 at the same time, provided that all the goods can be identified and all other
26 Customs requirement will be fulfilled.

27 (6) For the purpose of Customs control, the Service may require that
28 goods in free circulation being transported under the coastwise carriage of
29 goods procedure be separated from other goods carried on board a vessel.

30 (7) The Service may affix identification marks, Customs seals or use

1 other Customs control measures to facilitate identification of the goods.

2 (8) Prior to a coastwise carriage of goods, the Service shall require
3 the master of the vessel or other person responsible, to present only a single
4 document giving details of the vessel, listing the goods to be carried under
5 the coastwise carriage of goods procedure and stating the port(s) in the
6 Customs territory at which the goods are to be unloaded.

7 (9) The document referred to in subsection (8) of this section shall
8 on approval by the Service constitute the authorization for the conveyance
9 of goods under the coastwise carriage of goods procedure.

10 (10) The Service Regulations may designate the ports that are
11 approved for loading and unloading of goods subject to the coastwise
12 carriage of goods procedure and the hours during which loading and
13 unloading may be carried out.

14 (11) Where the transport of goods under the coastwise carriage of
15 goods procedure is interrupted by accident or force majeure, the master of
16 the vessel or other person responsible shall take reasonable precaution to
17 prevent the goods from entering into unauthorized circulation and to
18 promptly advise the Service of the nature of the accident or other
19 circumstances that interrupted the journey.

20 (12) The Service shall allow goods under the coastwise carriage of
21 goods procedure to be loaded or unloaded upon arrival of the vessel at the
22 place of unloading or loading.

23 **155.** In this part, "Transire" means a permit for goods to pass Transire
24 through or across one Customs control zone to another.

25 (1) Subject to the provision of this section and except as permitted
26 by the Board, before any consignment is moved from any Customs control
27 zone to another, the importer or his representative thereof shall deliver to the
28 proper officer an account of the cargo in such form and manner and
29 containing such particulars as the Service shall direct, and that account when
30 dated and signed by the proper officer shall be the transire, that is to say, the

1 clearance of the consignment from that port or place and the pass for any goods
2 to which the account relates.

3 (2) Where the goods taken on board a means of conveyance are to be
4 carried to different places, the applicant shall deliver a separate account
5 relating to the goods taken on board for each such place.

6 (3) The Service may, subject to such condition as it deems fit to
7 impose, grant a general transire in respect of any means of transport and any
8 goods carried therein.

9 (4) The Board may, subject to such conditions as it sees fit to impose,
10 grant special transire in respect of any ship exclusively engaged in fishing.

11 (5) Any such general or special transire may be revoked by the
12 Service by notice in writing delivered to the applicant or the owner of the ship.

Power to prohibit
coastwise carriage
of goods

13 156. The President may by order prohibit the coastwise carriage of
14 any goods excepts as may be provided in the order.

Offence in
connection with
coastwise carriage
of goods

15 157.-(1) Where:

16 (a) a vessel carrying goods under the coastwise carriage of goods
17 procedure departs from any place without sufficiently accounting for the goods
18 and without a transire duly delivered to the Service;

19 (b) a coasting vessel deviates, without prior permission from her
20 scheduled voyage except for some unavoidable cause, the proof of which shall
21 lie on the master of vessel; or

22 (c) a coasting vessel deviates from her voyage or takes on board or
23 discharges any goods at sea without prior permission and the master does not
24 report that fact in writing at the first Customs port or other place in the Customs
25 territory at which the ship arrives thereafter, the master of such ship shall be
26 liable to a penalty of N25,000,000.00 or five years' imprisonment or both.

27 (2) Goods which are loaded, carried, unloaded or otherwise dealt with
28 in contravention of the provision of this section or of any condition imposed by
29 the Service under this section shall be forfeited.

30 (3) Where goods are carried coastwise contrary to any prohibition or

1 are brought to any place in the Customs territory for the purpose of being so
2 carried, the goods shall be liable to forfeiture and any person concerned in
3 the coastwise carriage or the intended coastwise carriage of such goods shall
4 be liable to a fine of N25,000,000.00 or five years' imprisonment or both.

5 **158.** In this Part "stores" means-

Stores

6 (a) goods intended for consumption by the passengers and crew on
7 board vessels, aircraft and other means of conveyance, whether for sale or
8 not;

9 (b) goods necessary for the operation and maintenance of vessel,
10 aircraft and other means of conveyance; or

11 (c) goods for sale to the passengers and crew of vessels, aircraft and
12 other means of conveyance with a view to being landed, which are either on
13 board during arrival or are taken on board during the stay in the Customs
14 territory.

15 (2) Stores shall be exempted from the payment of duties, Excise
16 taxes and other taxes if retained on board the vessel, aircraft or other
17 conveyance while in the Customs territory, and the quantities of such stores
18 are deemed reasonable having regard to the number of passengers and crew,
19 and to the length of stay of the conveyance, provided the length of any of the
20 stay is considered reasonable.

21 (3) Stores may be issued to members of the crew of a vessel
22 undergoing repairs in a dock or shipyard in the Customs territory, provided
23 the stay in a dock or shipyard is considered to be of a reasonable duration.

24 (4) The operator of a ship, aircraft, or other conveyance shall take
25 appropriate measures to prevent the unauthorized use of stores, including
26 sealing when necessary.

27 (5) Treatment of goods as stores shall apply equally, regardless of
28 the Country of registration or ownership of the vessel, aircraft or other
29 conveyance.

30 (6) The requirement for a goods declaration shall be dispensed with

1 for stores, provided a stores' inventory in a form acceptable to the Service is
2 maintained on board the vessel, aircraft or other conveyance.

3 (7) Stores on board a vessel, aircraft or other conveyance that have
4 arrived in the Customs territory shall be allowed-

5 (a) to be placed under another Customs procedure, subject to
6 compliance with the relevant conditions; or

7 (b) subject to prior authorization from the Service, to be transferred to
8 other vessels, aircraft or other conveyances engaged in international traffic.

9 (8) Based on the application of risk management, the Service may,
10 from time to time, take inventory of stores on board, and after the quantities
11 permitted have been issued, place the remainder under Customs seal.

12 (9) On account of mandatory Customs control, the Service may
13 require the removal of stores from the vessel, aircraft or other conveyance for
14 secure storage in another place during the stay of the conveyance in the
15 Customs territory.

16 (10) Vessels and aircraft which depart from the Customs territory to a
17 foreign destination shall be entitled to take on board, free of duties, Excise
18 taxes and other taxes-

19 (a) stores for consumption by the passengers and the crew, and stores
20 to be taken away in such quantities as the Service may deem reasonable, having
21 regard to the number of passengers and crew, the length of voyage or flight, and
22 quantities of stores already on board; and

23 (b) stores for consumption necessary for operation and maintenance
24 of the vessel or aircraft, in such quantities as are deemed reasonable for
25 operation and maintenance during the intended voyage or flight, having regard
26 to any quantity of stores already on board.

27 PART XX - CROSS BORDER E-COMMERCE, POSTAL AND

28 EXPRESS SHIPMENTS

29 159. In this Part, unless the context otherwise requires-

30 "cross-border e-Commerce" is all transactions which are affected digitally

1 through a computer network (e.g., the internet), and result in physical goods
2 flows subject to Customs formalities;

3 "postal items" means letter-post and parcels, as described in the Acts of the
4 Universal Postal Union, when carried by or for the postal service; "express
5 shipments" means the international transport of small packages of goods or
6 correspondence by air or a combination of air and surface transport on an
7 expedited basis using courier service;

8 "postal service" means any public or private body authorized by the
9 Government to provide the international service governed by the Acts of the
10 Universal Postal Union;

11 "e-Commerce Stakeholder" is a party involved in e-Commerce transaction
12 and may include; sellers/vendors, platforms, marketplaces,
13 buyer/consumer, brokers, express carriers, logistic providers, postal
14 operators, and payment providers;

15 "low-value shipment" is goods classified under categories 2 and 3 in the
16 World Customs Organization (WCO) Guidelines for the Immediate Release
17 of Consignments by Customs;

18 "carrier" is the person actually transporting goods or in charge of or
19 responsible for the operation of the means of transport;

20 "de minimis threshold" is a minimum value and/or a minimum amount of
21 duties and taxes, established by the national legislation, below which no
22 duties and taxes will be collected;

23 "fulfillment house/centre" is a warehouse which may be run on behalf of a
24 third-party business and provides primary services which includes order
25 management, break bulk services, warehouse management, inventory
26 controls, unpacking and repacking of goods, printing of relevant
27 commercial/shipment documentation, processing returns, and repair
28 services;

29 "e-commerce platform/marketplace" is a party which operates an
30 information network system that provides web pages as a virtual trading

1 venue where both parties (consumers/buyers and vendors) can buy/sell goods;
2 "CN22" and "CN23" mean the special declaration forms for postal items as
3 described in the Acts of the Universal Postal Union;
4 "scales" includes weights, measures, weighing and measuring machines or
5 such similar instruments used for the weighing of goods.

e-Commerce
and Express
shipping procedures

6 160.-(1) The Service shall-

7 (a) provide for a separate and expedited procedure for express
8 shipments;

9 (b) provide adequate facilities for the processing of express
10 shipments;

11 (c) permit express shipments to be processed at the facility of the
12 courier service under appropriate Customs controls;

13 (d) maintain a high degree of control over express shipments by use of
14 risk management, internal security, tracking technology, and other appropriate
15 control measures; and

16 (e) allow submission through electronic means of a single manifest
17 covering all goods contained in a shipment transported by express shipment
18 service;

19 (f) Collect and share appropriate data with e-commerce stakeholders
20 and Partner Government Agencies, as it may become necessary under the
21 prevailing circumstances;

22 (g) The Service shall put in place a standing cross border e-commerce
23 committee whose duties will be to continually review the clearance procedures
24 of cross border e-commerce shipments with the aim of meeting current realities
25 and trade facilitation.

26 (2) Persons/ Carriers transporting express shipments shall submit all
27 information necessary for the release of the express shipment electronically to
28 the Service prior to the arrival of the express shipment.

29 (3) (a) Where a satisfactory guarantee has been submitted covering,
30 potential liability for duties, Excise taxes, other taxes and fees, express

1 shipments shall in the usual course, be released for free circulation or in
2 accordance with a requested Customs procedure within six hours after
3 arrival of the shipment and submission of the necessary documents to the
4 Service;

5 (b) The Service shall put in place the appropriate Customs
6 procedure as stated in sub-section 3(a) and publish such procedures for ease
7 of adoption and implementation.

8 (4)(a) The Service may by Regulation put in place a nominal value
9 or a de Minimis threshold under which shipments may be exempted from the
10 payment of duty, Excise taxes and the requirement of formal entry
11 document. which shall be determined solely based on data analysis and
12 Government policy;

13 (b) The nominal value or de minimis threshold shall be determined
14 solely through data analysis, Government fiscal and monetary policies.

15 (5) The Service may assess fees limited to the actual cost of the
16 services provided for express shipment services.

17 (6) The Service shall make Regulations to give effect to the
18 provisions of subsection (1) (a) of this section; and such Regulation shall
19 commence ninety days after it is made.

20 **161.** The Service may enter into a Memorandum of Understanding
21 with the postal services which shall specify the respective responsibilities of
22 the Service and the postal service in respect of the Customs treatment of
23 postal items.

Administrative
responsibility for
postal and
e-Commerce items

24 **162.**-(1) (a) The customs clearance of postal items/low value
25 shipments shall be carried out expeditiously;

Clearance of
postal items and
low value shipments

26 (b) For the purpose of clearance, postal items/low value shipments
27 shall be classified under categories 2 and 3 in the World Customs
28 Organization Guidelines for the Immediate Release of Consignments
29 except where circumstances dictate otherwise as determined by the Service
30 Management;

1 (c) The Service shall put in place the appropriate and simplified
2 procedure or system to enable payment of import duties and taxes for items
3 delivered to the addressee.

4 (2) The importation of postal items shall be allowed whether or not
5 they are intended to be released for free circulation or placed under another
6 Customs procedure.

7 (3) The postal service shall produce postal items for the purposes of
8 Customs control.

9 (4) The Service may not require the following categories of postal
10 items to be provided-

11 (a) post cards and letters containing personal messages only;

12 (b) literature for the blind; and

13 (c) printed papers not subject to duties, Excise taxes, other taxes and
14 fees.

15 (5) Appropriate Forms shall constitute the goods declaration for
16 postal items where all the information required by the service are contained on
17 those Forms.

18 (6) Declarations made on the Appropriate Form shall be required in
19 the following instances-

20 (a) shipments above the nominal value or de minimis threshold as
21 may be specified by Regulations;

22 (b) goods subject to prohibition or restrictions or to export duties,
23 Excise taxes, or other taxes;

24 (c) goods, the export of which must be certified; or

25 (d) imported goods intended to be placed under a procedure other than
26 release for free circulation.

27 (7) (a) Postal items or low value shipment shall not be subject to
28 Customs formalities when conveyed in transit, except in the case involving
29 fulfilment houses or centre;

30 (b) Where such shipments are stored in a fulfilment house or centre

1 within Nigeria before onward transit to another territory, Customs
2 formalities shall be guided by international agreements.

3 (8) The procedures for the collection of any duties, taxes and fees
4 on postal items or low value shipments shall be simplified.

5 (9) Where the Service may not be able to collect duties and Excise
6 taxes directly, subject to the terms of a Memorandum of Understanding
7 between the Service and the Postal service, the Postal service may collect
8 any duties, taxes and fees due at the time the postal items are delivered and
9 remit the amount collected to the Federation account in line with the import
10 guideline and documentation requirements.

11 (10) Failure to remit duties, taxes and fees collected to the
12 Federation account shall become an offence and liable on conviction to a
13 fine of N20,000,000.00 or to imprisonment of not less than five years, or
14 both.

15 163. Where imported postal items are not delivered or rejected by
16 the addressee, repayment or remission of import duties and taxes shall be
17 granted upon request in respect of goods contained in the post items,
18 provided that the goods are-

19 (a) re-exported; or

20 (b) destroyed or abandoned without cost to the Service.

21 (2) The Service shall put in place the appropriate and simplified
22 procedure or system to enable remission of import duties and taxes for items
23 not delivered or rejected by the addressee.

24 (3) Postal services and carriers shall make full disclosure of all
25 postal items or low value shipment not delivered or rejected by the
26 addressee, and on which duties and taxes have been paid and remissible.

27 PART XXI - TRAVELERS AND DUTY-FREE SHOPS

28 164. In this Part, unless the context otherwise requires-

29 "traveler" means-

30 (a) any person who does not normally reside in Nigeria, who enters

Repayment of
remission of duties
and taxes by
Customs Service

Definition under
this Part

1 and leaves Nigeria ('a non-resident'), or,

2 (b) any person who normally reside in Nigeria, who leaves and returns
3 to Nigeria ('a returning resident');

4 "personal effect" means all articles, new or used, which a traveler may
5 reasonably require for personal use during a journey, taking into account all the
6 circumstances of the journey, but excluding any goods imported or exported
7 for commercial purposes as determined by Regulations;

8 "means of transport for private use" means road vehicles or trailers, boats or
9 aircraft together with their spare parts and normal accessories and equipment,
10 imported or exported exclusively for personal use by a person and not for the
11 transport of person for remuneration, industrial or commercial transport of
12 goods;

13 "dual channel system" means a simplified Customs controls system allowing
14 travelers on arrival to make a declaration by choosing between two types of
15 channels; one channel, identified by green symbols, is for the use of travelers
16 carrying goods in quantities or value not exceeding those admissible duties free
17 and which are not subject to import prohibitions or restrictions; and the other,
18 identified by red symbols, is for other travelers; and

19 "Duty free shop" means a shop under Customs control, generally located at an
20 exit point, such as an airport or seaport or national boundary, at which travelers
21 leaving or entering Nigeria may purchase goods free of duties and taxes.

Customs office
for travelers

22 **165.-(1)** The Service shall designate Customs offices at which
23 Customs formalities relating to travelers may be carried out.

24 (2) In determining the location and responsibility of Customs offices
25 and the hours of business, the Service shall take into account the geographic
26 locations where travelers enter and exit the Customs territory, the modes of
27 transportation and the volumes of passenger traffic at the locations.

Facilities of
travelers

28 **166.-(1)** The Service shall facilitate international travelers, consistent
29 with the application of appropriate Customs controls, to ensure that-

30 (a) internationally standardized electronic advance passenger

1 information shall, where feasible, be used to apply risk management and
2 facilitate the Customs control of travelers and the clearance of their goods;

3 (b) whenever possible, the dual channel system shall be used for
4 the Customs control of travelers and the clearance of their accompanying
5 goods carried and their means of transport for private use;

6 (c) oral declarations in respect of personal effects of travelers may
7 be accepted;

8 (d) transit passengers who do not leave a designated, secured
9 transit area may not be subject to any Customs control; and

10 (e) travelers entering or leaving the Customs territory by their
11 means of transport for private use shall be permitted to accomplish all
12 necessary Customs formalities without having to leave the means of
13 transport in which they are traveling.

14 (2) Goods carried by the travelers shall be stored, subject to the
15 conditions prescribed by the Service until cleared, under the appropriate
16 Customs procedure in the following cases-

17 (a) at the traveler's request; or

18 (b) where the goods concerned cannot be cleared immediately.

19 (3) Unaccompanied baggage or baggage arriving or leaving before
20 or after the traveler, shall be cleared under the procedure applicable to
21 accompanied baggage or under another simplified Customs procedure and
22 any clearance on behalf of a traveler.

23 (4) Personal searches of travelers shall be carried out only in
24 exceptional cases and when there are reasonable ground(s) to suspect
25 smuggling or other offences, personal search shall be conducted based on a
26 progressively elaborated basis, from less intrusive to more intrusive steps as
27 defined by the Regulations.

28 (5) Personal searches shall be carried out by Officers of the same
29 gender as the person being searched except where there is an immediate
30 threat to an officer or public safety in which case, steps necessary to

1 minimize or alleviate the threat shall be taken.

