



CUSTOMS ACT, REGULATION



**GOVERNMENT OF NEPAL
DEPARTMENT OF CUSTOMS
2016**



(Unofficial Translation)

CUSTOMS ACT, REGULATION AND BAGGAGE RULES



**GOVERNMENT OF NEPAL
DEPARTMENT OF CUSTOMS
2016**

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An Act Made to Amend and Consolidate Customs Laws

Preamble:

Whereas, it is expedient to amend and consolidate the prevailing customs laws in order to make safe and facilitate international trade by making customs administration systematic, transparent and accountable;

Now, therefore, the Legislature-Parliament has enacted this Act.

CUSTOMS ACT, 2007

Chapter-1

Preliminary

1. Short title and commencement:

- (1) This Act may be cited as the "Customs Act, 2064(2007)".
- (2) This Section shall commence at once, and the other Sections shall commence on such date as may be appointed by the

Government of Nepal, by notification in the Nepal Gazette.

2. Definitions:

Unless the subject or the context otherwise requires in this Act,

- (a) "duty free shop" means a shop permitted by the Government of Nepal to sell any goods imported against the bank guarantee facility to any persons who are entitled to enjoy diplomatic privileges or customs facilities or to the concerned air companies for international flight catering or for sale at any duty free shop of such flight.
- (b) "transaction value" means the total amount to be set by adding freight, insurance and other related costs incurred or incurable in the transportation of goods imported by an importer up to the border of Nepal to the price actually paid or payable, directly or indirectly, by the importer to the seller of such imported goods.

- (c) "diplomatic facility" means such facility or privilege as to allow the exportation or importation of any goods keeping only books of record, without examining such goods and collecting duty.
- (d) "declaration" means the mentioning by the exporter or importer of the details of goods to be exported or imported in the declaration form or transmitting the same, as prescribed, through any electronic media.
- (e) "export smuggling" means the exportation from Nepal of any goods subject to customs duty without payment of such duty or clandestinely or through illicit routes or without making declaration pursuant to this Act despite the fact that such goods are not subject to customs duty.
- (f) "import smuggling" means the importation into Nepal of any goods subject to customs duty without payment of such duty or clandestinely or through illicit routes or without making declaration pursuant to this

Act despite the fact that such goods are not subject to customs duty.

- (g) "examination" means the examination by the Customs Office of any goods to be exported or imported or documents related with such goods or of both in order to ascertain whether such goods are accordingly as declared, and this expression also includes the search or x-ray of the body or any passenger entering into Nepal from a foreign country or departing from Nepal to a foreign country.
- (h) "clearance" means the permission given by the Customs Officer to export or import or remove any goods from the Customs Office pursuant to this Act and the Rules framed under this Act.
- (i) "post clearance audit" means the audit referred to in Section 34.
- (j) "prescribed" or "as prescribed" means prescribed or as prescribed in the Rules framed under this Act.

- (k) "export" means the act of taking of goods out of Nepal to a foreign country.
- (l) "declaration form" means the form in which an exporter or importer declares the details of goods to be exported or imported.
- (m) "import" means the act of bringing of goods into Nepal from a foreign country.
- (n) "bonded warehouse" means a warehouse licensed by the Department to import and hold, against the bank guarantee facility, such raw materials or subsidies manufacture goods to be exported to foreign countries or to be sold domestically at convertible foreign currencies or such goods as to be sold at a duty free shop.
- (n1) "Calamity" means the earthquake, outbreak of fire, storm, landslide, flood, downpour, drought, famine, pestilence and other such calamity and this expression includes accident to be occurred by industrial accident, accident caused by explosive or

poisonous substance and such type of other calamity.

- (o) "bank" means a commercial bank or financial institution licensed to carry on banking transactions pursuant to the prevailing law.
- (p) "bank guarantee" means the guarantee given by a bank to the Customs Office against payment by itself of duty payable by any exporter or importer in exporting or importing any goods in the event of failure of such exporter or importer to pay such duty.
- (q) "bank guarantee facility" means a facility accorded to any exporter or importer to export or import any goods on the basis of bank guarantee.
- (r) "Customs Officer" means the Chief Customs Administrator, Post Clearance Audit Administrator, Chief Customs Officer, Chief Customs Examiner, Customs Officer or Customs Examiner and this expression includes the Chief of customs office or Sub-customs Office and the Official designated by

the Ministry of Finance pursuant to Section 84.

