

Chapter 10

Customs Processes

Article 65 (Release of Goods for Free Circulation)

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

Article 66 (Conditional Release of Goods)

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

Article 67 (Classification of Mixed Goods)

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

Article 68 (Loss of Customs Status as Afghan goods)

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

Article 69 (Customs Processes with Economic Impact)

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

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

Article 70 (Conditions for Granting an Authorization)

- (1) The use of any customs processes with economic impacts shall be conditional upon permission being issued by the Ministry of Finance.

- (2) The permission to use customs process with economic impacts and the authorization provided for in this law shall be granted to persons who offer the necessary security and when Customs are able to supervise the process.

- (3) The conditions under which the process with economic impact in question is used shall be set out in the authorization.

- (4) The holder of the authorization shall be obliged to notify the Customs of all factors arising after the authorization was granted which influence its continuation or contents.

Article 71 (Security)

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

Article 72 (Release From the Processes with Economic Impact)

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

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

Article 73 (Transfer of Rights and Obligations)

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

Article 74 (The Time for Determining the Customs Debt)

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

Article 75 (Transit Process)

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

Article 76 (Release From the Transit Process)

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

Article 77 (Transit Via Third Countries)

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

Article 78 (Transit Security)

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

Article 79 (Exemptions from Giving Security)

- (1) Any person satisfying the following conditions may, subject to the limits of paragraph 2, obtain from the customs a security waiver certificate waiving the security requirements of Article 78 for transit goods:
 - 1- Who are established in Afghanistan;
 - 2- Who are continual users of the transit process;
 - 3- Whose financial situation is such that they can meet their commitments;
 - 4- Who have not committed any violation of customs or fiscal laws; and
 - 5- Who, in accordance with the determined procedure, undertake (promise) to pay, upon the first application in writing by the customs, any sums due on account of their transit operations.
- (2) The security waiver granted in accordance with paragraphs 1 shall not apply to transit operations involving the following goods:
 - 1- Goods with a customs debt exceeding Afs. 200,000 or such other amount as proposed by the Ministry of Finance and approved by the Council of Ministers; or
 - 2- Goods which present increased risks because of the level of import duty applicable [to them] in Afghanistan.
- (3) The General Directorate of Customs shall be authorized to grant security waiver certificate. The certificate shall be valid for a period of six months and certified copies of the security waiver certificate shall be issued to the relevant persons. The period may become extended.

Article 80 (Obligation of Persons Responsible for Transit Goods)

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

Article 81(Customs Warehousing)

- (1) Goods shall be placed in warehouses approved by customs for the purpose of storing them under prescribed conditions, under the supervision of customs. The warehouses operated directly by Customs responsible authorities, or by warehouse keepers in a customs area are also included in this provision.
- (2) The customs warehousing process shall allow the storage in customs warehouses of :
 - 1- non-Afghan goods, without such goods being subject to import duty or commercial policy measures;
 - 2- Export Afghan goods, when customs legislation requires that the goods be placed in a customs operated warehouse.
- (3) Upon the request of the declarant, the Ministry of Finance may determine the cases in which the goods referred to in paragraph 2 can be placed under the customs warehousing process without being stored in a customs warehouse.

Article 82 (Warehouse types)

A customs warehouse may be established in the following forms:

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

Article 83 (Warehouse Keepers and Their Responsibilities)

The customs warehouse keeper shall be responsible for:

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

Article 84 (Approval to Operate a Customs Warehouse)

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

Article 85 (Transfer of Rights and Responsibilities)

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

Article 86 (Distinctive Cases)

- (1) Where an economic need exists and customs supervision is not adversely affected thereby, the customs may allow the storage of the following goods in customs warehouses:
 - 1- Afghan goods other than those referred to in Article 81 (2)
 - (2). In this case the conditions of the customs warehousing process shall not apply.
 - 2- Non-Afghan goods to be processed on the premises of a customs warehouse under the inward processing process or processing under customs control, and the conditions provided for by those processes be complied with. The relevant exceptions in this context shall be determined in accordance with the related procedures.
- (2) The warehouse keeper shall be obliged, on request of the customs, to enter the goods referred to in Paragraph 1, in the stock records in accordance with Article 83 (3).