2 (6) Where appropriate, the use of credit cards shall be accepted as a
3 means of payment by travelers for duties, Excise taxes, other taxes and fees due
4 and for services rendered by the Service.

Personal effects
of travelers

5 167.-(1) Subject to the prohibitions and restriction imposed on
6 imports by this Act and other Legislations, returning residents may re-import
7 free of duties, Excise taxes and other taxes personal effects and their means of
8 transport for private use taken with them at the time of their departure from
9 Nigeria and which were in free circulation in Nigeria.

10 (2) The Service may in appropriate cases, require documentary proof
11 that personal effects and means of transport were owned and used in Nigeria by
12 the returning resident prior to the returning resident's departure.

13 (3) At the request of residents leaving Nigeria, the Service shall take
14 identification measures for certain articles to facilitate re-importation free of
15 duties and taxes.

16 (4) The Service may in exceptional cases require a temporary
17 exportation declaration for the personal effects and means of transport for
18 private use of residents leaving Nigeria.

19 (5) Subject to the prohibitions and restrictions imposed on imports by
20 this Act and other Legislations, the Service shall permit the temporary
21 importation of personal effects of non-residents and shall not require a
22 declaration or other Customs document or security for the importations unless
23 the personal effects-

24 (a) exceed, in value or quantity, limits provided for in Customs
25 Regulations; or

26 (b) are deemed by the Service to be a loss of revenue.

27 (6) The following shall be deemed to be travelers' personal effects-

28 (a) clothing, toiletries and other articles of a personal nature;

29 (b) personal jewelry;

30 (c) cameras and associated accessories;

- 1 (d) portable projectors and associated accessories;
- 2 (e) binoculars;
- 3 (f) portable musical instruments;
- 4 (g) portable sound reproduction devices;
- 5 (h) portable personal computers and associated devices;
- 6 (i) cellular telephones;
- 7 (j) portable radios;
- 8 (k) other portable electronic devices intended for personal use;
- 9 (l) baby carriages and strollers;
- 10 (m) wheelchairs;
- 11 (n) personal sporting equipment; and
- 12 (o) other identifiable personal items.

13 (7) Any traveler arriving Nigerian borders shall be entitled to
14 personal effects as prescribed in Section 165 (6) without requirement of a
15 declaration under this section or security for the carriage of such personal
16 effects, except it exceeds in value or quantity, limits provided for in Customs
17 Regulations or under the provision of this Act.

18 168.-(1) In addition to the admission of personal effects of
19 travelers free of duties and taxes as provided in this Part, travelers may
20 import goods intended for free circulation in Nigeria not exceeding an
21 amount to be specified in the Regulations free of duties and taxes; provided
22 that, this exemption may only be utilized once in every six months.

Other goods
admissible duty
and tax free, etc.

23 (2) For all goods imported for personal use, items over the
24 exemption limit provided for in subsection (1) of this section shall be subject
25 to entry based on extant tariff value under provisions for a Simplified Goods
26 Declaration; and the specified limits shall apply to all travelers, whether
27 Nigerian residents or non-residents.

28 169.-(1) Subject to the prior approval of the Service, a duty-free
29 shop may be established for the exportation or importation of duty and tax
30 free goods by travelers departing or arriving in the Customs vessel or vehicle

Definition under
this Part

1 in which the traveler departs or be purchased prior to Customs clearance in duty
 2 free store territory by aircraft, vessel or vehicle or on foot to or from a
 3 contiguous country; and such goods are to be personally carried by the traveler
 4 in the same aircraft, vessel or vehicle in which the traveler departs or be
 5 purchased prior to Customs clearance in the duty free store.

6 (2) Goods sold by duty free shops to departing travelers shall be
 7 delivered only to travelers immediately departing the Customs territory; and
 8 each duty-free shop shall maintain procedures to ensure that duty and tax free
 9 goods sold to travelers will be exported from the Customs territory.

10 (3) The procedures referred to in subsection (2) of this section may
 11 include-

- 12 (a) recording the passport and boarding pass of the traveler; and
- 13 (b) delivering the goods directly to the means of transport, where
 14 appropriate.

15 (4) Goods sold to arriving passengers may only be sold for immediate
 16 importation into Nigeria by a traveler; and the duty-free shop shall maintain
 17 procedures to ensure that the duty and tax-free goods sold to travelers entering
 18 Nigeria are recorded and the duty-free store shall maintain a record of the
 19 passengers' flight information, passport, date and time of sale.

20 (5) Goods originating from Nigeria and goods that were admitted into
 21 the Customs territory under the release for free circulation, warehousing, or
 22 any other Customs procedure may be placed in a duty-free shop for display and
 23 sale; provided that such goods shall be deemed to have been exported and
 24 qualify for any applicable refund of duties and taxes as a result of the
 25 exportation.

26 PART XXII - PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

27 170. The Service shall have the powers to detain, arrest or seize any
 28 importation or exportation that infringes or contravenes the Copyright Act.

29 PART XXIII - EXCISE TAXES

30 171. In this Part, unless the context otherwise requires-

Powers to detain,
 arrest or seize

Definition of
 terms under this
 Part

1 "ammunition" and "firearms" have the meaning provided under the
2 Firearms Act;

3 "authorized methylator" means a person authorized to methylate spirit
4 under subsection (2) of section 185 of this Act;

5 "beer" means ale, porter, stout and any other description of beer and any
6 liquor which is made or sold as a description of beer or as a substitute for
7 beer which on a sample of at any time is found to contain more than one
8 percent and not more than ten percent of pure alcohol, but does not mean
9 fermented liquor of a kind made elsewhere otherwise than upon the licensed
10 premises of a brewer for sale, which the Service accepts as a liquor usually
11 made by local methods in or about Nigeria;

12 "bonded warehouse" means a warehouse-

13 (a) subject to bond or other conditions as may be specified in
14 regulations;

15 (b) which is not situated on the manufacturer's production premises
16 and into where excisable goods may be placed without giving rise to a
17 taxable transaction as a result of the removal of the excisable goods from the
18 production premises into the warehouse which otherwise may be taken to be
19 a taxable transaction;

20 "brewer" means a person carrying on brewing trade or business and holds a
21 valid Excise License for that purpose;

22 "Excise trader" means any person carrying on a trade or business under any
23 applicable provision of the Excise laws, whether or not that trade of business
24 is a trade or business requiring an Excise License;

25 "gravity" and "original gravity" have the meaning contained under section
26 195 of this Act;

27 "mentholate" means the denaturing of spirit and "mentholate" and
28 expressions of like kind shall be constructed accordingly;

29 "percent of pure alcohol" means the percentage of ethyl alcohol by volume
30 at fifteen point six (15.6) degrees centigrade or sixty degrees Fahrenheit;

1 "spirit" means ethyl alcohol and includes all liquors mixed with ethyl alcohol
2 and all mixtures compounded with or prepared from ethyl alcohol which on a
3 sample analysis at any time is found to contain not less than two point five
4 percent (2.5%) of pure alcohol, but does not include methylated spirits or other
5 denature spirits, or wine, beer, cider,
6 perry or other fermented liquors which do not contain more than twenty
7 percent of pure alcohol;

8 "sugar" means sugar of any description and any saccharine substance, extract
9 or syrup and includes any material capable of being used in brewing except
10 malt or com;

11 "tobacco manufacture" means a person carrying on a trade or business as a
12 tobacco manufacturer and holds a valid License for that purpose; and

13 "wine" means any liquor made or sold as a description of wine or as a substitute
14 for wine and which, on a sample analysis at any time, is found to contain no
15 more than twenty-four point five percent (24.5%) of pure alcohol, with the
16 exception of palm wine or any other wine of a kind produced elsewhere than
17 upon the Licensed premises of a distiller for sale, which the Service accepts as
18 produced by local methods in Nigeria.

Imposition of
Excise tax

19 **172.-(1)** For the purpose of this Act, Excise tax-

20 (a) shall be imposed and chargeable on Excise goods produced in the
21 Customs territory; and

22 (b) collected at the time a taxable transaction occurs.

23 (2) The Excise tax to be imposed shall be based on the value of
24 excisable goods or by a stated amount per unit of excisable goods, as specified
25 in the Regulations.

26 (3) In the case of excisable goods produced in the Customs territory,
27 the taxable transaction is the removal of excisable goods from the production
28 premises, however goods are not considered to be removed from the
29 production premises during the time they are stored in a bonded warehouse.

30 (4) For imports, the taxable transaction is the entry of excisable goods

1 into the Customs territory of Nigeria; and the term "entry" for Excise tax
2 purpose has the same meaning as for Customs purposes.

3 (5) Goods removed from the production premises for export or for
4 loading as stores on a vessel bound out of Nigeria are exempted from Excise
5 duties.

6 (6) The Service may by regulations specify restrictions and make
7 provisions for accounts to be rendered for goods exempted from Excise
8 duties.

9 173. The Service shall ensure the monthly collection of Excise
10 taxes on excisable goods and the tax due for each month shall be paid by a
11 manufacturer of excisable goods within the first fifteen (15) working days of
12 the succeeding month, failure of which the tax shall attract a penalty of ten
13 percent (10%) of the amount due for each month the Excise tax due remains
14 unpaid.

Collection of
Excise taxes

15 174.-(1) Where Excise tax is based on number of units, the amount
16 of Excise tax is the stated amount per unit multiplied by the quantity of units.

Amount of
Excise tax

17 (2) Where the Excise tax is based on the value of the excisable
18 goods, the amount of Excise tax is a percentage of value determined by
19 multiplying the value of the excisable goods by the Excise tax rate.

20 (3) For excisable goods produced in the Customs territory, the
21 value of excisable goods is determined on the basis of the compensation
22 receivable by the taxpayer from the customer or any other person excluding
23 Excise tax and Value Added Tax, but not more than the ex-factory gate which
24 is the value at which the product will ordinarily be sold at the factory gate
25 which is exclusive of selling and distribution expenses, related charges and
26 other non-production related expenses Excise tax and Value Added Tax and
27 if the producer sells at both wholesale and the retail, the value used for
28 Excise tax purposes is the ex-factory price.

29 (4) For imports, the amount of the taxable transaction is the
30 Customs value of the goods, determined in accordance with Customs law,

1 but not less than the cost, insurance and freight invoice exclusive of other
 2 charges and levies excluding Excise tax and Value Added Tax, plus the amount
 3 of Customs duties and other taxes payable on the import of the goods into the
 4 Customs territory excluding Excise tax and Value Added Tax.

5 (5) Except for returnable containers, the price of the container is
 6 included in determining the value of excisable goods.

7 (6) The manufacture of excisable goods without a valid License is
 8 prohibited and a License is required to meet the conditions specified under the
 9 Part.

Excisable goods 10 175.-(1) Excisable goods are those goods as may be specified in
 11 Regulations made pursuant to this Act.

12 (2) The amount of Excise tax imposed on excisable goods is the
 13 amount specified under this Part and in Regulations made from time to time by
 14 the Service.

15 PART XXIV - MANUFACTURE OF SPIRITS

License to
 manufacture
 spirits

16 176.-(1) A person shall not manufacture spirits whether by distillation
 17 of fermented liquor or by any other process, without a valid spirits
 18 manufacturer Excise License, issued subject to conditions specified under this
 19 Act.

20 (2) A person to whom an Excise License has been issued and who
 21 carries on business in accordance with the conditions of that License, is
 22 authorized to-

23 (a) manufacture spirits, whether by distillation of a fermented liquor
 24 or by any other process;

25 (b) process or use a still for distilling, rectifying or compounding
 26 spirits;

27 (c) distil or process any low wines or feints; or

28 (d) brew, make or possess any wort wash fit for distillation.

Power to regulate
 the manufacture
 of spirits

29 177.-(1) The Service shall make regulations, to bring into full effect
 30 the provisions of this Part.

1 (2) The regulation referred to in subsection (1) of this section shall
2 include provisions-

3 (a) to control the manufacture of spirits, whether by distillation of a
4 fermented liquor or by any other process;

5 (b) for calculating, securing and collecting the Excise tax on
6 spirits;

7 (c) to regulate the removal of spirits from the premises of a spirits'
8 manufacturer or in or out of a bonded warehouse; and

9 (d) restricting the delivery of immature spirits for use in Nigeria.

10 178.-(1) Any person who fails to comply with Regulations made
11 pursuant to section 185 of this Act is liable on conviction to penalty of up to
12 N2,000,000.00 or such other amount as may be specified by Regulations.

Contravention
of regulations,
etc.

13 (2) In addition to the penalty specified in subsection (1) of this
14 section, the spirits, vessels, utensils, or materials used for distilling or
15 otherwise manufacturing or preparing spirits without a License shall be
16 forfeited. .

17 (3) Where an account is taken by an Officer in charge and a
18 discrepancy occurs in the quantity of spirit in the records of spirits
19 manufacturer, and the quantity that ought to be in that manufacture's record,
20 according to the Officer's record or records kept in accordance with the
21 requirement of section 212 of this Act, then-

22 (a) if an excess is found, the excess is subject to forfeiture; and

23 (b) if a deficiency is found that cannot be accounted for to the
24 satisfaction of the Service, the spirits manufacturer is liable to pay a fine
25 double the Excise tax on the spirits or pure alcohol in a quantity equal to the
26 quantity of the deficiency.

27 179.-(1) An unauthorized person shall not carry on any of the
28 activities listed under section 184 of this Act.

Offences

29 (2) An unauthorized person who contravenes the provision of
30 section 184 of this Act shall be liable on conviction to a term of 1 year

1 imprisonment or fine of N2,000,000.00.

2 (3) where there is insufficient evidence to convict a person for an
3 offence under section 184 of this Act, and it is proved that the offence was
4 committed on a part of premises belonging to or occupied by that person in
5 such circumstances that it could not have been committed without that person's
6 knowledge, that person shall on conviction be liable to a term of 6 months'
7 imprisonment or fine of 1,000,000.00.

8 (4) All spirits, stills, vessels, utensils, wort, wash, and other material
9 for manufacturing, distilling or preparing spirits found in the possession of any
10 person found to have committed an offence under section 184 of this Act, or
11 found on any premises on which such an offence has been committed, are
12 subject to forfeiture.

13 (5) Notwithstanding any other provision contained in this Act relating
14 to seized goods which are subject to forfeiture, a Officer who seized any such
15 goods subject to forfeiture under sub-section (4) of this section may at his
16 discretion spill, break up or destroy the seized goods.

Offence of
unauthorized
removal of spirits

17 **180.**-(1) It is unlawful for a person to do any of the following-

18 (a) conceal in, or without the consent of the custom officer in charge,
19 remove from, the premises of a spirits' manufacturer any wort, wash, low
20 wines, feints or spirits;

21 (b) knowingly buy or receive any wort, wash, low wines, feints, or
22 spirits that have been concealed or removed;

23 (c) knowingly buy, receive, or possess any spirit which have been
24 removed from the production premises before the Excise tax payable on the
25 spirits have been paid or secured.

26 (2) Any person convicted of an offence under subsection (1) of this
27 section shall on conviction, pay a fine of six times the value of the goods or
28 N2,000,000.00, whichever is greater, or to imprisonment for a term of two
29 years or both in addition to forfeiting the goods

1 181.-(1) It is unlawful to methylate spirits without a spirits' Authority to
2 manufacturer Excise License, as defined under section 180 of this Act, manufacture
3 containing the specific authorization to methylate spirit. methylated spirits

4 (2) The Service may authorize a Licensed spirits manufacturer to
5 methylate spirits and a person authorized to methylate spirit in this Act is to
6 be known as an Authorized Methylator.

7 (3) The Service may at any time on reasonable grounds revoke or
8 suspend an authorization granted under this section.

9 182. The Service may make Regulations- Power to regulate
10 (a) regulating the methylation of spirits; the methylation
11 (b) for the maintenance of records of spirits which may be used, of spirit

12 and the substances which may be mixed with spirits for methylation;

13 (c) prescribing the manner in which accounts are to be kept of stock
14 of methylated spirits in the possession of an Authorized methylator.

15 183.-(1) The provision of this section applies to mentholated Prohibition on
16 spirits, methyl alcohol, or any mixture containing methylated spirits or the use of
17 methylated alcohol. methylated spirits

18 (2) It is unlawful for any person to-

19 (a) prepare or attempt to prepare liquor to which this section
20 applies for use as beverages or as a mixture with a beverage;

21 (b) sell the liquor produced contrary to the provision of paragraph
22 (a) of this subsection, whether prepared or not, as beverages or mixed with a
23 beverage;

24 (c) use any liquor or its derivative in the preparation of any article
25 capable of being used wholly or partially as a beverage or internally as a
26 medicine; or

27 (d) sell or possess an article in the preparation of which the liquor,
28 or any derivative thereof has been used; or

29 (e) except as may be permitted by the Service and in accordance
30 with conditions imposed by the Service, purify or attempt to purify liquor or,

1 after the liquor has once been used, to recover or attempt to recover the spirit or
2 alcohol contained in the liquor by distillation or condensation or in any other
3 manner.

Penalties

4 184.-(1) When an account is taken by an Officer in charge and a
5 balance arrived at as to the quantity of methylated spirits in the stock of a spirit
6 manufacturer, and the quantity at hand differs from the quantity that ought to be
7 in the manufacturer's possession according to the records kept by the Service in
8 compliance with the provisions of this Act then-

9 (a) if an excess is found, the excess is subject to forfeiture;

10 (b) if a deficiency is found that cannot be accounted for to the
11 satisfaction of the Service, the spirits manufacturer is liable to pay a fine double
12 the Excise tax on spirits of pure alcohol in quantity equal to the quantity of the
13 deficiency.

14 (2) Any person who fails to comply with any Regulations made under
15 section 183 of this Act is liable on conviction to a term of 6 months
16 imprisonment or to pay a penalty of 1,000,000 or both, for each act constituting
17 the contravention of the provision of subsection (1) of this section and the
18 spirits or methylated spirits that are the object of non-compliance is liable to
19 forfeiture.