- (s) "customs agent" means the licensee as referred to in Section 51.
- (t) "Customs Office" means the Customs Office established pursuant to Section 4, and this expression includes the premises of such Customs Office and such other area as may be prescribed by the Government of Nepal by notification in the Nepal Gazette.
- (t1) "customs godown" means a house, building, shed or similar other structure built in a Customs Office or any place for holding goods to be exported or imported.
- (u) "Post Clearance Audit Office" means the office established under section 34 for the purpose of post clearance audit.
- (v) "customs duty" means customs duty chargeable on goods to be exported or imported in accordance with laws.

- (w) "customs value" means such value of goods to be exported or imported as may be determined in accordance with the provisions of Section 13 or 16 for the purpose of determining customs duty.
- (x) "Customs area" means the customs area prescribed by the Government of Nepal or by the Director General pursuant to Section 3.
- (y) "duty" means each tax, charge and fee chargeable on goods to be exported or imported in accordance with law, and this expression includes customs duty.
- (z) "duty facility" means such facility as to allow the exportation or importation of any goods keeping only books of record, without collecting duty, whether or not examining such goods.
- (aa) "Director General" means the Director General of the Department of Customs.
- (ab) "goods" means any kind of movable goods or property including currency.

- (ab1) "Relief material" means the goods prescribed by the Government of Nepal to be imported as humanitarian assistance for rescue and relief of victim during calamity period.
- (ac) "person" means a natural person, and this expression includes any company, corporate body and firm registered pursuant to law.
- (ad) "Department" means the Department of Customs.
- (ae) "demurrage" means the charge payable to the Government of Nepal by the exporter or importer of goods if such exporter or importer fails to take delivery of such goods stored at the customs godown run by the Customs Office within the prescribed time limit.
- (af) "motor vehicle" means any conveyance to be used or used to make travel or transport goods.

Chapter-2
Provisions relating to Customs Area and Customs
Office

3. Power to prescribe customs area and route:

- (1) The Government of Nepal may, by notification in the Nepal Gazette, prescribe any area of Nepal as the customs area for the purpose of administering the laws relating to customs and collecting customs duty in accordance with this Act.
- (1a.) The Director General may prescribe any area of Nepal as customs area for the purpose of clearance the relief materials or for the purpose specified in Sub-section (1) during calamity condition. After expiration of the purpose of such customs area, the Director General may cancel it.
- (2) The Government of Nepal may, by notification in the Nepal Gazette, prescribe routes through which export from or import into Nepal is to be made through the customs area as referred to in sub-section (1).

However, the Director General may prescribe the route to be imported into Nepal or to be exported from Nepal from customs area specified in Sub-section (1a.).

- (3) Any goods to be exported from Nepal or imported into Nepal shall be exported or imported only through the routes as referred to in sub-section (2).
- (4) The Director General may, subject to sub-section (3), so prescribe that the goods of any specific nature can be exported or imported only through any specific customs office.
- (5) Notwithstanding anything contained elsewhere in this Act, the Director General may so prescribe that the goods as prescribed or the goods up to the value as prescribed can be exported or imported through a sub-customs office.

4. Establishment of Customs Office:

- (1) The Government of Nepal may, by notification in the Nepal Gazette, establish a

Customs Office or Sub-customs Office in any customs area.

- (2) If work performance cannot be performed from any customs office due to calamity, the Director General may establish customs office in any customs area. After expiration the purpose of such established customs office, the Director General may cancel such customs office.

4A. Establishment of Posts Clearance Audit Office:

- (1) Post Clearance Audit Office may be established as necessary by the Government of Nepal by notification in Nepal Gazette.
- (2) Post Clearance Audit Office established before the commencement of this Section shall be deemed to be established under this Section.

Chapter-3
Provisions relating to Customs Duty

5. Customs duty to be charged:

Customs duty shall be chargeable on all goods to be exported or imported except those goods which enjoy customs duty exemption pursuant to this Act or the prevailing law.