Article 87 (Time Limits for Storage in Warehouses)

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

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

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

Article 89 (Temporary Withdrawals from Warehouses)

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

Article 90 (Transfer of Goods)

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

Article 91 (Customs Value of Warehoused goods.)

- (1) The cost of warehousing and of preserving goods while they remain in the warehouse need not be included in the customs value stated by the declarant if they are shown separately from the price actually paid or payable for the goods.
- (2) Where the goods mentioned in paragraph 1 have undergone the usual forms of handling within the meaning of Article 88, the type of the goods, the customs value and the quantity for the purpose of determining the amount of import duty shall, at the request of the declarant, be those that would have been taken into account for the goods, at the date referred to in Article 74 as if they had not undergone changes due to such handling.
- (3) Any exceptions to the changes in valuation under paragraph 2 shall be provided for in the relevant procedures.

Article 92 (Inward Processing)

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

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

Article 93 (Inward Processing Operations)

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

Article 94 (Application for Approval of Inward Processing)

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

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

Article 95 (Time Period for Exportation of Compensating Products)

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

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

Article 96 (Rate of Yield of Inward Processing)

- (1) Customs shall set either the rate of yield of the operation or the method of determining such rate based on the actual circumstances in which the processing operation shall be carried out.
- (2) The standard rate of yield shall be determined in the Approval, on the basis of information submitted in the Application.

Article 97 (Release for Free Circulation from Inward Processing)

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

Article 98 (Compensating Products of Inward Processing)

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

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

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

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

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

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

Article 101 (Drawback Cases)

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

Article 102 (Drawback Declaration)

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

Article 103 (Temporary Exportations Pursuant to Drawbacks)

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

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

Article 104 (Drawback Refunds)

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

Article 105 (Processing Under Customs Control)

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

Article 106 (Approval for Processing Under Customs Control)

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

- 1- The applicant must be established in Afghanistan;

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

Article 107 (Approval Contents For Processing Under Customs Control)

The Approval for processing under customs control shall contain:

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

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

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

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

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

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

Article 110 (Temporary Importation Process)

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

Article 111 (Approval for Temporary Importation)

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

Article 112(Conditions for Approval for Temporary Importation)

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

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

Article 113 (Special Conditions for the Temporary Importation Process)

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

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

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

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

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

Article 116 (Outward Processing)

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

Article 117 (Application for the Approval of Outward Processing)

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

- 1- to persons established in Afghanistan;
- 2- If it is possible to certify that the compensating products have resulted from processing of the temporarily exported goods. Exceptions to this rule shall be provided in the Implementing Procedure;
- 3- When the process best serves the economic interests of the country, and the promotion of exports;
- 4- When the outward processing operation will result in compensating products that include non-Afghan goods, the Approval should certify that the use of the process will promote the sale of Afghan goods without disproportionately damaging the economic interests of Afghan producers of products identical or similar to the imported compensating products;
- 5- Temporary exportation of Afghan goods shall be subject to any requirements for the export of Afghan goods from the customs territory of the State;
- 6- Drawback goods, while under the process for outward processing, shall not be eligible for the refund provided under Article 104;
- 7- Non-Afghan goods released in accordance with Article 66, and are placed in the process of outward processing, may retain their favorable tariff treatment, as long as the conditions for granting such treatment continue to apply;
- 8- The period for the temporary exportation process shall be up to 12 months, and may be extended up to an additional 12 months for justifiable cause;

Article 118 (Contents of Outward Processing Approval)

The approval for outward processing shall include:

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

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

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

Article 120 (Goods Repaired Without Charge in Outward Processing)

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

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

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

Article 122 (Export Process for Afghan Goods)

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

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

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

Article 123 (Exportation of Non-Afghan Goods)

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