20 (3) Any person who contravenes the provision of section 182 of this
21 Act commits an offence and liable on conviction to a fine double the duty
22 payable or 1,500,000.00 or imprisonment for two years, and the liquor in
23 respect of which the offence was committed is subject to forfeiture.

24 (4) Any person who methylates spirits without authorization commits
25 an offence and on conviction is liable to pay a fine of 2,000,000 or
26 imprisonment for a term of two years or both.

27 PART XXV - MANUFACTURE OF BEER

28 185. A person shall not brew without an Excise License, issued
29 subject to conditions specified in this Part.

1 **186.** The Service may make Regulations-

2 (a) regulating the manufacture of beer;

3 (b) for calculating, securing and collecting the Excise tax on beer;

4 (c) as to the books and other documents relating to sugar to be kept

5 by brewers.

6 **187.**-(1) For the purposes of Excise tax-

7 (a) the expression "gravity" in relation to any liquid means the ratio

8 of the weight of a volume of the liquid to the weight of an equal volume of

9 distilled water, the volume of each liquid being computed as at fifteen point

10 five six degrees centigrade or sixty degrees Fahrenheit;

11 (b) where the gravity of any liquid is expressed as a number of
12 degrees, that number shall be the said ratio multiplied by one thousand; and

13 (c) the expression "original gravity" in relation to any liquid in
14 which fermentation has taken place means its gravity before fermentation.

15 (2) The gravity of any liquid at any time shall be ascertained by
16 such means as the Service may approve and the gravity so ascertained shall
17 be deemed to be the true gravity of the liquid.

18 **188.**-(1) Any person who fails to comply with the Regulations
19 made under section 186 of this Act shall be liable on conviction to an
20 imprisonment for a term of 5 years or a fine of 20,000,000 or both; and any
21 goods or article in respect of which the non-compliance was committed shall
22 be subject to forfeiture.

23 (2) When an account is taken by the proper Officer of sugar in a
24 brewer's possession and the quantity on hand differs from the quantity that
25 ought to be in the brewer's possession according to the Service record or
26 records kept in compliance with section 186 of this Act, if-

27 (a) an excess is found, the excess is subject to forfeiture; or

28 (b) a deficiency is found, and the quantity in the brewer's
29 possession is less by more than two percent than the quantity which ought to
30 be in the brewer's possession and is not accounted, for to the satisfaction of

Power to regulate
the manufacture
of beer

Ascertaining
gravity of liquids

Penalties

1 the Service, the deficiency beyond two percent is deemed to have been used in
 2 the brewing of beer without the particulars thereof recorded in compliance with
 3 regulations and Excise tax shall be charged as if that deficiency had been used.

4 (3) Where a brewer conceals any Worts or beer, so as to prevent the
 5 Officer in charge from taking an account of the Worts or beer, the concealed
 6 items shall be subject to forfeiture.

Offences

7 189.-(1) Any person who brews beer, other than under and in
 8 accordance with an Excise License, commits an offence and is liable on
 9 conviction on conviction to an imprisonment for a term of 5 years or to fine of
 10 20,000,000 or both; and the beer, Worts, vessels, utensils, or materials used or
 11 which can be used for brewing, in the person's possession shall be subject to
 12 forfeiture.

13 (2) A brewer who commits an offence under this Part, where after
 14 particular of any Worts or beer have been recorded by the brewer in pursuance
 15 of Regulations made under section 194 of this Act, mix sugar with the Worts or
 16 beer so as to increase the quantity, gravity, or original gravity of the Worts or
 17 beer.

18 (3) Any person who commits an offence under subsection (2) of this
 19 section is liable on conviction to an imprisonment for a term of 5 years or to a
 20 fine of 10,000,000 or both; and the affected Worts or beer shall be forfeited.

21 PART XXVI - MANUFACTURE OF TOBACCO AND ITS SUBSTITUTES

Licensing
 requirements
 for tobacco
 manufacture
 and its substitutes

22 190. A person shall not manufacture any description of excisable
 23 tobacco and its substitutes without a valid tobacco manufacturer Excise
 24 License, issued subject to conditions specified in section 207 of this Act.

Power to regulate
 the manufacture
 of tobacco and
 its substitutes

25 191. The Service may make Regulations regulating the manufacture
 26 of tobacco by a tobacco manufacturer for securing the Excise duties on tobacco
 27 and its substitutes.

Deferral of
 payment

28 192. Payment of Excise tax on manufactured tobacco and its
 29 substitutes may be deferred, subject to conditions specified in the Regulations,
 30 but not beyond the 21st day of the month following the month in which the tax

1 became due, provided that such deferred payment must be accompanied by
2 an Excise tax returns made in the form and manner specified by the Service.

3 193.--(1) Any person who fails to comply with any Regulations
4 made under section 199 of this Act is liable on conviction to an
5 imprisonment for a term of 5 years or to a fine of N20,000,000, or both; and
6 the goods or materials in respect of which the non-compliance was
7 committed liable to forfeiture.

Penalties and
offences

8 (2) Where a discrepancy occurs in the account taken by a Proper
9 Officer and the balance arrived at of the quantity of tobacco and its
10 substitutes in the factory of a tobacco and its substitutes manufacturer and in
11 the quantity on hand differs from the quantity that ought to be in the
12 manufacturer's possession according to the records kept by the
13 Service in compliance with the provisions of this Act, then if-

14 (a) any excess is found, the excess is subject to forfeiture; and

15 (b) Where a deficiency is found that cannot be accounted for to the
16 satisfaction of the Service, the tobacco manufacturer is liable to pay a
17 penalty of double the Excise tax on a quantity of manufactured tobacco
18 equal to the quantity of the deficiency.

19 194.--(1) Any person who manufactures tobacco otherwise than
20 under and in accordance with an Excise License commits an offence and
21 liable on conviction to an imprisonment for a term of 5 years or to a fine of
22 20,000,000 or both.

Offences

23 (2) Where tobacco and its substrates are manufactured by an
24 unlicensed person or where an unlicensed person possesses, any plant,
25 equipment or materials that are capable of being used for the manufacture of
26 tobacco and its substrates, the manufactured tobacco, its substrates and any
27 plant, equipment or material are subject to forfeiture.

Licensing
requirement and
Excise tax on
production of
Carbonated drinks
and other related
beverages

28 PART XXVII - MANUFACTURE OF CARBONATED DRINKS

29 195. A person shall not manufacture carbonated drinks and other

1 beverages without an Excise License, issued subject to conditions specified in
2 this Part.

Power to regulate
the manufacture
of Carbonated
drinks

3 **196.** The Service shall make Regulations-

4 (a) regulating the manufacture of Carbonated drinks;

5 (b) for calculating, securing and collecting the Excise tax on
6 Carbonated drinks;

7 (c) as to the books and other documents relating to sugar to be kept by
8 Carbonated Drinks Manufacturer.

Ascertaining
gravity of liquids

9 **197.**-(1) For the purposes of Excise tax-

10 (a) the expression "gravity" in relation to any liquid means the ratio of
11 the weight of a volume of the liquid to the weight of an equal volume of
12 distilled water, the volume of each liquid being computed as at fifteen point
13 five six degrees centigrade or sixty degrees Fahrenheit;

14 (b) where the gravity of any liquid is expressed as a number of degrees
15 that number shall be the said ratio multiplied by one thousand; and

16 (c) the expression "original gravity" in relation to any liquid in which
17 fermentation has taken place means its gravity before fermentation.

18 (2) The gravity of any liquid at any time shall be ascertained by such
19 means as the Service may approve and the gravity so ascertained shall be
20 deemed to be the true gravity of the liquid.

Penalties

21 **198.**-(1) Any person who fails to comply with Regulations made
22 under section 204 of this Act shall be liable on conviction to an imprisonment
23 for a term of 5 years or to pay a fine of N20,000,000 or both and any goods or
24 article in respect of which the non-compliance was committed shall be subject
25 to forfeiture.

26 (2) When an account is taken by the proper Officer of sugar in a
27 Manufacturer's possession and the quantity on hand differs from the quantity
28 that ought to be in the Manufacturer's possession according to the Service
29 record or records kept in compliance with section 204 of this Act, if-

30 (a) an excess is found, the excess is subject to forfeiture; or

1 (b) a deficiency is found, and the quantity in the Manufacturer
2 possession is less by more than two percent than the quantity which ought to
3 be in the brewer's possession and is not accounted for to the satisfaction of
4 the Service, the deficiency beyond two percent (2%) is deemed to have been
5 used in the Manufacture of Carbonated drinks without the particulars
6 thereof recorded in compliance with Regulations and Excise tax shall be
7 charged as if that deficiency had been used.

8 (3) Where a Manufacturer of Carbonated drinks conceals any
9 Carbonated drinks, so as to prevent the Officer in charge from taking an
10 account of the Carbonated drinks, the concealed items shall be subject to
11 forfeiture.

12 199.-(1) Any person who manufactures Carbonated drinks, other
13 than under and in accordance with an Excise License, commits an offence
14 and liable on conviction to an imprisonment for a term of 5 year or to a fine of
15 20,000,000 or both; and the Carbonated drinks, vessels, utensils, or
16 materials used or which can be used for manufacturing, in the person's
17 possession shall be subject to forfeiture.

Power to revoke
or suspend License

18 (2) A manufacturer of carbonated drinks commits an offence under
19 this Part, where after particulars of any carbonated drinks have been
20 recorded by the manufacturer in pursuance of Regulations made under
21 section 204 of this Act, mix sugar with the carbonated drinks so as to
22 increase the quantity, gravity, or original gravity of the carbonated drinks.

23 (3) Any person who commits an offence under subsection (2) of
24 this section is liable on conviction to an imprisonment for a term of 5 years or
25 to a fine of N20,000,000 or both; and the affected carbonated drinks shall be
26 forfeited.

27 PART XXVIII - MANUFACTURE OF OTHER GOODS SUBJECT

28 TO EXCISE TAX

29 200. The provisions of this section, sections 196, 197 and 198 of
30 this Act shall apply to other excisable goods other than spirits, beer and

Other goods
subject to Excise
tax

1 tobacco as may be specified in the Regulations.

License to
manufacture
excisable goods

2 **201.** It is unlawful to manufacture excisable goods referred to in
3 section 195 of this Act without an Excise License issued, subject to conditions
4 specified in section 199 of this Act.

Power to make
regulations

5 **201.** The Service may make Regulations-

6 (a) regulating the manufacture of goods to which section 195 of this
7 Act applies;

8 (b) for calculating, securing and collecting the Excise duty on the
9 goods;

10 (c) for the exportation or loading of the goods as stores in accordance
11 with the Customs laws without payment of the Excise tax chargeable on the
12 goods; and

13 (d) as to the books, accounts and other documents relating to the
14 goods to be kept by manufacturers.

Offences

15 **202.**-(1) It is unlawful to manufacture excisable goods subject to
16 section 203 of this Act otherwise than under and in accordance with an Excise
17 License; and any excisable goods a person makes or possesses without a proper
18 License, and any plant, materials, vessels, utensils, or other material the person
19 possesses that are capable of being used in the manufacture of the goods, are
20 subject to forfeiture.

21 (2) A person who manufactures or possesses excisable goods and
22 services without a proper License shall be liable on conviction to an
23 imprisonment for a term of 3 years or to a fine of 5,000,000.00.

24 (3) Failure to comply with any regulation made under section 205
25 constitutes an offence and any goods or article in respect of which the offence
26 was committed are subject to forfeiture and a convicted person liable to
27 imprisonment for a term of 3 years or to pay a fine of 5,000,000.00 or both.

28 PART XXIX - GENERAL PROVISIONS RELATING TO EXCISE LICENSES

Conditions of
issuance of Excise
License

29 **203.**-(1) Subject to the provisions of this Act, an application for an
30 Excise License relating to any premises in which any goods are manufactured,

1 shall be in such form and shall contain such particulars as the Service may
2 prescribe.

3 (2) The Service may in accordance with existing Regulations
4 refuse to issue an Excise License to any person or in respect of any premises.

5 (3) Where the Service approves an application for an Excise
6 License under this Act or under any other enactment, it shall issue the
7 License-

8 (a) if the License is one of which the applicant must pay a fee, only
9 after verifying that the fee has been paid; and

10 (b) only after verifying that the Licensee has posted a financial
11 guarantee in accordance with the requirement of this Part.

12 (4) An Excise License shall be in such form as the Service may
13 direct and shall expire on the 31st day of December, in the year of issue.

14 (5) An Excise License shall be issued in respect of one set of
15 premises only, and a person manufacturing excisable goods on multiple
16 premises shall be required to have separate Licenses for each location.

17 **204.** The Service may by notice in writing revoke or suspend any
18 Excise License if the holder of such License has-

Power to revoke
or suspend License

19 (a) been convicted of an offence under the Excise laws;

20 (b) been convicted of any offence involving dishonesty or fraud;

21 (c) become bankrupt or has entered into any arrangement or
22 compromise with or for the benefit of the creditors of the holder;

23 (d) failed to maintain a financial guarantee in accordance with this
24 Act; or

25 (e) failed to pay any Excise tax when due and payable.

26 **205.**-(1) if any Excise License has been revoked, suspended,
27 expired and has not been renewed, the Licensee shall-

Effect of
revocation

28 (a) immediately cease to manufacture the goods in respect of which
29 the License was issued;

30 (b) promptly pay any due and outstanding Excise tax on any

1 excisable goods manufactured under the License; and

2 (c) not dispose of any materials on the premises to which the License
3 relates except in accordance with any conditions the Service may Impose.

4 (2) any person who fails to comply with the provisions and conditions
5 imposed under this section shall be liable on conviction to an imprisonment for
6 a term of 2 years or to a fine of 2,000,000, or both; and any plant, equipment,
7 excisable goods, or materials relating to non-compliance shall be forfeited.

Provision of
office space,
Facilities
Accommodation
etc. by an Excise
License holder

8 **206.**-(1) The Service may, for the purpose of ensuring proper Excise
9 control, require the holder of an Excise License, at the holder's expense, to
10 provide and maintain at the Licensed premises-

11 (a) office, lavatory, and sanitary accommodation, with appropriate
12 furniture, lighting and cleaning, for use by a duly authorized Officer; and

13 (b) appliances and other facilities reasonably necessary to enable the
14 Officer in charge at any time to take account of or make an examination or
15 search or to perform any of his duties at the Licensed premises.

16 (2) A holder of an Excise License shall also be required to provide a
17 suitable living accommodation for the Officer and where required, for
18 members of the Officer's household, where in the opinion of the Service, it is
19 desirable that the officer should reside on or be near the premises for which the
20 Excise License is granted.

21 (3) If any holder of an Excise License fails to comply with the
22 requirements of subsections (1) and (2) of this section, the Service may revoke
23 or suspend the Excise License.

24 (4) The holder of an Excise License must provide and maintain such
25 fittings as are required for the purpose of affixing a lock that the Officer in
26 charge may require the License holder to affix to the Licensed premises, or any
27 part of the premises, or to any vessel, utensil, or any other apparatus
28 whatsoever kept on the premises, an in default-

29 (a) the fitting may be provided or any work necessary for its
30 maintenance to be carried out by the Officer in charge, and the License holder

1 shall, on demand, pay the expenses so incurred; and

2 (b) if the License holder fails to pay the expenses on demand, the
3 holder shall in addition be liable on conviction to an imprisonment for a term
4 of 6 months or to a fine of 1,000,000.00.

5 (5) The License holder is liable on conviction to an imprisonment
6 for a term of 2 years or to a fine of 2,000,000 or both if the License holder or
7 the License holder's agent or servant-

8 (a) willfully destroys or damages the fitting or the lock or key
9 provided for use on the Licensed premises or a label or seal placed on the
10 lock;

11 (b) improperly obtains access to a place or article secured by the
12 lock;

13 (c) has the fitting or any article intended to be secured by means of
14 the lock so constructed that the intention is defeated.

15 207.-(1) Every holder of an Excise License shall keep at the
16 Licensed premises all records required under the Excise laws, and shall
17 make the required entries relating to the manufacture, storage and delivery
18 of excisable goods and materials, and each entry shall be made legibly and
19 shall not be altered in any manner other than by cancellation, or by
20 amendment.

Books and
records

21 (2) all records required to be kept under the provisions of the
22 Excise Laws shall at all times be available for inspection by the proper
23 Officer, and the officer may take copies of the records.

24 (3) Records may be kept in electronic form, subject to safeguards
25 and conditions as the Service may specify in the Regulations.

26 (4) An Excise License holder who contravenes any of the
27 provisions of this section shall be liable on conviction to an imprisonment
28 for a term of 3 years or a penalty of N5,000,000 and N50,000.00 for every
29 day the default continues.

Furnishing of
information

1 208.-(1) Further to the requirement to comply with the provision of
2 section 211 of this Act, a License holder, whenever required by the Service shall
3 within the specified time frame-

4 (a) Produce for inspection invoices, books or document, including
5 electronic records in the License holder's possession relating to any excisable
6 goods that the holder manufactured during the preceding twelve months;

7 (b) answer questions regarding the description, manufacture,
8 quantity, weight, volume, selling price, consignee, destination, cost of
9 production, or manufacturer's profits, or any other matter relating to the
10 manufactured goods which the Service may reasonably require for the purpose
11 of carrying out the provisions of the Excise laws or any Regulations made
12 pursuant to the Excise Laws;

13 (c) produce any evidence the Service may deem necessary in support
14 of any information furnished; and

15 (d) make Excise tax in the form and details and at such intervals as the
16 Service may by regulations prescribe.

17 (2) The Service may require an Excise License holder to submit
18 annually, or at such other time as the Service may require, a certificate of audit
19 by an approved accountant certifying-

20 (a) the correctness of all the books and records, including electronic
21 records, required by or under this Act to be kept by the holder of the Excise
22 License; and

23 (b) any of the matters referred to in subsection (1) (b) of this section as
24 the Service may require.

25 (3) For the purpose of this section, an "approved accountant" means
26 an accountant who is a member of one of the professional bodies that the
27 Service, by notice in the Gazette, has declared to be approved for the purposes
28 of this section.