6. Duty to be levied in event of re-import of exported goods:

- (1) If any person re-imports any goods which have been manufactured or finished in Nepal and exported, such goods shall be subject to such duty as is chargeable on the importation of the goods of similar kind or to the same value, which have been manufactured or finished in a foreign country.
- (2) Notwithstanding anything contained in sub-section (1), no customs duty shall be charged on the goods which have been returned back as follows:

- (a) Having been exported through parcel by post but could not be delivered to the concerned person and thus returned back, or
 - (b) Having been returned back because the concerned person has refused to take delivery after clearance made by the Customs Office or after having arrived abroad, or
 - (c) Having been returned back because of being unable to meet standard quality due to an accident or natural calamity.
- (3) Where the raw materials and subsidiary raw materials of the goods returned back pursuant to sub-section (1) were imported without paying duty, the duty chargeable on the quantity of the raw materials or subsidiary raw materials used in such goods shall also be recovered.

7. Duty not to be charged:

- (1) If any importer makes an application for not releasing any goods imported by that

importer and for so leaving such goods with the Customs Office that they belong to the Government of Nepal, no duty shall be charged on such goods.

- (2) The Government of Nepal may itself use the goods so left pursuant to Sub-section (1) or the Customs Officer may auction them pursuant to this Act. Provided that where such goods are in such a condition that they can neither be brought into use nor be auctioned, the Customs Officer may remove such goods from the Customs Office or destroy them as prescribed; and the expenses incurred in such removal or destroy shall be recovered from the concerned importer himself / herself.
- (3) If the importer makes application within prescribed time period by fulfilling prescribed process with prescribed evidence if any goods is found low quantity at the time of dispatching any goods, valueless or low in quantity or weight by business point of view due to breaking by calamity or having low quantity due to the act of theft, the Customs

Officer may give prescribed duty rebate or refund if it is already recovered of that goods which is lost or have low quantity or is found valueless by business point of view.

- (4) The quantity of goods damaged pursuant to Sub-section (3), is found that the purpose for which the goods have been imported do not achieve the purpose but can be used as waste or scrap or other any alternative utilization, the Custom Officer may recover the duty by determining the value of such goods accordingly.

8. Base date for determination of duty:

- (1) The duty of any goods to be exported or imported shall be determined according to the tariff rate prevailing on the date on which the declaration form of such goods is registered in the Customs Office or received in customs office in electronic medium through the computer system.

Provided that where the declaration form has been registered in the Customs Office or

received in customs office in electronic medium through the computer system, prior to the arrival of goods at the Customs Office, the duty shall be determined according to the tariff prevailing on the date of arrival of such goods at that Office.

- (2) Notwithstanding anything contained in subsection (1), the duty of the following goods shall be determined on the following basis:
 - (a) In the case of goods imported under the diplomatic facility, duty facility or partial or full exemption, according to the tariff prevailing on the date of payment of duty of such goods,
 - (b) In the case of goods imported under the bank guarantee facility, according to the tariff prevailing on the date of clearance of such goods.

Chapter-4
**Provisions Relating to Customs Duty Facility,
Exemption and Other Facilities**

9. Diplomatic facility, duty facility and customs duty exemption:

- (1) Diplomatic facility or duty facility shall, on recommendation of the Ministry of Foreign Affairs, Government of Nepal, be accorded, as prescribed, to those bodies, officials or persons who are entitled to enjoy such diplomatic facility or duty facility under any bilateral or multilateral treaty or agreement to which Nepal is a party.
- (2) The Government of Nepal may, from time to time and by notification in the Nepal Gazette, accord the diplomatic facility or duty facility to such goods to be imported by such persons or bodies as specified in that notification.
- (3) The Government of Nepal may, from time to time and by notification in the Nepal Gazette, accord partial or full customs duty exemption to the goods specified in that notification.

- (4) The Government of Nepal may accord partial or full customs duty exemption to the goods to be imported in the name of any project to be operated under foreign loan or grant assistance or in the name of the contractor of such project.
- (5) The Government of Nepal may accord partial or full customs duty exemption to the fuel to be consumed during international flight, engine of aircraft, spare parts, machine, equipment thereof, food, liquors, beer and light drinks consumed in flight by an international air service company.
- (6) The provisions for according the duty facility to any goods to be brought again into Nepal from any part of Nepal via any abroad route shall be as prescribed.
- (7) The provisions for according the duty facility to any goods to be sent again to a foreign country from the foreign country via Nepal shall be as prescribed.

- (8) Government of Nepal may give total duty exemption to be imposed while importing relief materials. While giving such duty exemption, details of goods given duty rebate and time period to be got such exemption facility should be mentioned.

10. Power to accord bonded warehouse facility:

The Government of Nepal may, if it considers appropriate to accord the bonded warehouse facility to any person desirous of availing of the bonded warehouse facility, so accord the facility, as prescribed, that the bonded warehouse is operated subject to the terms as prescribed.

11. Power to accord facility to make import under bank guarantee facility:

- (1) The Government of Nepal may accord to any person the facility to import any goods under the bank guarantee facility in such manner as prescribed.
- (2) The Government of Nepal may accord the facility, as prescribed, to import under the bank guarantee facility, in accordance with

the prescribed terms, such raw materials or subsidiary raw materials as to be imported by any industry for the purpose of manufacturing goods and export them or such goods as are imported for the operation of a duty free shop.

However, the industry which exports liquor, cigarette or other tobacco substance shall not get such facility.

- (3) In according the facility to make import pursuant to subsection (2), the concerned Customs Office shall take bank guarantee of the duty chargeable for such importation as well as such other duty, fee or penalty as may be chargeable or imposed on him or her in the event of violation of the terms referred to in sub-section (2).

12. Power of Government of Nepal to accord customs duty exemption and other facility to goods to be exported and imported by industry situated in special economic zone:

- (1) The Government of Nepal shall accord customs duty exemption and other facility

against bank guarantee to the following goods to be exported and imported by any industry situated in the Special Economic Zone:

- (a) Such raw materials, subsidiary raw materials as required to manufacture finished goods to be exported, packing materials and other materials to be used in manufacturing,
- (b) Plants, machineries, machines, equipment, tools and spare parts as required for the industry, and up to three motor vehicles based on the size and nature of industry;

Explanation: For the purposes of this Section, "Special Economic Zone" means a zone specified as a special economic zone by the Government of Nepal through notification in the Nepal Gazette.

- (2) If any importer sells, as prescribed, any goods which that importer has imported to any industry situated in the special economic

zone and that importer has paid the customs duty for importing such goods, the Customs Office shall refund, as prescribed, such customs duty to that importer.

- (3) If any industry situated outside the special economic zone sells any finished goods manufactured by that industry to any industry situated within the special economic zone, such customs duty and other facility as is accorded in the event of export shall be accorded as if that sale were an export.
- (4) If an industry situated within the special economic zone so sells any goods manufactured from the raw materials imported under the customs duty exemption that such goods are consumed in Nepal, such goods shall be allowed to be taken out of the special economic zone only after payment of duty chargeable on the raw materials used in such goods.
- (5) The Government of Nepal may, by notification in the Nepal Gazette, issue an order specifying the procedures on the

transfer by an industry situated within the special economic zone of the ownership of goods imported under duty exemption to any person within or outside the special economic zone. It shall be the duty of the concerned industry to abide by such order.

Chapter-5
Provisions Relating to Determination of Customs
Value

13. Bases for determination of customs value of goods to be imported:

- (1) The rules on customs valuation, annexes and interpretative notes set forth in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 shall be pursued in determining the customs value of imported goods.
- (2) The customs value of goods to be imported shall be determined on the basis of the transaction value of such goods, subject to sub-section (1).
- (3) The importer shall declare the transaction value, attaching therewith the description and documents proving the value of goods imported.
- (4) If the transaction value declared by the importer pursuant to sub-section (3) is in conformity with sub-section (1), the Customs

Officer shall determine the customs value of the goods on the basis of such transaction value. If such transaction value does not appear to include freight, insurance and other related expenses, the Customs Officer shall determine the transaction value by adding an estimated amount likely to be incurred for the same.