29 (4) A License holder who without reasonable cause fails to comply
30 with the requirements of this section is liable on conviction to an imprisonment

1 for a term of 3 years to pay a penalty of 5,000,000.00 and 50,000.00 for
2 every day in default.

3 209.-(1) Goods subject to excise tax and which have been
4 manufactured by virtue of any provision of the Excise laws or of any
5 Regulations made thereunder; shall not be removed from the premises of
6 manufacture unless the manufacturer delivers to the proper Officer an entry
7 of the goods in the form and manner containing such particulars as the
8 Service may by Regulations prescribe.

Declaration of
goods leaving
premises

9 (2) Where goods declared in accordance with subsection (1) of this
10 section are found, whether before or after their removal from the premises of
11 manufacture not to correspond with the declaration made the goods shall
12 immediately be forfeited.

13 (3) Where any person removes or causes the removal of
14 manufactured goods without an entry made in accordance with the
15 requirement of subsection (1) of this section, the person commits an offence
16 and liable on conviction to pay a fine of six times the value of the goods or
17 N5,000,000.00 whichever is greater.

18 210.-(1) Where the Excise laws require a person to make entry of
19 any premises, plant or equipment, the entry shall be made in manners
20 containing the particulars, and the premises, plant, or equipment shall be
21 marked, and kept marked, in such form as the Service may direct.

Making of entries

22 (2) Where a person who is required to make entry of any premises,
23 plant, or equipment is a body corporate, the entry shall be signed by a
24 Director, General manager, Secretary, or other similar officer of the body;
25 and except where authority for that person to sign has been given under the
26 seal of the body, the entry shall be made under that body's seal.

27 (3) Where any person making entry of any premises, plant, or
28 equipment fails to comply with the directives of the Service under this
29 section, that person shall be liable to pay a penalty of N1,500,000.00.

New or further
entries of the
same premises

1 211.-(1) The Service may at any time, by notice in writing to the
2 person who made and signed an existing entry requiring that person to make a
3 new entry of any premises, plant, or equipment to which the existing entry
4 relates, and the notice is valid if addressed to the person at, any premises for
5 which the person signed an existing entry.

6 (2) The existing entry under subsection (1) of this section shall,
7 without prejudice to any liability incurred, become void at the expiration of
8 fourteen days from the delivery of the notice.

9 (3) Where the person who made the entry of any premises absconds or
10 quits possession of the premises and discontinues the trade in respect of which
11 the entry was made, the Service may permit a further entry to be made of the
12 premises by some other person and the former entry shall be deemed to have
13 been withdrawn and no longer valid.

Offences in
connection with
entries

14 212.-(1) Where a person uses premises, plant, or equipment required
15 to be entered for Excise tax purposes without entry having been duly made, that
16 person is liable to a fine of 5,000,000.00, and the plant, equipment, or excisable
17 goods found on the premises are liable to be forfeited.

18 (2) Where a person who has made entry of any premises, plant, or
19 equipment fraudulently uses the premises, plant, or equipment for any purpose
20 other than for the purpose for which an entry was made, the person commits an
21 offence and is liable on conviction to a fine of N5,000,000.00 and the plant or
22 equipment used for the fraudulent purpose shall be forfeited.

Power to enter
premises

23 213.-(1) A Proper officer may at any time enter upon any premises in
24 respect of which an entry was made, or is required under the Excise laws to be
25 made, or any other premises owned or used by an Excise trader for the purpose
26 of ensuring compliance with provisions of Excise laws and regulations made
27 pursuant to the Excise laws.

28 (2) An officer who demands admission into the premises referred to in
29 subsection (1) of this section shall state his name and business at the entrance,
30 and if not immediately admitted, the Customs officer and any person assisting

1 the Customs officer in the execution of his duties under this Act may use
2 reasonable force to enter the premises, including, when other means are
3 ineffective, breaking open any door or window of the premises or breaking
4 through any wall of the premises for the purpose of entering into the
5 premises.

6 (3) A Customs officer who has reasonable grounds to suspect that
7 anything subject to forfeiture under this part is in or upon land or premises
8 other than those of an Excise trader may enter upon those premises, if need
9 be by force, and search the land or premises and seize and remove anything
10 the officer has reasonable grounds to believe to be subject to the forfeiture.

11 (4) An officer may inspect the premises and search for, examine,
12 and take account of any machinery, vessels, utensils, goods or materials
13 belonging to or in any way connected with that trade.

14 (5) An officer is authorized to make an account of and determine
15 the balance of the quantity of stocks on hand on the premises of an Excise
16 License-holder.

17 (6) An officer who enters premises for Excise tax purposes shall
18 carry out his duties in an efficient and professional manner and, whenever
19 compatible with effective Excise tax enforcement, accommodate the
20 reasonable convenience of owners or occupiers of premises regarding the
21 time, place, and manner of a visit.

22 (7) An officer acting in accordance with the provisions of
23 subsections (1) or (2) of this section shall be given immediate access to the
24 premises and an Excise trader or any other person who refuses an officer
25 immediate entry into any land or premises commits an offence and on
26 conviction liable to maximum fine of N1,500,000, or imprisonment up to
27 one year, or both.

28 213.-(1) The Service has power to require from an Excise trader;
29 to-

30 (a) produce for inspection, as and when required by the Customs

Power to obtain
information from
excise trader

1 notice in writing, all invoices and other books or documents, including
2 electronic records in the trader's possession that are or may be relevant to goods
3 liable to Excise tax purchased or sold by the trader during the twelve-month
4 period, or any part thereof, preceding the date the notice is served;

5 (b) furnish answers to A Proper officer officer's questionnaire
6 regarding the description, quantity, weight, volume, purchase price, selling
7 price, consignor, consignee, destination, or other matter relating to excisable
8 goods; and

9 (c) produce any evidence-that a Customs officer may reasonably
10 require in support of the trader's responses.

11 (2) An Excise trader who without reasonable cause fails to comply
12 with the requirement of this section is liable to pay a penalty of N5,000,000 for
13 the failure to provide the required information and N50,000.00 every day in
14 default.

Power to prohibit
the use of certain
substances

15 214.-(1) The Service, in cooperation with or through any national
16 agency authorized by Law to regulate toxic or dangerous substances, by notice
17 in the Gazette prohibit the use of a substance, whether solid, liquid, or gas in the
18 manufacture or preparation for sale of excisable goods.

19 (2) The Service may publish directly a notice referred to in subsection
20 (1) of this section if it appears to its satisfaction that-

21 (a) the substance is used, or is capable of being used, in the
22 manufacture or preparation for sale of excisable goods;

23 (b) the substance is toxic or dangerous;

24 (c) when used to manufacture excisable goods, the substance
25 produces a toxic or dangerous chemical or artificial extract, product, or by-
26 product; or

27 (d) the use of the substance may prejudicially affect the interest of
28 revenue.

29 (3) A person who knowingly makes use of a prohibited substance in
30 the manufacture of the excisable goods commits an offence and is liable on

1 conviction to a fine of not less than N20,000,000 or imprisonment for a term
2 of three years or both, and the excisable goods forfeited.

3 (4) A person in whose possession any prohibited substance is found
4 commits an offence and liable on conviction to a [me of N20,000,000 or
5 imprisonment of a term of three years or both.

6 (5) Every director and principal officers of a body corporate who
7 contravene the provision of this section shall be personally liable and to be
8 proceeded against and punished as provided under subsections (3) and (4)
9 of this section.

10 215.-(1) Where any Excise tax remains unpaid after a demand for
11 payment, in accordance with the provision of this part has been made, the
12 Service may authorize the levying of a distress trader upon-

Power to distain
where Excise taxes
remain unpaid

13 (a) the goods, chattels and effects of the manufacturer of the goods
14 in respect of which the Excise tax remains unpaid; and

15 (b) all machinery, plant, tool, ships, vehicles, animals, goods and
16 effects used in the manufacture, sale or distribution of excisable goods
17 found in any premises or on any land in the use or possession of such
18 manufacturer or of any person on his behalf or in trust for him.

19 (2) The distraint procedure to be adopted by the Service in carrying
20 the power conferred by this section shall be as prescribed in the Regulations
21 exercisable through a warrant authorizing a person or an officers to levy by
22 distress the amount of taxes due.

23 (3) For the purpose of levying distress under this section, a person
24 authorized in writing by the Service may execute any warrant of distress
25 using any reasonable force to enter any building if necessary and as a last
26 resort, breaking open any building or place in the day time for the purpose of
27 levying the distress.

28 (4) The authorized person or officer executing a warrant of distress
29 may request a police officer or any other law enforcement officer to assist
30 and it shall be the duty of any police officer or other law enforcement officer

1 of whom the request is made to aid and assist in the execution of the warrant of
2 distress and in levying the distress, unless in active pursuit of a suspect.

3 (5) The levying of any distress shall be at the cost of the owner of any
4 property, goods, chattels, things or effects which shall be kept for fourteen
5 days, at the end of which time, if the amount due in respect of the Excise tax and
6 the cost and charges of any incidental to the distress are not paid, may be sold.

7 (6) The proceeds of the sale are to be used for settlement of amounts
8 due in the following order-

9 (a) costs or charges of any incidentals to the sale and keeping of the
10 distress;

11 (b) the amount due as Excise tax; and

12 (c) the residue, if any, to the owner of the things distrained upon, so
13 long as the owner makes a written request for payment within one year of date
14 of sale.

15 (7) In exercising the powers of distress conferred by this section, the
16 person to whom authority is given may distrain upon all of the manufacturer's
17 goods chattels and effects, wherever they may be found.

18 (8) Where the manufacturer asserts that the levy of distress is made in
19 error, the Service may within the fourteen-days period provide the
20 manufacturer with the opportunity of an emergency hearing to prevent an
21 erroneous sale.

Removal of goods
without payment
of Excise duties

22 216.-(1) Where goods otherwise subject to Excise tax are allowed to
23 be removed tax-free from the premises of a licensed manufacturer, entered into
24 for the purpose of distrain because they are intended for an approved specified
25 use or purpose, no person shall be permitted to use or deal with the goods in a
26 way contrary to the specified use or purpose without the permission of the
27 Service and only after the payment of the Excise tax due.

28 (2) Where goods otherwise subject to the Excise Laws are allowed to
29 be removed tax-free from the premises of a license manufacturer entered into
30 for the purpose of distrain, subject to a condition that they will not be sold or

1 disposed of in a similar manner without payment of Excise tax or on
2 payment of Excise tax at a reduced rate, no person is allowed to use or deal
3 with the goods in a contrary manner except with prior notification and
4 authorization of the Service and only after payment of the Excise tax due.

5 (3) Any person who knowingly uses or deals with any goods in
6 contravention of the provisions of subsections (1) or (2) of this section
7 commits an offence and liable on conviction to a fine of six times the value
8 of the goods or N1,000,000 whichever is greater, and any goods used or
9 dealt with in contravention of this section is liable to forfeiture.

10 (4) The provisions of this section shall apply whether or not
11 financial guarantee, security, or collateral has been given for observance of
12 the specified use or purpose or the condition for the payment of Excise
13 payable, and forfeiture, of goods under this section shall not affect the
14 liability of a person who has been given a financial guarantee, security, or
15 collateral.

16 217.-(1) An applicant for Excise License is required to post a
17 financial guarantee, which must be maintained throughout the License
18 periods (2) The amount of the financial guarantee shall be determined by
19 regulations.

Financial
guarantee

20 (3) An Excise License holder may provide the financial guarantee
21 by posting a bank-bond, providing a deposit of funds to be held in escrow, or
22 other form of payment guarantee, subject to conditions and procedures
23 specified by the Regulations.

24 218. An Excise License holder, Excise trader or any other affected
25 person who is dissatisfied with a penalty, seizure or forfeiture imposed
26 under this part, or who objects to the conduct of a Customs officer in
27 connection with the exercise of his duties under this section may make
28 objection to and be heard by the Comptroller-General.

Right of
administrative
review

29 219.-(1) Where the Service has seized goods or other materials
30 subject to forfeiture under this Part, and a hearing before the Comptroller-

Emergency
hearing

1 General cannot take place immediately, the licensed holder, Excise trader or
2 other affected person may request for an emergency hearing, which must-

3 (a) be made within twenty-four hours of the seizure of goods or other
4 materials subject to forfeiture;*

5 (b) be made in writing directed to the Zonal Coordinators; and (c)
6 state the reason why an emergency hearing is necessary.

7 (2) An emergency hearing may be denied unless it appears to at least
8 one member of the Zonal review body that delay will harm the affected person
9 in a manner that cannot be adequately compensated for by a decision made
10 after a hearing in the normal course, and if the case involves distraint permitted
11 under section 215 of this Act, an emergency hearing is allowed only if the
12 affected person asserts that there is a material and factual error in the distress
13 warrant or by the executing officer as to the premises or things to be distrained.

14 (3) An emergency hearing, if allowed, must be held within seven
15 working days of receipt of the written request.

16 (4) Where the full Zonal Review body is not available for an
17 emergency hearing within the specified period, a member sitting alone may
18 hear and decide the case subject to confirmation by the Zonal Review Body.

19 (5) In this section, "Zone" refers to Customs Control Zone, and
20 "Zonal Coordinator" and "Zonal Review Body" shall be construed accordingly.

21 PART XXX - GENERAL OPERATIONAL POWERS, CUSTOMS OFFENCES

22 220. In this Part, unless the context otherwise requires-

23 "administrative settlement" means the procedures contained in this Part under
24 which the Service is empowered to settle a Customs offence either by a ruling
25 or by means of concession settlement;

26 "concession settlement" means an agreement under which the Service agrees
27 to waive prosecution of a Customs offence subject to undertakings by the
28 person or persons charged with the offence;

29 "Customs offence" means a breach or attempted breach of Customs law, and a
30 Customs offence may be subject to civil or criminal penalties depending upon

General provision
and interpretation
applicable to this
part

1 the type and circumstances of the offence;

2 "extended border search" means non-routine border searches that occur
3 normally near the border; and extended border searches are permissible if
4 they meet the following three-part test-

5 (a) there is a reasonable certainty that a border crossing has
6 occurred;

7 (b) there is a reasonable certainty that no change in the condition of
8 the goods, luggage or person to be examined has occurred since the border
9 crossing; and

10 (c) there is a reasonable suspicion that criminal activity has
11 occurred.

12 221.-(1) An officer, if it appears to him that an aircraft is intended
13 or likely to depart for a destination outside Nigeria from any place other than
14 a Customs control zone otherwise than as permitted in writing by the Service
15 before Customs clearance is given there from, may give such instructions
16 and take such steps by way of detention of the aircraft or otherwise as appear
17 to him necessary in order to prevent the departure.

Power to prevent
flight of aircraft

18 (2) Any person who contravenes any instructions given under
19 subsection (1) of this section shall be liable to a fine of N5,000,000 or to
20 imprisonment for three years, or to both; and if the aircraft flies in
21 contravention of any such instruction or notwithstanding any steps taken to
22 prevent the flight, the operator of the aircraft and the captain thereof shall,
23 without prejudice to the liability of any other person under this subsection,
24 each shall be similarly liable unless he proves that the flight took place
25 without his consent or connivance.

26 222.-(1) Where at the expiration of a period of twenty-one calendar
27 days from the date of making report under the provisions of this Act, any
28 ship, aircraft, or vehicle, or where no such report was made, the date when it
29 should properly have been made, or such longer period as the Service may
30 allow, any goods that are still on the board of the ship, aircraft, or vehicle, the

Power to detain
ships etc.

1 Service may authorize the detention of that ship, aircraft or vehicle until-

2 (a) any expenses properly incurred in watching and guarding the
3 goods beyond the said period; and

4 (b) where the goods are removed by virtue of any provisions of this
5 Act from the ship, aircraft or vehicle to a Government warehouse, the expenses
6 of that removal, have been paid to the Service.

7 (2) Where, in the case of any dilapidated or other ship or aircraft
8 coming, driven or brought into Nigeria under legal process, by stress of
9 weather or safety, or in the case of any vehicle which suffers any mishap, it is
10 necessary to station any officer in charge thereof, whether on board or
11 otherwise, for the protection of the revenue, the proper officer may detain that
12 ship, aircraft or vehicle until any expenses thereby incurred have been paid to
13 the Service.

Power to refuse
or cancel clearance
of ship or aircraft

14 223.-(1) For the purpose of the detention thereof in pursuance of any
15 power or duty conferred or imposed by or under this Act or any other
16 enactment, or for the purpose of securing compliance with any provision of this
17 Act or of any other enactment, being a provision relating to the importation or
18 exportation of goods-

19 (a) the proper officer may at any time refuse clearance of any ship or
20 aircraft; and

21 (b) where clearance has been granted to a ship or aircraft any officer
22 may at any time while the ship or aircraft is within Nigeria demand that the
23 clearance shall be returned to him.

24 (2) Any such demand may be made either orally or in writing to the
25 master of the ship or captain of the aircraft, and if made in writing may be
26 served-

27 (a) by delivering it to him personally; or

28 (b) by leaving it at his last known place of abode; or

29 (c) by leaving it on board the ship or aircraft with the person appearing
30 to be in charge or command thereof.

1 (3) Where a demand for the return of clearance is made as
2 aforesaid-

3 (a) the clearance shall forthwith become void; and

4 (b) if the demand is not complied with, the master of the ship or the
5 captain of the aircraft shall be liable to a fine of N5,000,000.

6 224.-(1) Without prejudice to any other provisions of this Act, the
7 proper officer may examine any goods carried or to be carried in a coasting
8 ship-

Power to examine
goods carried in
a coasting ship
etc:

9 (a) at any time while they are on board the ship; or

10 (b) at any place to which the goods have been brought for loading,
11 or at which they have been unloaded from the ship, and for that purpose may
12 require any container to be opened or unpacked; and any such opening,
13 unpacking or any repacking shall be done by or at the expense of the master
14 of the ship.