- (5) The Director General may prescribe bases for fixing the estimated amount referred to in sub-section (4).
- (6) If there is a reasonable ground to believe that the value declared by the importer pursuant to sub-section (3) is doubtful, the Customs Officer may ask the importer to produce additional documents or evidence in writing to prove that such value is the actual transaction value. It shall be the responsibility of such importer to provide documents so asked.
- (7) If the customs value of any goods cannot be determined on the basis of the transaction value declared by the importer pursuant to

sub-section (3) or the bills, invoices and documents submitted by the importer, the Customs Officer shall give a notice, accompanied by the reason for the same, to the concerned importer.

- (8) If the customs value cannot be determined on the basis of the transaction value pursuant to sub-section (2), the customs duty of such goods shall be determined on the basis of the transaction value of identical goods already imported into Nepal prior to the import of such goods.

Explanation: For the purposes of this Section, "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation.

- (9) If the customs value cannot be determined on the basis of the transaction value of identical goods pursuant to sub-section (8), the customs duty of such goods shall be determined on the basis of the transaction

value of similar goods already imported into Nepal prior to the import of such goods.

Explanation: For the purposes of this Section, "similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable.

- (10) If the customs value cannot be determined on the basis of the transaction value of similar goods pursuant to sub-section (9) and such goods have already been imported into Nepal and sold at market to a person who is not related to the importer, the customs value of such goods shall be determined on the basis of deductive value method, by deducting the tax, duty levied in Nepal on the selling price of each unit of the maximum unit so sold, and other related costs and profits.
- (11) If the customs value cannot be determined pursuant to subsection (10), the customs value shall be determined on the basis of

computed value method, also calculating the costs incurred in the production or manufacturing of such goods and profits made or likely to be made by the seller while selling such goods to the importer.

- (12) If the customs value cannot be determined pursuant to subsection (11), the Customs Officer shall so determine the customs value of such goods on a reasonable basis as not to be contrary to the provisions of subsections (2), (8), (9) and (10).
- (13) Notwithstanding anything contained in subsections (10) and (11), if the importer makes a request for the determination of customs value by adopting the procedures set forth in subsection (11) prior to adopting the procedures set forth in subsection (10), the Customs Officer may determine the customs value in accordance with the provisions of sub-section (11).
- (14) Notwithstanding anything contained elsewhere in this Section, if the owner of the goods imported under the Baggage Order for

personal purposes or the goods received as a gift or specimen and imported from a foreign country or relief materials makes an application for the valuation of such goods, showing the reason for failure to indicate the transaction value thereof and if the Customs Officer considers the matter to be appropriate or submitted without indication of value, he or she may determine a reasonable customs value of such goods.

- (15) If the value declared by an importer pursuant to sub-section (3) is less than the customs value determined by the Customs Officer pursuant to this Section, the Customs Officer may do the following in relation to such goods:
- (a) Clearing such goods by collecting fifty percent additional customs duty on such difference value, or
 - (b) With the prior approval of the Director General, purchasing, or causing to be purchased, such goods in a manner to pay the amount to be set by adding

five percent amount to the value so declared to the importer.

- (16) In determining the customs value of goods in accordance with the provisions of this Section, the customs value shall normally be determined in a foreign currency. Where the valuation of goods on which the duty has to be paid at the time of import is made in a foreign currency, the conversion of such currency into Nepalese rupees shall be made according to the selling rate of foreign currency which is prescribed by the Nepal Rastra Bank and prevailing on the day in which the declaration form is registered in customs office or received in customs office in electronic medium through the computer system of such goods. In the case of a foreign currency of which exchange rate is not prescribed by the Nepal Rastra Bank, such foreign currency shall be converted into American dollars, and the selling rate of American dollars shall be taken as the basis.

Provided that in converting the customs value of the goods of which duty is paid subsequent

to the importation thereof under the diplomatic facility, duty facility or full or partial exemption of duty, such conversion shall be made according to the selling rate of foreign currency which is prescribed by the Nepal Rastra Bank and prevailing on the day of payment of the remaining duty.

- (17) Notwithstanding anything contained in this Section, in case it is found that the customs value determined by the Customs Officer pursuant to this Section was found determined without following the method and procedure mentioned in this Section or there is a valid reason to believe that the amount determined is doubtful, the Director General shall give an order to reassess the amount pursuant to this Section.
- (18) If any order is received pursuant to subsection (17), Custom Officer shall reassess the customs value after conducting necessary investigation and inform thereof shall be provided to the Director General within thirty days.

- (19) Director General shall give an order pursuant to subsection (17) within ninety days from the date of clearance of such goods.

14. Power to determine customs value provisionally:

- (1) Notwithstanding anything contained elsewhere in this Act, the Customs Officer may, subject to Section 13, determine a reasonable provisional customs value of imported goods if:
- (a) the importer makes an application, along with a reasonable reason, that he or she is not able to forthwith provide necessary documents and other related information as required for the valuation of goods,
 - (b) the customs value has to be or can be determined only after carrying out the laboratory test or other examination of goods or there appears a need to make further inquiry into the

documents and information provided by the importer.

- (2) Where, after the determination of provisional customs value in accordance with the provisions of sub-section (1), the importer wishes to clear the goods by furnishing a deposit of the duty chargeable on such goods, the Customs Officer shall make clearance of such goods.
- (3) The Customs Officer shall determine the customs value of the goods under the provisions of Section 13 no later than thirty 22 days after the date of determination of the provisional value pursuant to sub-section (1).
- (4) If the customs value determined pursuant to sub-section (3) is more than the provisional customs value determined pursuant to sub-section (1), the Customs Office shall recover from such importer the duty chargeable on such excess value, and if it is less than that, the duty collected in excess shall be refunded to the importer.

15. Power to fix estimated amount of freight, insurance or other related costs:

- (1) Where, owing to a circumstance beyond his or her control, an importer is not able to forthwith submit documents of cost, insurance or related costs incurred in the importation of any goods, the importer may submit an application, accompanied by the reason for the same, to the Customs Officer for the fixation of the estimated amount of such freight, insurance or other related expenses.
- (2) Where, in inquiring into the application referred to in subsection (1), the contents appear to be reasonable, the Customs Officer may fix the estimated amount for freight, insurance or other related expenses likely to be included in the transaction value of such goods.
- (3) The concerned importer shall submit documents and evidence relating to the actual freight, insurance and other related expenses no later than ninety days after the

date of fixation of the estimated amount of freight, insurance or other related costs pursuant to sub-section (2). If the amount set forth in the documents and evidence so submitted is more than the estimated amount fixed pursuant to sub-section (2), the importer shall pay the duty chargeable on such excess value, and if it is less than that, the Customs Office shall refund the remaining amount, upon deduction of the chargeable duty, to the importer.

- (4) Where the concerned importer fails to submit documents and evidence within the period referred to in sub-section (3) or unless it is proved otherwise, the estimated amount fixed by the Customs Officer pursuant to sub-section (2) shall be considered as the final amount of such freight, insurance or other related costs.

16. Determination of customs value of goods to be exported:

- (1) The invoice value declared by an exporter shall be the customs value of the goods to be exported.
- (2) Notwithstanding anything contained in subsection (1), the Government of Nepal may, if considers necessary, determine separate customs value of any goods of specific nature to be exported, by notification in the Nepal Gazette. Where separate customs value is so determined, the customs vale of such goods shall be the invoice value declared by the exporter 24 or the customs value so determined by the Government of Nepal, whichever is higher.
- (3)
- (4) The value of goods to be determined pursuant to this Section shall be determined in foreign currency. Such foreign currency shall be converted into the Nepalese rupees according to the buying rate of foreign

currency which is prescribed by the Nepal Rastra Bank and prevailing on the day in which the declaration form is registered in the customs office or received in customs office in electronic medium through the computer system of such goods.

Chapter-6
Provisions Relating to Declaration Form, Examination
and Clearance

17. Details to be submitted:

The driver of a motor vehicle transporting any goods to be exported or imported shall provide such details of goods held in the vehicle as may be prescribed to the Customs Officer before such vehicle enter the Customs Office.

18. Declaration form to be filled up and submitted:

- (1) Any person who exports or imports any goods shall fill up the declaration form, accompanied by the documents as prescribed, and submit it to the Customs Officer of the concerned area.

Provided that, it shall not be necessary to fill up the declaration form in the case of those goods which have been exempted from customs duty by the Government of Nepal by notification in the Nepal Gazette, out of the goods contained in the luggage and baggage

of passengers going out from Nepal and coming into from foreign countries.