15 (2) Without prejudice to any other provisions of this Act, the proper
16 officer-

17 (a) may board and search a coasting ship at any time during her
18 voyage;

19 (b) may at any time require the master of a coasting ship to produce
20 or bring to him for examination a transire and any other document(s) which
21 should properly be on board such ship;

22 (c) may at any time ask the master of the ship such question
23 concerning the ship, the goods and persons carried therein and her voyage as
24 he may think fit, and if the master of the ship fails to produce or bring any
25 such document to such officer, or refuses to answer any question, he shall be
26 liable to a fine of N5,000,000.00.

27 225.-(1) The Service may make Regulations as to the procedure to
28 be followed by ship chandlers going on board or disembarking from any
29 ship in Nigeria where such boarding or disembarking is for the purpose of
30 trade.

Power to regulate
boarding etc. by
ship chandlers

1 (2) Without prejudice to the generality of the powers to make
2 regulations conferred by subsection (1) of this section, Regulations made
3 thereunder may in particular-

4 (a) enable the Service to specify by notice, the manner in which and
5 the period during which any trade may be carried on board any such ship by
6 ship chandler;

7 (b) provide for the inspection by officers of the Service of ship
8 chandlers who are on board a ship for the purpose of trade;

9 (c) prescribe the form of application for and of the ship chandler's
10 License to be used for the purposes of this section.

11 (3) Any person contravening or failing to comply with any regulation
12 made under this section shall be liable to a fine of N1,500,000.00, and any
13 goods or article in respect of which the offence was committed shall be liable to
14 forfeiture.

Power to patrol
freely

15 **226.**-(1) the person in charge of any ship, aircraft or vehicle employed
16 in the enforcement of the Customs and Excise laws-

17 (a) may take such ship, aircraft or vehicle to any place in Nigeria; and

18 (b) keep any such ship, aircraft or vehicle at any place in Nigeria for
19 such a time as he shall deem necessary, and such person shall not be liable to
20 any prosecution or action at law for so doing.

21 (2) (a) Any officer engaged in the enforcement of the Customs and
22 Excise laws may for that purpose patrol upon and pass freely over and enter any
23 place in Nigeria, and such officer shall not be liable for prosecution;

24 (b) Notwithstanding the provision of section 236 subsection 1 and
25 2(a), marine Customs officers shall patrol and maintain surveillance freely
26 within Nigerian waters.

27 (3) Nothing in this section shall authorize entry into any dwelling-
28 house or building.

29 (4) Any person who interferes in any way with any ship, aircraft,
30 vehicle, buoy, anchor, chain, rope or mark which is being used for the purpose

1 of enforcing the Customs and Excise laws shall be liable on conviction to
2 two years' imprisonment or to a fine of N2,000,000.00k or both.

3 (5) Any person who fires upon any ship, aircraft or vehicle which is
4 being used for the purpose of enforcing the Customs and Excise laws or by
5 an officer while otherwise engaged in the execution of his duty shall be
6 sentenced to death.

7 227.--(1) The Service may without previous notice and at any time
8 enter any place, premises, or means of conveyance and make such
9 examination and inquiry as deemed necessary where there are reasonable
10 grounds to suspect that a Customs and Excise offence has occurred.

Power to
investigate
offences

11 (2) For an officer to execute his duties under this section, he shall
12 obtain from the Comptroller-General or his designee written authorization
13 to enter any place or premises or means of conveyance and shall on demand
14 by any person concerned produce a copy of the written authorization.

15 (3) An officer may exercise any of his powers referred to in
16 subsection (1) of this section without a written authorization if by reason of
17 exigent circumstances, or in exercising extended border search it would not
18 be practical to obtain the authorization.

19 (4) Exigent circumstances include situations in which the delay
20 necessary to obtain a written authorization would result in danger to human
21 life or safety, the loss or destruction of anything liable to seizure or evidence
22 of a suspected violation of Customs and Excise Laws.

23 (5) An officer may search any person who has arrived or is
24 departing from the Customs territory if he suspects on reasonable and
25 probable grounds that the person has concealed on or about his person any
26 thing which might contravene the laws of the Federal Republic of Nigeria or
27 anything that can be used as evidence with respect to the contravention, or
28 any goods or baggage the importation of which is prohibited or restricted
29 provided that-

30 (a) a person shall not be searched by a person not of the same

1 gender except that in the case of a perception of immediate threat to the
2 personal safety of the Customs officer or others the search shall be limited to a
3 search for weapons;

4 (b) internal body searches shall be conducted by a qualified medical
5 practitioner using procedures and apparatus considered to be reasonably safe
6 under the circumstances; and

7 (c) the officer may terminate the search if he concludes that no
8 reasonable and probable grounds exist justifying the search.

9 (6) The Service may by any Regulations articulate reasons to progress
10 from less to more intrusive search techniques and the required approvals within
11 the Service chain of command for progression to more intrusive personal
12 examinations.

13 (7) To enforce the Customs Laws, the officers may enter and cross any
14 private property at any time to access the borders of Federal Republic of
15 Nigeria.

16 (8) Subject to applicable laws, the Service may order the removal of
17 any dwelling or structure that is located within five meters of the borders and
18 may construct within this boundary area any fence, wall or other structure or
19 create another physical barrier to prevent the illegal crossing of the border.

20 (9) The Service may employ the use of modern scientific techniques
21 and technologies in the course of investigations when it becomes necessary.

22 228.-(1) Any person who knowingly and willfully acts or omits to act
23 in any matter, within the jurisdiction of the Service whether or not within the
24 Federal Republic of Nigeria, intended or capable of depriving the Service its
25 lawful duties, taxes, fees or other revenue through-

26 (a) falsifying, concealing or covering up by any trick, scheme or
27 device a material fact;

28 (b) making any materially false, fictitious, or fraudulent statement or
29 representation whether written, electronic or verbal; or

30 (c) making or using any false writing or document, including

Customs offence
subject to criminal
penalties, including
false statement
concealment etc.

1 electronic document, knowing the same to contain any materially false,
2 fictitious, or fraudulent statement or entry commit an offence and liable on
3 conviction to a fine of N3,000,000 or imprisonment for a term of not more
4 than three years.

5 (2) Nothing in this section shall be construed to relieve goods from
6 forfeiture under other provision.

7 229.-(1) Any person who knowingly enters any goods upon
8 payment of less than the amount of duty, Excise taxes, or other taxes and fees
9 legally due, shall be issued a Demand Notice of the difference with a penalty
10 of twenty-five percent of the duty liability.

Entry of goods
for less than legal
duty

11 (2) Where it is on conviction, in addition to provision of sub section
12 (1) of this section, the person shall be liable for the payment of a fine of
13 N2,000,000 or to two years' imprisonment, or both.

14 230. Any person who-

15 (a) willfully conceals or destroys any invoice or other document,
16 including electronic documents, relating to goods imported into or exported
17 from the Federal Republic of Nigeria after an inspection of the goods has
18 been demanded by the Service; or

Concealing or
destroying invoices
or other documents

19 (b) conceals or destroys at any time any such invoice or other
20 document, including electronic documents for the purpose of suppressing
21 any evidence of fraud in the invoice or other document, including electronic
22 document;

23 commits an offence and liable on conviction to a fine of N2,000,000 or
24 imprisonment of a term of not more than three years, or both.

25 231. Any person who-

26 (a) counterfeit or falsifies any document which is required by or
27 under the Customs and Excise Laws or which is used for the transaction of
28 any business relating to Customs and Excise; or

Counterfeiting
documents

29 (b) knowingly accepts, receives or uses any counterfeited or
30 falsified document;

1 (c) alters any document after it is officially used; or
2 (d) counterfeits any seal, signature, initials or other mark of, or used
3 by, any officer for the verification of such a document or for the security of
4 goods or for any other purpose relating to Customs and Excise; commits an
5 offence and liable on conviction to a fine of N10,000,000 or to imprisonment
6 for ten years, or both.

False claims
for refunds

7 **232.** Any person who knowingly and willfully submits any false or
8 fraudulent claim for the payment of drawback or the refund of duties, Excise
9 taxes or other taxes or fees in respect of the importation or exportation of
10 goods, or knowingly and willfully makes or files any false affidavit or other
11 document, including electronic document, with a view to securing the payment
12 to himself or others of a drawback or refund greater than that legally due
13 thereon, commits an offence and liable to a fine of N5,000,000 or
14 imprisonment for five years, or both.

Smuggling of
goods into the
Customs territory

15 **233.**-(1) Where a person-
16 (a) lands, or unloads in the Customs territory, or removes from their
17 place of importation or from any approved wharf, airport, examination station,
18 Customs station or Customs area-
19 (i) any goods imported contrary to any prohibition;
20 (ii) assists or is otherwise concerned in such landing, unloading or
21 removal; or
22 (b) imports or is concerned in importing any goods contrary to any
23 prohibition, whether or not the goods are landed or unloaded, with intent to
24 evade any prohibition,
25 commits an offence and on conviction, liable to imprisonment for a term of five
26 years without the option of a fine if the goods are subject to an absolute
27 prohibition or three years' imprisonment and forfeiture in case of a prohibition
28 for trade.
29 (2) Any person who-
30 (a) imports or causes to be imported any goods concealed in a

1 container holding goods of a different description; or

2 (b) directly or indirectly imports or causes to be imported or
3 entered any goods found, whether before or after delivery, not to correspond
4 with the entry delivered on the goods; commits an offence and is liable on
5 conviction, if the goods are chargeable with duty, Excise taxes or other taxes
6 to imprisonment for a term of three years and to a fine of six times the true
7 value of revenue lost and forfeiture of the item smuggled.

8 234.-(1) Where a person is found anywhere in Nigeria in
9 possession of any goods to which this section applies, the person commits an
10 offence unless he proves-

Possession of
smuggled goods

11 (a) that the goods were lawfully imported to Nigeria or as the case
12 may be, that the duty chargeable on the goods have been paid; or

13 (b) in the case of any person other than a seller of those goods, that
14 he had no reason to suspect that the goods were unlawfully imported or that
15 the duty chargeable on the goods had not been paid.

16 (2) This section applies to any goods, not being goods
17 manufactured or otherwise produced in Nigeria-

18 (a) the importation of which is prohibited under this Act or any
19 other enforcement; or

20 (b) which have been imported into Nigeria without the duty
21 chargeable on the goods having been paid.

22 (3) Any person found guilty of an offence under this section shall
23 on conviction be sentenced to imprisonment for one year or six times the
24 value of the lost revenue.

25 (4) The Service shall for the purpose of subsection (1) of this
26 section issue regulations providing the cases where the purchasers of
27 imported goods have a duty to verify that imported duties and taxes have
28 been paid.

29 235. Any person who-

30 (a) without lawful authority, affixes or attaches a Customs seal,

Removing goods
from Customs
control

1 fastening or mark, or any seal fastening or mark purporting to be a Customs
2 seal, fastening or mark, to any vessel, vehicle, warehouse, or package;

3 (b) without authority, willfully removes, breaks, defaces any Customs
4 seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or
5 package containing goods or baggage in Customs custody;

6 (c) maliciously enters any bonded warehouse or any aircraft, vessel or
7 vehicle containing bonded goods with intent to unlawfully remove from the
8 bonded warehouse, aircraft, vessel, or vehicle or any goods or baggage therein,
9 or unlawfully removes any goods or baggage in such aircraft, vessel, vehicle,
10 or bonded warehouse or otherwise in Customs control; or (d) receives or
11 transport any goods or baggage unlawfully removed from any aircraft, vessel,
12 vehicle, or warehouse, knowing the same to have been unlawfully removed,
13 commits an offence and liable on conviction to a fine of six times the value of
14 the lost revenue or to a term of imprisonment of not less than ten years, or both.

Importation or
exportation of
stolen means
of transport

15 236. Any person who knowingly imports, exports, or attempts to
16 import or export any-

17 (a) vehicles, vessel, aircraft, or part of any vehicle, vessel or aircraft,
18 knowing the same to have been stolen; or

19 (b) vehicles or part of vehicles knowing that the Vehicle Identification
20 Number (VIN) of such vehicle or part of motor vehicle has been removed,
21 obliterated, tampered with, or altered; commits an offence and liable on
22 conviction to a fine of N2,000,000 or to imprisonment for two years, or both.

Unlawful border
passage

23 237.-(1) Any person who knowingly constructs or finances the
24 construction of a route, tunnel or passageway that crosses the international
25 border between the Federal Republic of Nigeria and another country, other than
26 a lawfully approved route, tunnel or passageway known to the Service and
27 subject to inspection by the Service and other enforcement agencies, shall on
28 conviction be liable to a fine of N20,000,000.00 or a term of imprisonment of
29 twenty years, or both.

30 (2) Any person who knows of or recklessly disregards the

1 construction or use of a tunnel or passageway described in subsection (1) of
2 this section on the land owned by any person or under his controls commits
3 an offence and shall on conviction be liable to a fine of not less than
4 N10,000,000 or to imprisonment for a term of ten years, or to both.

5 (3) Any person who uses a route, tunnel or passageway described
6 in subsection (1) of this section to unlawfully smuggle goods in violation of
7 Customs and Excise Laws commits an offence and shall on conviction be
8 liable to a fine of not less than N20,000,000 or to a term of imprisonment of
9 twenty years, or both.

10 238.-(1) Any person-

11 (a) who, while concerned in the commission of any offence against
12 the Customs and Excise Laws, is armed with any weapon; and

13 (b) so armed found in Nigeria in possession of any goods liable to
14 forfeiture under the Customs Laws; commits an offence and shall on
15 conviction be liable to imprisonment for a term of twenty-one years.

16 (2) Any person who threatens an officer with a weapon or threatens
17 to physically strike an officer either by body or weapon, commits an offence
18 and liable on conviction to minimum imprisonment term of ten years.

19 (3) who intimidates, harasses or threatens an Officer by any means
20 other than the use of a weapon, commits an offence and shall on conviction
21 be liable to imprisonment for a term of five years.

22 239.-(1) Any person who threatens an officer with a weapon or
23 threatens to strike an officer with a weapon or threatens to inflict bodily
24 harm on an officer commits an offence and liable on conviction to
25 imprisonment for a term of ten years.

26 (2) Any person who strikes an officer with a weapon or by assault
27 causes bodily injury to an officer commits an offence and liable on
28 conviction to a term of twenty years' imprisonment.

29 (3) Where death to an officer occurs as a result of the offences
30 under subsections (1) and (2) of this section, the accused person shall be

Offence involving
the use of weapons
etc.

Penalties by
armed or boldly
assault of officers
of the Customs
Service etc.

1 proceeded against as provided under the Administration of Criminal Justice
2 Act, 2015.

Disguising as a
Customs Officer,
impersonation,
obstruction, etc.

3 240.-(1) Any person who disguises as an officer or as any law
4 enforcement officer or agent and commits an offence against the Customs and
5 Excise Laws shall on conviction be liable to-

6 (a) a term of five years' imprisonment; and

7 (b) any proceeds involved in the commission of the offence shall be
8 forfeited.

9 (2) Where a person, not being an officer for the purpose of carrying
10 out any unlawful act, assumes the name, designation or character of an officer,
11 the person commits an offence and shall be liable to imprisonment for a term of
12 five years or to a fine of N5,000,000.00, or both.

13 (3) Where any person-

14 (a) obstructs, hinders, molests or assaults an officer in the
15 performance of any duty or the exercise of any power imposed or conferred on
16 him, or any person acting in his aid, in carrying out the provisions of this Act or
17 any other Customs and Excise Law;

18 (b) does anything which impedes or is intended to impede the
19 carrying out of any search for anything liable to forfeiture under the provisions
20 of this Act, the Customs and Excise Laws or the detention, seizure or removal
21 of anything liable to forfeiture;

22 (c) rescues, damages or destroys anything liable to forfeiture or does
23 anything intended to prevent the procuring or giving of evidence as to whether
24 or not anything is liable to forfeiture; or

25 (d) prevents the arrest of any person by a person duly authorized for
26 that purpose or authorized to carry out the actions referred to in this section or
27 rescues any person arrested for an alleged unlawful act. The person commits an
28 offence and is liable on conviction to a term of five years' imprisonment or to a
29 fine of N5,000,000, or both.

1 241-(1) It is unlawful for any person, without due regard to
2 whether the Customs Service is deprived of all or a portion of any lawful
3 duty, Excise tax, other tax or fee to-

Civil penalties
for certain offences
under the Customs
and Excise laws

4 (a) enter or introduce goods into the Customs territory and zones by
5 means of any document or electronically transmitted data or information
6 (such as manifest transmission and Single Goods Declaration etc.);

7 (b) enter or introduce any goods into the Customs territory and
8 zones by means of written or oral statement which is false in any material
9 particular;

10 (c) aid or abet any other person in connection with the provisions of
11 paragraph (a) or (b) or un s subsection.

12 (2) Unless a part of a pattern of negligent conduct-

13 (a) clerical errors or mistakes; or

14 (b) repetition by electronic system of an initial clerical error: shall
15 not constitute a contravention of the provision of subsection (1) of this
16 section provided that the burden of proof of a clerical error shall be that of
17 the defendant.

18 (3) A grossly negligent violation of the provision of this section is
19 punishable by a penalty in an amount not exceeding the lesser of-

20 (a) the value of the goods; or

21 (b) four times the duties, Excise taxes, other taxes and fees of
22 which the Service is or may be deprived; or

23 (c) forty percent of the value of the goods if the violation did not
24 affect the collection of a Customs debt.

25 (4) Any negligent violation of the provision of this section is
26 punishable by a penalty in an amount not exceeding the lesser of-

27 (a) the value of the goods;

28 (b) two times the duties; Excise taxes, other taxes and fees of which
29 the Service is or may be deprived;

30 (c) twenty percent of the value of the goods, if the violation did not

1 affect the collection of a Customs debt.

2 (5) Where a defendant discloses the circumstances of a violation of
3 the provision of subsection (1) of this section before, or without knowledge of,
4 the commencement of a formal investigation of a violation by the Service, the
5 goods concerned shall not be seized and any monetary penalty to be assessed
6 pursuant to this section shall not exceed-

7 (a) one hundred percent of his duties, Excise taxes, other taxes and
8 fees due as long as the person tenders the unpaid amount due at the time of
9 disclosure or within such longer period as the service may determine;

10 (b) ten percent of the value of the goods, if such violation did not
11 affect the assessment of duties, Excise taxes, other taxes and fees; or

12 (c) the interest on the unpaid Customs debt computed from the date
13 the debt was incurred, if the violation resulted from negligence or gross
14 negligence and the person tenders the unpaid amount due at the time of
15 disclosure or within such longer time as the Service may determine.

16 (6) Any person asserting lack of knowledge of the commencement of
17 a formal investigation has the burden of proof in establishing such lack of
18 knowledge; and a formal investigation of a violation is deemed to be
19 commenced on the date recorded in writing by the Service as the date on which
20 facts and circumstances were discovered or information was received which
21 caused the Service to believe that a possibility of a violation exists.

22 242.-(1) Where the Service has reasonable cause to believe that there
23 has been a violation of section 251 of this Act and decides that further
24 proceeding is required, it shall issue to the person concerned a written notice of
25 its intention to claim for monetary penalty and such notice shall-

26 (a) describe the goods;

27 (b) set out the details of the entry or introduction, the attempted entry
28 or introduction, or the aiding or procurement of the entry or introduction;

29 (c) specify all laws and regulations allegedly violated;

30 (d) disclose all material facts which establish the alleged violations;

1 (e) state whether the alleged violation occurred as a result of gross
2 negligence, or negligence;

3 (f) state the estimated loss of duties, Excise taxes, other taxes and
4 fees, if any, and taking into account all the -circumstances, the amount of the
5 proposed monetary penalty; and

6 (g) inform such person of his right to make representation, both
7 oral and written, as to why a claim for a monetary penalty should not be
8 issued in the amount stated.

9 (2) The provision of subsection (1) of this section shall not apply
10 where-

11 (a) the importation with respect to which the violation of section
12 251 of this act occurs is non-commercial in nature; or

13 (b) the de minimis rule is applicable, to the amount of penalty
14 claimed.

15 (3) After considering representations, if any, made by the person
16 concerned pursuant to the notice issued under subsection (1) of this section,
17 the Service shall determine whether any violation of section 252 of this Act,
18 as alleged in the notice, has occurred.

19 (4) Where the Service determines that there was no violation, it
20 shall promptly issue a written statement of the determination to the person to
21 whom the notice was sent.

22 (5) Where the Service determines that there was a violation, it shall
23 issue a written penalty claim to such person; and such written penalty claim
24 shall specify all changes in the information provided, if any, in the penalty
25 notice.

26 (6) A person shall be given a reasonable opportunity to make
27 representations both oral and written, seeking remission or mitigation of the
28 monetary penalty.

29 (7) At the conclusion of any proceeding, the Service shall provide
30 to the person concerned with a written statement which sets out the final

1 determination and the findings of fact and conclusions of Laws on which such
2 determination is based.

3 (8).The severity of any penalties applied in an administrative
4 settlement of a Customs offence shall depend upon the seriousness of the
5 offence committed and the record of the person concerned in the dealings with
6 the Service.

Concessionary
settlement and
mitigation of
penalties

7 243.-(1) On the petition of any person subject to Administrative
8 penalties, the Service may remit or mitigate Administrative penalties assessed
9 under this part assessed by an administrative settlement, if it finds that such
10 fine, penalty, or forfeiture was incurred without willful negligence or without
11 any intention on the part of the petitioner to defraud the revenue or to violate the
12 law, or finds the existence of such mitigating circumstances as to justify the
13 remission or mitigation of such penalties.

14 (2) The Service may by Regulation establish criteria for the
15 mitigation and settlement of administrative penalties with the agreement of the
16 party in breach and at the option of the party charged with the contravention, the
17 Service may at any time refer a possible settlement to a higher level within the
18 Service and no appeal may be taken from such a settlement.

19 (3) A person subject to an Administrative penalty may at any time
20 reject a concessionary settlement offered by the Service and lodge an appeal to
21 in court pursuant to the provisions of this Act.

False scales

22 244.-(1) Where under the provisions of a Customs and Excise Law, a
23 person is required to provide a scale for the purpose of that law, and the person
24 provides, uses, or permits to be used a scale which is false and unjust, that
25 person commits an offence under this section.

26 (2) Where goods are to be weighed, counted, gauged or measured for
27 the purposes of taking account of examinations by an officer, and where a
28 person referred to in subsection (1) of this section, or any person by whom or on
29 whose behalf the goods are weighed, counted, gauged or measured, does
30 anything either before, during or after the weighing, counting, gauging and

1 measuring, whereby the officer is or might be prevented from, or hindered,
2 or deceived into taking a just account or making a due examination, the
3 person commits an offence under this section.

4 (3) Any person who commits an offence under this section is liable
5 on conviction to a fine of N1,500,000 and any false or unjust scales and any
6 goods in connection with which the offence was committed shall be
7 forfeited.

8 PART XXXI - SEIZURE, FORFEITURE AND CONDEMNATION

9 245.-(1) An officer or any other person authorized in that behalf by
10 the Service, may at any time seize or detain anything liable to forfeiture
11 under the Customs and Excise Laws which such officer or other person has
12 reasonable grounds to believe is liable to forfeiture under the Customs and
13 Excise Laws.

Provision as to
the detention seizure
and condemnation
of goods

14 (2) Anything seized or detained under the Customs and Excise law
15 shall without delay be delivered into the care of the Service and, subject to
16 the provisions, of this Part and the Second Schedule to this Act, pending the
17 determination as to its forfeiture or disposal, be dealt with, and, if
18 condemned or deemed to have been condemned as forfeited, be disposed of,
19 in such manner as the Service may direct.

20 (3) The provisions of this Part and the Second Schedule to this Act
21 shall have effect for the purposes of forfeiture, and all proceedings for the
22 condemnation of anything as being forfeited, under the Customs and Excise
23 Laws.

24 246. Where-

Provision as to
forfeiture

25 (a) except as provided by or under this Act, any goods chargeable
26 with a duty, Excise tax, other tax or fee on exportation are exported without
27 payment of the duty, Excise tax: other tax or fee;

28 (b) any goods are exported or loaded for exportation as stores or are
29 brought to any place in Nigeria for the purpose of being exported or loaded

1 as stores and the exportation of the goods is or would be contrary to any
2 prohibition;

3 (c) except as provided by or under this Act, goods are loaded into any
4 ship or aircraft for exportation or as stores, or are removed from any Customs
5 station for exportation, before declaration outwards of the goods has been
6 signed by the appropriate officer;

7 (d) any goods, being goods chargeable with any duties, other taxes or
8 fees on exportation or goods the exportation of which is prohibited, are found
9 after having been loaded for exportation to have been concealed in any manner
10 on board any ship or aircraft or in any vehicle;

11 (e) any goods are exported or brought to any place in Nigeria for
12 exportation concealed in a container holding goods of a different description;

13 (f) any goods are exported or brought to any place in Nigeria for
14 exportation concealed or packed in any manner appearing to be intended to
15 deceive an officer; or

16 (g) any goods declared outwards are found, whether before or after
17 loading, not to correspond with the entry made in respect of the goods; the
18 goods concerned shall be forfeited.

Forfeiture of
excisable goods

19 **247.** Where, by or under any provision of this Act, goods of a kind
20 subject to Excise duty become liable to forfeiture by reason of an offence
21 committed by an Excise trader, and the goods of the kind subject to Excise duty
22 are not available for forfeiture, the Service may seize from the stock of that
23 trader, goods of that kind and to such quantity as would attract the same amount
24 of duty and taxes as the amount of duty and taxes on the goods liable to
25 forfeiture.

Forfeiture of
ships and other
means of transport
or conveyance

26 **248.**-(1) Without prejudice to any other provision of this Act, where
27 goods including any property and articles, have become forfeited under the
28 Customs and Excise Laws, any ship, aircraft, vehicle, animal, container
29 (including any article of passenger's baggage) or anything whatsoever which
30 has been used for the carriage, handling, deposit or concealment of the goods,

1 including any article or property subject to forfeiture either at a time when it
2 was liable or for the purposes of the commission of the offence for which it
3 later became subject to the forfeiture; shall also be forfeited unless it is
4 established that ownership of the means of conveyance is different from the
5 ownership of the goods forfeited and that the act of the owner of the goods is
6 without the knowledge and consent of the owner of the means of
7 conveyance, in that case the means of conveyance shall not be subject to
8 forfeiture.

9 (2) The burden of proof shall rest on the owner of the means of
10 conveyance, to prove that the person or persons engaged in the offence acted
11 without his knowledge and that he had exercised reasonable duty of care in
12 permitting the use of the means of conveyance by the person responsible for
13 the violation.

14 (3) Any other thing mixed or packed in such a way to deceive an
15 officer or found with the thing forfeited, shall also be forfeited provided that
16 they are packed in a way to conceal the forfeited goods, or the proportion of
17 the goods so mixed is significant compared to goods forfeited.

18 (4) Where any ship, aircraft, vehicle, animal or any other means of
19 conveyance has become forfeited under the Customs and Excise laws,
20 whether by virtue of subsection (1) of this section or otherwise, equipment
21 affixed to the means of the conveyance, all tackle, apparel, furniture or other
22 things used in operating the means of conveyance shall also be forfeited.

23 249.-(1) Where any aircraft or vessel which is liable to forfeiture or
24 inspection under the Customs and Excise laws does not bring to or stop
25 when required to do so by an officer and remain still for such period as the
26 officer requires, the master of the vessel, captain of the aircraft or person in
27 charge of the vessel commits an offence and liable on conviction to a fine of
28 N10,000,000.

Penalty for failure
of master to bring
to or stop ship
when required to
do so

29 (2) Where any ship liable to forfeiture or inspection under
30 subsection(1) of this section fails to bring or stop when required to do so by a

1 government ship and, after the commander of the government ship has hoisted
 2 proper ensign and caused a shot to be fired as a signal, the ship liable to
 3 forfeiture or inspection still fails to bring to or stop, such government ship may,
 4 on the instruction of the commanding officer, fire upon the ship liable to
 5 forfeiture or inspection with any weapon lawfully carried.

6 (3) In this section "government ship" means a ship lawfully armed in
 7 the service of the Government.

Provision as to
 forfeiture

8 **250.** Any ship, aircraft, vehicle or other means of conveyance which is
 9 found to be engaged in, to have been engaged in or to be about to depart on, a
 10 voyage, flight or journey while constructed, adapted, altered or fitted in any
 11 manner for the purpose of concealing goods shall be forfeited.

Penalty in lieu
 of forfeiture of
 larger ships,
 aircraft or vehicles
 where responsible
 officer is implicated
 in offence

12 **251.**-(1) If any part of the cargo of a ship is thrown overboard, or
 13 staved or destroyed to prevent seizure after the ship has been properly
 14 summoned to bring to a stop by any ship employed in the enforcement of the
 15 Customs and Excise Laws, the ships from which such cargo was thrown
 16 overboard or on which such cargo was staved or destroyed shall
 17 be forfeited and the captain or master of the ship commits an offence and is
 18 liable on conviction to a fine of N2,000,000 or two years imprisonment or both.

19 (2) For the purposes of this section, a ship shall be deemed to have
 20 been properly summoned to bring to or stop if the ship making the summons
 21 did so by means of an international signal code or other recognized means and
 22 while flying her proper ensign.

Protection of
 officers in relation
 to seizure and
 detention of goods
 and means of
 transport

23 **252.**-(1) Notwithstanding any other provision of this Act, a ship of
 24 two hundred and fifty or more tons register or a commercial aircraft, vehicles
 25 for goods transport and buses for passenger travels shall not be forfeited under
 26 or by virtue of any provision of this act, unless the offence in respect of or in
 27 connection with which the forfeiture is claimed-

28 (a) was substantially the object of the voyage or flight in connection
 29 with which the offence was committed;

30 (b) in the case of a ship, was committed while the ship was under

1 chase by a ship employed in the enforcement of the Customs Laws after
2 failing to bring to or stop when properly summoned to do so; or

3 (c) was used in repeated offences by crew, or other parties in the
4 employ of the vessel or aircraft operator and the operator has failed to
5 exercise reasonable care in the prevention of the use of the means of
6 transport for illegal activities.

7 (2) For the purpose of this section, a ship shall be deemed to have
8 been properly summoned to bring to or stop if the ship making the summons
9 did so by means of an international signal code or other recognized means
10 and while flying her proper ensign.

11 (3) The exemption from forfeiture of any ship or aircraft under this
12 section shall not affect any liability to forfeiture of goods carried in the ship,
13 aircraft, vehicles or other means of conveyance.

14 253.-(1) Where any ship of two hundred and fifty or more tons
15 register or any aircraft would but for the provision of section 249 of this Act
16 be liable to forfeiture for or in connection with any offence under the
17 Customs and Excise laws and, in the opinion of the Service, a responsible
18 officer of the ship, aircraft or vehicle is implicated either by his own act or by
19 neglect in that offence, the Service shall penalize that ship, aircraft or
20 vehicle such sum as it may deem fit but not less than N5,000,000.

21 (2) Where any ship, aircraft or vehicle is liable to a fine under
22 subsection (1) of this section but the Service considers that a penalty or fine
23 is inadequate for the offence, it may take proceedings in accordance with the
24 Second Schedule to this Act, in like manners as it might have taken but for
25 section 239 of this Act proceedings for the condemnation of the ship, aircraft
26 or vehicle if notice of claim had been given in respect thereof, for the
27 condemnation of the ship, aircraft or vehicle in such sum of not less than
28 N5,000,000 or as the court may deem fit.

29 (4) Where any fine is to be imposed or any proceedings are to be
30 taken under this section, the Service may, require such sum as it deem fit, but

Institution of
legal proceedings

1 not less than N5,000,000 to be deposited with the Service to await its final
2 decision or, as the case may be, the decision of the court, and may detain the
3 ship or aircraft until that sum has been so deposited.

4 (4) No claim shall lie against the Service for damages in respect of the
5 payment of any deposit or the detention of any ship under this section.

6 (5) For the purposes of this section, the expression "responsible
7 officer" includes-

8 (a) in the case of a ship not carrying a passenger certificate, the master,
9 a mate, the chief steward and an engineer;

10 (b) in the case of a ship carrying a passenger certificate, the master, the
11 purser, the chief steward and the chief engineer,

12 (c) in the case of an aircraft, the captain, a pilot, a navigator, the chief
13 steward and chief engineer; and

14 (d) in the case of a vehicle, the driver.

15 (6) Without prejudice to any other grounds upon which a responsible
16 officer may be held to be implicated by neglect, he may be so held if goods not
17 owned by any member of the crew are discovered in a place under that officer's
18 supervision in which the goods could not reasonably have been put if he had
19 exercised proper care at the time of the loading of the ship or after.

Jurisdiction over
offences committed
in places other
than land in
Nigeria

20 254.-(1) Where, in any proceedings for the condemnation of anything
21 seized as liable to forfeiture under the Customs and Excise Laws, judgment is
22 given for the claimant, the court may, if it deems fit, certify that there were
23 reasonable grounds for the seizure.

24 (2) Where any proceedings, whether civil or criminal, are brought
25 against the Service or any person authorized by or under this Act to seize or
26 detain anything liable to forfeiture under the Customs and Excise laws on
27 account of the seizure or detention of anything, and judgment is given for the
28 plaintiff or prosecutor, then if either-

29 (a) a certificate relative to the seizure has been granted under
30 subsection (1) of this section; or

1 (b) the court is satisfied that the Service and the officers acted in
2 good faith believing reasonable grounds exist for seizing or detaining that
3 thing under the Customs and Excise laws, the plaintiff or prosecutor shall
4 not be entitled to recover any damages or costs and the defendant shall not be
5 liable to any punishment, provided that nothing in this Act shall affect any
6 right of any person to the return of the thing detained or seized or
7 compensation in respect of any damage to the thing or in respect of its
8 destruction.

9 (3) Any certificate under subsection (1) of this section may be
10 proved by the production of either the original certificate or its certified copy
11 signed by an officer of the court by which it was granted.

12 PART XXXII - LEGAL PROCEEDINGS RELATING TO CUSTOMS OFFENCES

13 255.-(1) Where or under any provision of the Customs and Excise
14 Laws, a fine or imprisonment is prescribed for any offence, such fine or
15 imprisonment shall be enforceable by the ordinary procedure applicable in
16 respect of criminal matters in the place in Nigeria where the proceedings are
17 brought.

Adjustment of
prescribe fees

18 (2) Limitation of actions-

19 (a) Notwithstanding anything to the contrary in other law, no action
20 shall be instituted against the Board in respect of any neglect, or default done
21 by any officer, servant or agent of the Board with regard to the regulations
22 made pursuant to section 9 (1) (b) of this Act unless it is commenced within
23 three months next after the act or negligence complained of, or in the case of
24 a continuing damage or injury, within three months next after the ceasing
25 thereof;

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

30 (i) the cause of action;

- 1 (ii) the particulars of the claim;
 2 (iii) the name and place of abode of the intending plaintiff; and
 3 (iv) the relief which he claims.
 4 (3) No Criminal proceedings may be instituted except within seven
 5 (7) years of the commission of the offence.

Conduct of
 proceedings

6 **256.**-(1) Where a criminal offence under the Customs and Excise law
 7 is committed on the water or in the air outside the area covered by the
 8 jurisdiction of any court in Nigeria, the offence shall, for the purpose of
 9 conferring jurisdiction, be deemed to have been committed at any place in
 10 Nigeria where the offender is found or to which he is first brought after the
 11 commission of the offence.

12 (2) The jurisdiction conferred under subsection (1) of this section
 13 shall be in addition to and not in derogation of any jurisdiction or power
 14 conferred under any other enactment.