- (2) In the event that, owing to the occurrence of a circumstance beyond control or any other reasonable reason, the concerned person is not able to submit any document as referred to in sub-section (1) along with the declaration form, such person may make an application, showing such circumstance or reason, to the Customs Officer for permission to submit such document later.
- (3) Where, upon examination of the application made pursuant to sub-section (2), such circumstance or reason appears to be reasonable, the concerned Customs Officer may prescribe the period within which such document has to be submitted.
- (4) While prescribing the period for the submission of document pursuant to sub-section (3), the Customs Officer may prescribe any terms or ask for a reasonable deposit for security.

- (5) Notwithstanding anything contained in Sub Section (1) Exporter or importer can send the details of the goods to the customs office in the format of declaration form in electronic form through computer system.
- (6) If declaration form of the goods has been sent through electrical medium pursuant to Sub-section (5), importer or exporter shall submit the documents pursuant to Sub-section (1) before the Customs Officer as physical or electronic form.

19. Examination of declaration form:

- (1) After the submission of a declaration form pursuant to Section 18, the concerned Customs Officer shall examine as to whether the goods declared in the declaration form are exportable or importable under law. While carrying out such examination, the Customs Officer may, as required, carry out or cause to be carried out physical inspection of the concerned goods.

- (2) If, in carrying out examination pursuant to sub-section (1), such goods are found to be non-exportable or non importable or restricted ones, the matter shall be referred to the concerned body or authority for investigation or action under the prevailing laws.

20. Examination of goods:

- (1) If, in carrying out examination pursuant to Section 19, the concerned goods are found to be exportable or importable, the Customs Officer shall examine such goods in accordance with the provisions contained in Chapter-7.
- (2) Notwithstanding anything contained in Sub-section (1), the Customs Officer may make clearance of goods adopting any following process, pursuant to the selectivity system:
 - (a) To make clearance of goods on the basis of declaration without examining goods and documents thereof, or

- (b) To make clearance of goods by examining related documents only without examining the goods, or
- (c) To make clearance of goods on the basis of declaration subject to make post clearance audit without examining the goods and related documents, or
- (d) To make clearance of goods by fully examining the goods and related documents.

Explanation: For the purposes of this Section, "selectivity system " means a system so determined by the Department in guidelines for the purpose of making clearance of goods by taking into account the risks determined on the basis of revenue security, social security, public health security, environment security, nature of goods, country of origin of the goods, country of shipment of the goods, goodwill of supplier, importer or customs agent among others and by classifying the goods on the basis of such risks.

21. Valuation to be made:

After the examination of goods or documents pursuant to Section 20, the Customs Officer shall determine the customs value of the goods to be imported and of the goods to be exported under the provisions of Sections 13 and 16, respectively.

22. Classification of goods and determination of duty:

(1) After the determination of the customs value pursuant to Section 21, the Customs Officer should examine that whether declared goods has been classified or not pursuant to Sub-heading under prevailing Fiscal Act. While examining by the same way, the Customs Officer shall confirm by taking base the subject mentioned in Sub-section (3) of the Section 61a. that whether classification is right or not.

(2) If it is found correct while examining classification of goods pursuant to Sub-section (1), the Customs Officer shall determine duty to be imposed on such goods.

- (3) If it is found incorrect while examining classification of goods pursuant to Sub-section (1), the Customs Officer shall inform the declarant and amend classification sub-heading and determine the duty accordingly.
- (4) Importer who dissatisfies on amendment made by the Customs Officer pursuant to Sub-section (3) shall make application before Director General for the review pursuant to Section 61a. Before making such application, the goods should be released by paying duty determined by the Customs Officer.
- (5) While paying duty pursuant to Sub-section (4) by the importer, he/she may make application before Customs Officer to keep a deposit, fully or partially subject to be as decided while making final decision in relation to goods classification. In such a situation, the Customs Officer may make clearance of goods by keeping a deposit as per the same.
- (6) If Customs Officer feels confusion to confirm classification of goods pursuant to Sub-section (1), he/she should forward the letter

before Director General for the decision with reason of confusion and his/her opinion and specimen of the goods.

- (7) If Director General receives the letter pursuant to Sub-section (6), he/she shall decide to fix classification sub-heading and inform the same to the Customs Officer. The Customs Officer shall make clearance of goods by classifying the goods as per the same and determining the duty.