Offences
 punishable on
 indictment
 summarily

15 **257.**-(1) Where, by or under this Act, a fine is prescribed in
 16 connection with an offence arising from the administration of the Customs and
 17 Excise law, the Service may, by regulations review and adjust such fines, after
 18 seven years from the commencement of this Act and thereafter every other four
 19 years.

20 (2) The adjustment factor to be used by the Service for the review and
 21 adjustment referred to in subsection (1) in this section shall be as follows-
 22 adjustment factor = $\frac{\text{CPI}(y-1)}{\text{CPI}(2009)}$

23 $\text{CPI}(2009)$

24 (3) The formula:
 25 "CPI (y-1)" means the average Nigerian consumer price index (annual) for All
 26 Urban Consumers (CPI-u) for all items, 2009=100, unadjusted for seasonal
 27 variation as announced by the Nigerian Bureau of Statistics, for the calendar
 28 year prior to the April 1 date under consideration; and
 29 "CPI (2011)" means the average Nigerian Consumer Price Index (Annual) for
 30 All Urban Consumers (CPI-D) for All Item, 2009=100, unadjusted for

1 seasonal variation, as announced by the Nigeria Bureau of Statistics, for the
2 calendar year 2011.

3 (4) Fines under this Act shall be reviewed as follows;

4 adjusted fine = fine x adjustment factor

5 (5) The term:

6 "Adjusted fine" means the new fine to be introduced pursuant to this section;

7 "Fine" means the fine under this Act in the first instance and adjusted fines
8 for the subsequent years; and

9 "Adjustment factor" means the figure calculated pursuant to sub-section (2)
10 of this section.

11 (6) The provisions of this section shall also apply in the adjustment
12 of other monetary provisions under this Act.

13 258.-(1) Any offence committed under this Act shall be prosecuted
14 by the Attorney General of the Federation (2) Subject to the provision of
15 section 174 of the 1999 Constitution of the Federal Republic of Nigeria (as
16 amended) relating to the power of the Attorney-General of the Federation to
17 institute, continue or discontinue criminal proceedings against any person in
18 any court of law, the Customs Service may request for the consent of the
19 Attorney-General of the Federation for a legal officer of the Service to
20 prosecute criminal or other proceedings in respect of matters relating to
21 Customs and Excise under the Customs and Excise laws.

Other provisions
pertaining legal
proceedings

22 259.-(1) Subject to the applicable rules, any offence under the
23 Customs and Excise laws-

Power to retain
measurements
taken in certain
cases

24 (a) where punishable with imprisonment for a term of two years or
25 more, with or without a fine, shall be punishable either on summary
26 conviction or on conviction on indictment; and

27 (b) in any other case, shall be punishable on summary conviction.

28 (2) Without prejudice to the powers of any other court of competent
29 jurisdiction, any proceedings for condemnation under the Second Schedule
30 to this Act or for the recovery of any duty or other sum payable under the

1 Customs and Excise laws may be heard and determined, without limit of
2 amount, by a court of summary jurisdiction.

Appeals by
prosecutor from
court of summary
jurisdiction

3 260.-(1) Where liability for any offence under the Customs and
4 Excise Laws is incurred by two or more persons jointly, those persons shall
5 each be liable for the full amount of any fine and may be proceeded against
6 jointly or severally.

7 (2) In any proceedings for any offence or for the condemnation of
8 anything as being forfeited under the Customs and Excise Laws, the fact that
9 security has been given by bond or otherwise for the payment of any duty or for
10 compliance with any condition in respect of the non-payment of which or non-
11 compliance with which the proceedings are instituted shall not be a defense.

12 (3) Where, by or under any provision of the Customs and Excise Laws
13 a punishment is prescribed for an offence, and any person is convicted in the
14 same proceedings of more than one such offence, that person shall be liable to
15 that punishment for each such offence of which he is so convicted.

16 (4) Where a fine for any offence under the Customs and Excise Law is
17 required to be fixed by reference to the value of any goods, that value shall be
18 taken as the price which those goods might reasonably be expected to have
19 fetched, after payment of any duty chargeable on the goods, if they had been
20 sold in the open market at or about the date of the commission of the offence for
21 which the fine is imposed; and a certificate as to the value of the goods under
22 the hand of an officer shall be accepted as proof of such value, and shall be
23 conclusive unless challenged by the person charged, in which event the court
24 may proceed to hear evidence of value.

25 (5) Where an offence under the Customs and Excise Laws which has
26 been committed by a body corporate is proved to have been committed with the
27 consent or connivance of, or is attributable to any neglect on the part of, any
28 director, manager, secretary or other similar officer of the body corporate or
29 any person purporting to act in any such capacity; he as well as the body
30 corporate shall be deemed to be guilty of that offence and shall be liable to be

1 proceeded against and punished accordingly.

2 (6) In subsection (5) of this section the word "director", in relation
3 to a body corporate established for the purpose of carrying on a business
4 under public ownership in any industry or part of an industry or undertaking,
5 being a body corporate, whose affairs are managed by the members thereof,
6 means a member and employee of that body corporate.

7 (7) Where, in any proceedings for an offence under the Customs
8 and Excise Laws, any question arises as to the duty or the rate chargeable on
9 any goods, and where it is not possible to ascertain the relevant time of
10 importation or exportation pursuant to Part VIII of this Act, that duty or rate
11 shall be determine as if the goods had been imported or exported, as the case
12 may be, without declaration at the time when the proceedings were
13 commenced.

14 261.-(1) Where a person suspected of fraudulently evading
15 payment of duty due on any goods or evading a prohibition relating to the
16 goods is detained for any period not exceeding twenty-four hours by an
17 officer in exercise of his powers under this Act and proceedings, whether or
18 not a charge is preferred in respect of that person are thereupon or thereafter
19 compounded under the provisions of this Act, any measurements,
20 photographs or fingerprint impression taken under the authority of the
21 Police Act or this Act during such detention may be retained and kept in the
22 custody of the Service.

Application of
penalties

23 (2) Accordingly, section 68 (1) of the Police Act 2020 and this Act
24 shall in any such case be jointly read and construed as if the provision of that
25 section which requires in certain cases the disposal of items, including
26 measurements, photograph or fingerprint so taken, had been omitted, so
27 however that measurements, photographs or fingerprint impressions
28 retained under the power conferred by the forgoing subsection shall not be
29 received in evidence without the consent of the Judge-hearing the case, in

1 any prosecution of a person for an offence thereafter committed otherwise than
2 under this Act.

Power of Customs
Service to compound
proceedings

3 **262.** Without prejudice to any right to require the statement of a case
4 for the opinion of a superior court, a prosecutor may appeal to a superior court
5 against any decision of a court of summary jurisdiction in proceedings for an
6 offence under the Customs and Excise Law.

Proof of certain
documents

7 **263.** Any sum paid or recovered on account of any fine imposed under
8 the Customs and Excise laws and all costs awarded in any proceedings relating
9 to Customs and Excise laws to the Service or to any person discharging any
10 duty under those laws shall be accounted for and paid to the Service as the
11 Service may direct.

Proof of other
matters

12 **264.** The Service may—
13 (a) without prejudice to the provisions of section 174 of the 1999
14 Constitution of the Federal Republic of Nigeria and subject to such directions
15 whether general or special as may be given by the Attorney-General of the
16 Federation, stay or compound any proceedings for an offence or for the
17 condemnation of anything forfeited under the Customs and Excise Laws; or
18 (b) without prejudice to other provisions of this Act and subject to
19 such directions whether general or special as may be given by the Board,
20 restore anything forfeited or seized under the Customs and Excise Law.

Evidence of
Customs officers

21 **265.**—(1) Subject to the provision of any applicable Law on the matter
22 where, in any court any book or document in the official custody of the Service
23 or any officer is required to be used as evidence as to the transactions to which it
24 refers, copies of such books or documents or of extracts therefrom certified by
25 the Service shall be admissible for that purpose, without the production of the
26 original.
27 (2) In any proceedings under the Customs and Excise Laws
28 certificates and copies of official documents purporting to be certified under
29 the hand and seal or stamp of office of the officers of the Service or of other
30 Customs Administrations, shall be sufficient evidence of the matters therein

1 stated, unless the contrary is proved.

2 266.-(1) An averment in any process in proceedings under the Scope
3 Customs and Excise Law that-

4 (a) those proceedings were instituted by the order of the Service;

5 (b) any person is or was an officer; or

6 (c) any person is or was appointed or authorized by the Service to
7 discharge or is engaged by the order or with the concurrence of the Service in
8 the discharge of any duty; or

9 (d) the Service is or is not satisfied as to any matter as to which it is
10 required by any provision of the Customs and Excise Laws to be satisfied; or

11 (e) any goods thrown overboard, staved or destroyed were so dealt
12 with in order to prevent the seizure of those goods; or

13 (f) any person was engaged in, or any ship, aircraft, vehicle or other
14 thing was employed or used in, the enforcement of the Customs and Excise
15 Laws; or

16 (g) the offence was committed or that any act was done in a
17 specified place in Nigeria; shall unless the contrary is proved be sufficient
18 evidence of the matter in question.

19 (2) Where in any proceedings relating to Customs or Excise Laws,
20 any question arises as to the place from which any goods have been brought
21 or as to whether or not any-

22 (a) duty has been paid or secured in respect of any goods; or

23 (b) duty alleged to be payable is correctly assessed; or

24 (c) goods or other things whatsoever are of the description or
25 nature alleged in the process; or

26 (d) goods have been lawfully imported or lawfully unloaded from
27 any ship, aircraft or vehicle; or

28 (e) goods have been lawfully loaded into any ship, aircraft or
29 vehicle or lawfully exported; or

30 (f) goods were lawfully brought to any place for the purpose of

1 being loaded into any ship, aircraft or vehicle or exported; or

2 (g) goods are or were goods prohibited to be imported, exported or
3 carried coastwise; then, where those proceedings are brought by or against the
4 Attorney-General of the Federation, the Service, or having been commenced
5 by the police, are continued by the Service, the burden of proof shall lie upon
6 the other party to the proceedings.

7 267. If in any proceedings under the Customs and Excise Laws the
8 question arises whether any person is an officer, his own evidence that he is
9 Customs officer shall be deemed sufficient unless the contrary be proved.

10 268. The provisions in this Part relate only to appeals from the
11 decisions or omissions of the Service and shall not apply to appeals for
12 convictions in criminal offences.

Right of Appeal

13 269.-(1) Any person directly affected by a decision or alleged
14 omission of the Service shall, on application, be given the reasons in writing for
15 such decision or omission within a reasonable period of time.

16 (2) A person shall have the right to appeal against any decision or
17 alleged omission by the Service relating to the-

18 (a) classification, valuation or determination of the origin of goods; or

19 (b) application of other Customs and Excise Laws which affects him
20 directly and individually.

21 (3) An appeal shall be-

22 (a) lodged in writing and shall state the grounds upon which it is being
23 made;

24 (b) accompanied by supporting evidence; and

25 (c) lodged not later than thirty days after the date of the decision or
26 omission in question.

27 (4) In addition to the provision of subsection (3) of this section, an
28 additional time may be permitted for the submission of evidence not
29 reasonably available at the time the appeal is lodged.

1 270. The right of appeal shall be exercised in accordance with the
2 four stages-

Presumption
of correctness

3 (a) an application shall first be lodged with the Service command
4 responsible for the decision or omission, which shall give its decision on the
5 application in writing within twenty-one working days and where the
6 Customs office, dismisses the application, it shall furnish to the applicant the
7 reason for the dismissal;

8 (b) where the applicant is dissatisfied with the decision of the
9 Service referred to in paragraph (a) of this subsection, an appeal may be
10 lodged by the applicant to the Comptroller-General within thirty days of
11 decision complained of;

12 (c) where the applicant is dissatisfied with the decision of the
13 Service referred to in paragraph (b) of this subsection, an applicant may
14 request the escalation to the World Customs Organization (WCO); and

15 (d) where the appellant is dissatisfied with the decision of the
16 Comptroller General, a further appeal may be lodged with a court of
17 competent jurisdiction.

18 271.-(1) The lodging of an appeal by an appellant shall not
19 constitute a stay of execution or suspension of the implementation of a
20 decision in dispute.

Suspension of
the implementation
of a decision in
dispute

21 (2) Where there is an application for a stay of execution or
22 suspension of implementation of a decision pending appeal, the Service or a
23 Court of competent jurisdiction shall suspend implementation of the
24 decision or order the stay of execution in whole or in part pending appeal,
25 where there is a good cause to believe that-

26 (a) the disputed decision is inconsistent with existing Customs and
27 Excise laws; and

28 (b) there is a likelihood of irreparable damage to the subject matter
29 of the appeal or the person concerned.

30 (3) When an appeal is allowed, the Service shall execute the

1 decision as soon as possible, except where-

2 (a) the Service filed an appeal against the decision;

3 (b) there is a further appeal against the decision by any of the parties to
4 the appeal; or

5 (c) the parties entered into an agreement with the Service not to
6 execute the decision.

SuaSponte
re-determination

7 **272.** When a decision or alleged omission by the Service or the Board
8 is a subject of an appeal to a court of competent jurisdiction, the decision or
9 alleged omission shall be presumed to be correct unless the appellant
10 demonstrates to the court that it is clearly erroneous as a matter of law or that it
11 is not supported by substantial evidence on the record.

12 **273.-(1)** The Service may re-examine declarations and may re-
13 determine the classification, valuation or the country of origin of the goods at
14 any time within seven years after the lodgment of the goods' declaration
15 provided that a written notice to that effect shall be served on the declarant,
16 stating reasons for the re-determination.

17 (2) Where the Service does not make a re-determination within seven
18 years pursuant to this section, the original determination of the classification,
19 valuation or country of origin of the goods shall be final, except in cases where
20 the original determination was arrived at on the basis of false evidence or
21 negligence or fraudulent action on the part of any concerned person.

22 (3) subject to the provisions of this Act, re-determinations are not
23 subject to review.

24 **PART XXXIII - MISCELLANEOUS PROVISIONS**

Professional
and work ethics

25 **274.-(1)** Subject to the approval of the Board, the Service shall
26 develop policies and programmes to ensure professionalism, transparency and
27 accountability by its Officers, Employees, Consultants, Customs Licensed
28 Agents and Contractors in carrying out their duties and responsibilities in this
29 Act and under other Customs and Excise Laws.

30 (2) For the purpose of attaining the standards required under the

1 provision of subsection (1) of this section, the Service shall develop a Code
2 of Conduct to guide against corrupt practices, conflict of interests and other
3 related malpractices for Officers, its Contractors, Customs Licensed Agents
4 and Consultants.

5 (3) In developing the Code of Conduct referred to in subsection (2)
6 of this section, the Service shall make provision for appropriate sanctions
7 and penalties for any violation of the code of conduct which may include
8 provision for the dismissal of Officers or any other appropriate sanctions
9 and penalties as deemed fit to be meted out by the Service to any Employee,
10 Customs Licensed Agents Contractor, or Consultant that violate the Code of
11 Conduct.

12 275.-(1) Any sale of goods arising from the operation of this Act or
13 under any other Customs and Excise Law shall be carried out by an officer
14 authorized by the Service to carry out such sales.

Sales under the
Customs and
Excise laws

15 (2) any sale of goods arising from the operation of this Act, or under
16 any other Customs and Excise Law shall not be sold at a price less than the
17 duty payable for such goods and other taxes and levies for such goods may
18 be carried out by Auction or as directed by the Service Board.

19 276. Where a claim is made to the Service for the repayment of any
20 sum in respect of any amount paid by way of duty in excess of the amount
21 chargeable in respect of that duty, the Service may, if it deems fit, require the
22 claimant to defray, in accordance with such reasonable scales as the Service
23 may determine, the administrative expenses incurred by the Service in
24 connection with the repayment, provided that the excess duty payment did
25 not originate from the error of the Service.

Recovery of
Customs expenses
in refunding excess
payment of duty

26 277.-(1) Notwithstanding anything in any other enactments, it
27 shall be lawful for officers of the Service, to carry firearms and ammunition
28 on their persons or under their control on such occasions as may be specified
29 by Regulations.

Possession of
arms by members
of the Nigeria
Customs Service

30 (2) Provision shall be made by Regulations for the safe custody of

1 firearms and ammunition provided pursuant to the provision of subsection (1)
2 of this section.

3 (3) The authorization to possess and control arms and ammunition
4 conferred under the provision of subsection (1) of this section to officers of
5 Service not below the rank of Assistant Superintendent, shall extend to officers
6 of the Service not below the rank of Inspector of Customs and to officers of the
7 Service below that rank when acting under the personal supervision of such an
8 officer.

Rewards

9 278.-(1) The Service may, with the approval of the Board, reward
10 exceptional and meritorious service rendered to it by any person in relation to
11 any Customs or Excise matter; provided that the Board's approval may not be
12 required for a reward not exceeding N5,000,000

13 (2) The Service may, with the approval of the Board, reward
14 exceptional and meritorious service rendered by any officer of the Service and
15 such reward may include special promotion, letter of commendation, cash
16 rewards 50r all as may be deemed fit by the Comptroller-General or the Board.

Procedure for
coming into effects
of regulations
made pursuant to
this Act

17 279. Regulations made pursuant to this Act shall become effective
18 upon publication in the Official Gazette.

19 PART XXXIV - REPEALS & SAVINGS

Repeals and
savings

20 280.-(1) The-

21 (a) Customs and Excise Management Act, CAP C45, Laws of the
22 Federation of Nigeria, 2004 as amended;

23 (b) Customs and Excise Management (disposal of goods) Act, CAP.
24 C46, Laws of the Federation of Nigeria, 2004 as amended;

25 (c) Customs and Excise Management (special penal and other
26 provisions) Act, CAP. C47, Laws of Federation of Nigeria, 2004 as amended;

27 (d) Customs and Excise Management (amendment) Act No. 20 of
28 2003;

29 (e) Nigeria Customs Service Board Act, CAP. N100, Laws of the
30 Federation of Nigeria, 2004 as amended; and

1 (f) Pre-shipment Inspection of Imports Act, CAP. P26, Laws of the
2 Federation of Nigeria, 2004, are hereby repealed.

3 (2) The repealed enactments listed in subsection (1) of this section
4 are hereinafter referred to as 'the repealed enactment.

5 (3) Without prejudice to the provisions of section 6 of the
6 Interpretation Act, the repeal of the enactments listed under subsection (1) of
7 this section, shall not affect anything done under or pursuant to the repealed
8 enactments.

9 (4) Every order, Regulations, requirement, certificate, notice,
10 directions, authorization, consent application, request or thing made, issued,
11 given or done under any of the repealed enactments and in force at the
12 commencement of this Act, shall continue to be in force and have effect as if
13 made, issued, given or done under the corresponding provisions of this Act.

14 (5) All orders, regulations, directions terms, conditions,
15 restrictions or forms having effect under any of the repealed enactments
16 immediately before the commencement of this act relating to any Customs
17 and Excise matter with respect to which the President, the Minister, the
18 Board or the Service has under this Act power to make orders or regulations
19 or give directions or impose terms, conditions or restrictions shall, have
20 effect as if made, given, imposed or directed under this Act unless-

21 (a) revoked or varied as the case may be, by the President, the
22 Minister, the Board or the Service; or

23 (b) is inconsistent with the provisions of this Act.

24 (6) Any appointment, license granted, or approval given by the
25 President, Minister, Federal Civil Service Commission, the Board, the
26 Service or any officer under any of the repealed enactments and in force
27 immediately before the commencement of this Act shall have effect as if
28 made, granted or given under the corresponding provision of this Act.

29 (7) Any document referring to any of the repealed enactments shall
30 be construed as referring to the corresponding provisions of this Act. (8) All

1 assets, funds, resources and other movable property which immediately before
2 the commencement of the Acts was vested in any institution established under
3 any of the repealed enactments shall be vested in corresponding institutions
4 established under this Act.

5 PART XXXV - INTERPRETATION CLAUSE

Interpretation

6 281.-(1) In this Act, unless the context otherwise requires-

7 "advance rulings" means a written decision provided by the Service to
8 an applicant prior to the importation of the goods covered by the application
9 that sets forth the treatment that shall be provided to the goods at the time of
10 importation, based upon the facts presented by the applicant which may pertain
11 to tariff classification, valuation and origin, the method to be used to determine
12 Customs value, duty drawback, quotas, fees and charges applicable or
13 additional matters;

14 "appeal" means a written application by which an aggrieved person affected by
15 a decision or omission of the Service seeks redress before a competent
16 authority;

17 "assessment of duties, taxes and other charges" means the determination of
18 amount of duties, taxes and other charges payable;

19 "audit-based control" means measures by which the Service verifies or
20 satisfies as to the accuracy and authenticity of declarations through the
21 examination of the relevant books, records, business systems and commercial
22 data held by persons, concerned;

23 "board" means the governing Board of the Nigeria Customs Service;

24 "carrier" means the person actually transporting goods, in charge of or
25 responsible for the operation of the means of conveyance;

26 "carriage of goods coastwise" means the procedure under which certain goods
27 are loaded on board a vessel at a place in Nigeria and transported to another
28 place in Nigeria, where they are unloaded;

29 "certificate of origin" means the specified form identifying certain goods, in
30 which the authority empowered to issue it certifies expressly that the goods to

1 which the certificate relates to, originate in a specific country, and which
2 may include a declaration by the manufacturer, producer, supplier, exporter
3 or other competent person with knowledge concerning the origin of the
4 goods;

5 "checking the goods declaration" means the actions taken by the Service to
6 satisfy themselves that the Goods declaration is correctly made out and that
7 the supporting documents required fulfill the prescribed conditions;

8 "clearance" means the accomplishment of the Customs formalities
9 necessary to allow goods to enter home use, or to be exported, or to be placed
10 under another Customs procedure;

11 "Comptroller-General" means the Comptroller-General of the Nigeria
12 Customs Service;

13 "cost-based user fees" means all fees and charges, excluding import and
14 export duties and other taxes, imposed in connection with the importation,
15 exportation and transit of goods and such fees and charges are imposed only
16 for services rendered in connection with the importation and exportation of
17 goods or for any formality required for undertaking such importation and
18 exportation;

19 "The Service" means the Nigeria Customs Service established under section
20 1 of this act;

21 "Customs control or Customs controls" means measures applied by
22 Customs to ensure compliance with Customs law;

23 "Customs control zone" means an area within or outside the Customs
24 territory; and suitable for, or already recognized as, a center of international
25 trade, and is normally part of an international port, an international land
26 border crossing, an international airport, or export processing or free zone,
27 and is suitable and able to provide a high level of service in terms of traffic
28 flows and clearance demands which may be designated by the Comptroller-
29 General as Customs control zone for the purpose of administering or
30 enforcing Customs control;

- 1 "Customs debt" means the obligation on a person to pay the amount of duties,
2 taxes and other charges which apply under Customs Legislation;
- 3 "Customs duties" means the duties provided for in the custom tariff to which
4 goods are liable on entering or leaving the Customs territory;
- 5 "Customs formalities" means all the operations which must be carried out by
6 the person concerned or by Service in order to comply with Customs law;
- 7 "Customs law" means the statutory and regulatory provisions relating to
8 importation, exportation, excise, transit, transshipment movement or storage
9 goods, the administration and enforcement which are specifically charged to
10 the Service, and any regulations made by the Service under their statutory
11 power;
- 12 "Customs office" means the Customs administrative unit competent for the
13 performance of Customs formalities, and the premises or other areas approved
14 for that purpose by the competent authorities;
- 15 "officer" means any officer employed by the Service whose duty it is to require
16 the performance of, or to perform, acts relating to enforcement of the Customs
17 laws;
- 18 "Customs representative" or "third party" means Customs Licensed Agent,
19 Broker or any person who deals directly with the Service, for and on behalf of
20 another person, relating to Customs matters;
- 21 "Customs territory" means the territory in which the Customs laws of Nigeria
22 applies;
- 23 "decision" means the action by which the Service decide upon a matter relating
24 to Customs law;
- 25 "declarant" means any person who make a goods declaration or in whose name
26 such a declaration is made;
- 27 "due date" means the date when payment of duties, taxes or other charges is
28 due;
- 29 "ECOWAS" means the Economic Community of West African States;
- 30 "ECOWAS goods" means goods originated in the Customs territory of

- 1 ECOWAS which shall be presumed to have the status of ECOWAS goods
2 unless it is established that they are not ECOWAS goods;
- 3 "examination of goods" means the physical or electronic inspection of
4 goods by the Service or designee of the Service to satisfy themselves that the
5 nature, origin, condition, quantity and value of the goods are in accordance
6 with the particulars furnished in the Goods declarations;
- 7 "exporter" means any person who at the time of exportation-
- 8 (a) owns any of the goods exported;
 - 9 (b) carries the risk of any goods exported;
 - 10 (c) represents the exporter or owner of any goods exported;
 - 11 (d) actually takes any goods out of the Customs territory with the
12 intention to export such goods;
 - 13 (e) is beneficially interested in any goods exported; or
 - 14 (f) bears ultimate legal liability for the exportation of goods.
- 15 "FAAC" means Federal Allocation Account Committee;
- 16 "Free Zone" means an export processing zone, free trade zone, free port, or
17 special economic zone or similar region, which is a part of the territory of the
18 Federal Republic of Nigeria where goods introduced are regarded as being
19 outside the Customs territory and therefore not subject to duties and taxes.
- 20 "goods declaration" means a statement made in the manner prescribed by
21 the Service, by which the persons concerned indicated the Customs
22 procedure to be applied to the goods and furnish the particulars which the
23 Service require for its application;
- 24 "Government" means the Government of the Federal Republic of Nigeria;
- 25 "guarantee" or "security" means a commitment from bank which ensures to
26 the satisfaction of the Service that obligation to the Service will be fulfilled;
27 and security is described as "general" when it ensures that the obligations
28 arising from several operations will be fulfilled;
- 29 "he" includes "she" and "his" includes "her"
- 30 "importer" means any person who, at the time of importation-

- 1 (a) owns any goods imported;
- 2 (b) carries the risk of any goods imported;
- 3 (c) represents the importer or owner of any goods imported;
- 4 (d) actually brings any goods into the Customs territory with the
5 intention to import such goods;
- 6 (e) is beneficially interested in any goods imported; or
- 7 (f) bears ultimate legal liability for the importation of goods
- 8 "management committees" means the Committee set up under section 15(5) of
9 this Act;
- 10 "Minister" means the minister charged with the responsibility pertaining to
11 finance;
- 12 "Mutual Administrative Assistance" means actions of a Customs
13 administration on behalf of or in collaboration with another Customs
14 administration for the proper application of Customs laws and for the
15 prevention, investigation and repression of Customs offences;
- 16 "omission" means the failure to act or give a decision required of the Service by
17 Customs law within a reasonable time on a matter duly submitted to them;
- 18 "NAFDAC" means National Agency for Food and Drugs Administration and
19 Control;
- 20 "person" means both natural and legal person, including Nigerian and Foreign
21 government agencies;
- 22 "Preferential tariff rate" means tariff rates that are lower rates (including zero
23 rates) than the normal tariff applied to imports.
- 24 Preferential tariff rate may be applied to the imports originating in countries
25 that have acceded to bilateral or regional trade agreements with the Federal
26 Republic of Nigeria;
- 27 "Preferential Origin" means the economic nationality of goods relates to trade
28 agreements which grant members access to domestic market at preferential
29 tariffs;
- 30 "Non-Preferential Origin" applies to goods traded between countries not

1 linked by any preferential trade agreement;

2 "Release of goods" means the actions by the Service to permit goods
3 ongoing clearance to be placed at the disposal of the persons concerned;

4 "repayment" means the refund of duties and taxes paid on goods and the
5 remission of duties and taxes where payment has not been made;

6 "risk" means the likelihood of an event that may occur, with regard to the
7 entry, exit, transit, transfer or end-use of goods moved between the Customs
8 territory and territories outside that Customs territory, which would-

9 (a) prevent the correct application of Customs laws or national
10 legal measures, compromise the financial interests of Nigeria;

11 (b) pose a threat to the security and safety of Nigeria and its
12 residents, human, animal or plant health, or the environment;

13 "risk management" means the systematic identification of risk and the
14 implementation of all measures necessary for limiting exposure to risk;

15 "security" or "guarantee" means Commitment from Bank which ensures to
16 the satisfaction of the Service that an obligation to Customs will be fulfilled;
17 and security is described as "general" when it ensures that the obligations
18 arising from several operations will be fulfilled;

19 "single window" means a facility by which a person can submit
20 documentation and data requirements for exportation, importation, Excise
21 and transit procedures to a single entry point by electronic means: provided
22 that where such person is not resident in Nigeria, he has a representative
23 resident in Nigeria who shall be legally responsible for submissions so
24 made; and the single window then undertakes onward distribution of
25 documents and data to all relevant authorities or agencies which require
26 them;

27 "SON" means Standards Organization of Nigeria;

28 "temporary storage of goods" means the storing of goods under Customs
29 control in premises and enclosed or unenclosed spaces approved by the
30 Service, pending lodgment of the goods declaration;

1 "trader" means any non-government person or persons involved directly or
2 indirectly with import, export or excise transaction;

3 "transshipment" means the Customs procedure by which goods are transferred
4 under Customs control from the importing means of conveyance to the
5 exporting means of conveyance;

6 "transit procedure" means the Customs procedure by which goods are
7 conveyed under custom control, from one custom office to another.

8 The provision of this Act shall be interpreted to be consistent with the
9 provisions of the following International Agreements to the extent that such
10 International Agreements and Convention have been approved or
11 domesticated by the National Assembly in line with the provisions of the
12 Constitution of the Federal Republic of Nigeria.

Short title

13 282. This Bill may be cited as Nigeria Customs Service Bill, 2021.

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SCHEDULE 1

Section 245 (3)

PROVISIONS RELATING TO FORFEITURE AND CONDEMNATION

Notice of Seizure

1.-(1) The Service shall give thirty days' notice of the seizure of anything as forfeited and of the grounds thereof to any person who to its knowledge was at the time of the seizure the owner or one of the Owners thereof: Provided that notice shall not be required to be given under this paragraph if that seizure was made in the presence of-

(a) the person whose offence or suspected offence occasioned the seizure; or

(b) the owner or any of the owners of the thing seized or any servant or agent of the owner; or

(c) in the case of anything seized in any ship, aircraft or vehicle, the master of that ship, captain of that aircraft or person in charge of that vehicle.

2. Notice under paragraph 10 of this Schedule, shall be given in writing and shall be deemed to have been duly served on the person concerned-

(a) if delivered to him personally; or

(b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode or business, or, in the case of a body corporate, at their registered or principal office; or

(c) where he has no address within Nigeria, or his address is unknown, by publication of notice of seizure in the Federal Gazette.

Notice of Claim

3. Any person claiming that anything seized or forfeited is not so liable shall, within one month of the date of the notice of seizure or, if such notice has been served on him, within one month of the date of the seizure, give notice of his or her claim in writing to the Service provided that the

1 Service may by its discretion, extend the period in which notice of a claim may
2 be given.

3 4. Any notice under paragraph 12 of this Schedule shall specify the
4 name and address of the claimant and, in the case of a claimant who is outside
5 Nigeria, shall specify the name and address of a legal practitioner in Nigeria
6 who is authorized to accept the service or process and to act on behalf of the
7 claimant. Service of process upon a legal practitioner so specified shall be
8 deemed to be proper service upon claimant.

9 *Condemnation*

10 5. If on the expiration of the relevant period aforesaid for the giving
11 of notice of claim no such notice has been given to the Service or if in the case
12 of any such notice given, any requirement of paragraph 13 is not complied
13 with, the thing in question shall be deemed to have been duly condemned as
14 forfeited.

15 6. Where the Service is not satisfied with the notice of claim, the
16 Service shall take proceedings for the condemnation of that thing to court, and
17 if the court finds that the thing was at the time of seizure liable to forfeiture, the
18 Court shall condemn it as forfeited.

19 7. Where anything is in accordance with either of the two last
20 foregoing paragraphs condemned or deemed to have been condemned and
21 forfeited, then without prejudice to any delivery by or sale of the thing by the
22 Service under paragraph 24 of this Schedule, the forfeiture shall have effect as
23 from the date when the liability to forfeiture arose.

24 *Proceedings for Condemnation by the Court*

25 8. Proceedings for condemnation shall be instituted by way of
26 Exparte application.

27 9. Proceedings for the condemnation of anything instituted in a court
28 of summary jurisdiction may be so instituted in any such court having
29 Jurisdiction in the place where-

30 (a) any offence in connection with that thing was committed or where

1 any proceedings for such an offence are instituted; or

2 (b) that thing was found, detained, or seized or to which it is first
3 brought after having been found, detained or seized.

4 10.-(1) In proceedings for condemnation under section 15, the
5 claimant or his legal practitioner shall take oath that the thing seized was, or
6 was to the best of knowledge or belief, the property of the claimant at the
7 time of the seizure.

8 (2) If the requirements of sub-paragraph (1) of this paragraph are
9 not complied with, the court shall give judgment for the Service.

10 (3) The proceeding for condemnation shall be by way of Exparte
11 application.

12 11. Where an appeal has been made against the decision of the
13 court in any proceedings for the condemnation of anything, that thing shall,
14 pending the final determination of the matter, be left with the Service.

15 *Provisions as to Proof*

16 12. In any proceedings arising out of the seizure of anything; the
17 effect, form, and manner of the seizure shall be taken to have been as set
18 forth in the process without any further evidence thereof, unless the contrary
19 be proved.

20 13. In any proceedings, the condemnation by a court of anything
21 as forfeited may be proved by the production either of the order or certificate
22 of condemnation or of a Certified True Copy thereof purporting to be signed
23 by an officer of the court by which the order or certificate was made or
24 granted.

25 *Special Provisions as to certain Claimant*

26 14. For the purpose of a claim to, or proceedings for the
27 condemnation of anything, where that thing is at the time of the seizure the
28 property of a body corporate, of two or more partners or of any number of
29 persons exceeding five, the oath required by this Schedule to be taken or the
30 rules of the Court to be done by, or by any other person authorized by the

1 claimant or owner, may be taken or done by the following persons respectively:

2 (a) where the owner is a body corporate, the secretary or some duly
3 authorized officer of that body;

4 (b) where the owner is in partnership, anyone of those owners;

5 (c) where the owners are any number of persons exceeding five, not
6 being in partnership, any two of those persons on behalf of themselves and their
7 co-owners.

8 *Power to deal with seizures before Condemnation*

9 15. Where anything has been seized or forfeited, the Service may at
10 any time, at its discretion, and notwithstanding that the thing has not yet been
11 condemned or is not yet deemed to have been condemned as forfeited-

12 (a) deliver it up to any claimant upon his or her paying to the Service a
13 sum representing any duty chargeable thereon which has been paid; or

14 (b) if the things seized is a living creature or is in the opinion of the
15 Service of a perishable nature, sell or destroy it.

16 16.-(1) If, where anything is delivered up, sold or destroyed as
17 aforesaid, it is held in proceedings taken under this Schedule that the thing not
18 liable to forfeiture at the time of its seizure, the Service shall on demand by the
19 claimant tender to him-

20 (a) an amount equal to any sum paid by him therein, or

21 (b) where the Service has sold the thing, an amount equal to the
22 proceeds of sale, or

23 (c) where it has destroyed the thing, an amount equal to the market
24 value of the thing at the time of its seizure: Provided that where the said amount
25 includes any sum on account of any duty chargeable on the thing which has not
26 been paid before seizure the Service may deduct so much of that as much
27 amount as represents that duty.

28 (2) If the claimant accepts any amount tendered to him under sub-
29 paragraph (1) of this paragraph, he shall not be entitled to maintain action on
30 account of the seizure, detention, sale or destruction of the thing.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the reform of the 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 CAP C45 of 2004 as amended and other Customs and Excise legislations.