23. Clearance of goods:

Except where exemption from or facility granting waiver of the duty is provided under the prevailing laws, the Customs Officer shall make clearance of goods only upon collecting the duty determined pursuant to Section 22.

24. Determination of duty prior to arrival of goods at Customs Office:

- (1) If any importer wishes to pay the duty chargeable on any goods to be imported by the importer prior to the arrival of such goods at the concerned Customs Office, the

importer may, for that purpose, make an application, accompanied by the declaration to the Customs Officer.

- (2) If, on examination of the application received pursuant to sub-section (1), it appears reasonable to so collect the duty, the Customs Officer may determine the duty pursuant to Section 22.
- (3) If the rate of duty determined pursuant to sub-section (2) or the exchange rate of convertible foreign currency prevailing on the day of payment of duty differs from that prevailing on the day of clearance of goods, the rate prevailing on the day of clearance of goods shall be applied.
- (4) After those goods in respect whereof the duty has been paid pursuant to sub-section (2) have arrived at the Customs Office, the Office shall complete necessary procedures and make clearance of such goods with priority.

25. Export or import to be made:

- (1) The exporter or importer of any goods to be exported or imported or his or her customs agent may export or import such goods only after the declaration form or a receipt of payment of the duty pursuant to Section 23 has been received, and after the Customs Officer has given permission to clear the goods upon making, or causing to be made, examination thereof, in the case of the goods mentioned in the proviso to sub-section (1) of Section 18.
- (2) If any person exports software through electronic means, such software shall be deemed to have been exported only after certification by the Nepal Rastra Bank, on the basis of, inter alia, the agreement relating to export, invoice and the evidence of payment made by the concerned importer.

26. Power to ask for proof, evidence or receipt:

- (1) Where there is a reasonable reason to believe that any person has imported or is going to export any goods and has not paid

the customs duty or it is known that the customs duty has not been paid, any employee of the Customs Office may ask such person to furnish an evidence showing the payment of customs duty of such goods or the exemption of such goods from customs duty in the event of such exemption.

- (2) Such person shall show the evidence or proof asked pursuant to sub-section (1) to such employee. If that person fails to furnish such evidence or proof or if the proof submitted shows that the goods are not the same as mentioned in the proof, such employee shall produce such goods and person before the Customs Officer.
- (3) The Customs Officer may, upon production made pursuant to sub-section (2), issue an order to withhold such goods and shall take action against the person so produced on the offense of export or import smuggling.

27. Format of declaration form:

The format of declaration form shall be as prescribed.

Chapter-7

Provisions Relating to Examination of Goods

28. Power to open and examine consignment or packet:

- (1) The Customs Officer may open and examine, or give order to any of his or her sub-ordinate employees to open and examine, each and every consignment or packet of any goods whatsoever to be exported or imported or open and examine them randomly and casually or open and examine only a certain percentage of the same.
- (2) In making examination pursuant to sub-section (1), the examination of live animals, perishable goods and such other goods as the Customs Officer considers necessary shall be made first.
- (3) Where the Customs Officer or his or her sub-ordinate employee has opened and examined the consignment or packets of goods pursuant to sub-section (1), the method of such examination and a clear

description of the items so examined shall be set down in the declaration form.

- (4) If there is a suspicion about any consignment or packet examined or not examined under this Section or any information is received about the same, the Customs Officer shall give order to any of his or her sub-ordinates to examine such consignment or packet if it has not been examined or to re-examine the same if it has already been examined.
- (5) If any Importer or exporter wishes to get the goods examined in his or her presence, that exporter or importer shall give information thereof in writing to the Customs Officer. Where information is so given, the Customs Officer may examine or cause to be examined the goods in presence of such Importer or exporter provided that if such Importer or exporter is not present at the time specified by the Customs Officer, nothing shall bar the examining of goods in the absence of such exporter or importer.

- (6) While examining or causing examination pursuant to this Section, the Customs Officer may examine or cause examination only upon collection of the duty chargeable on the basis of declaration.
- (7) Where, in making examination pursuant to sub-section (6), the goods are not found the same as those set down in the declaration made by the exporter or importer or his or her agent or in the document attached with the declaration, the importer shall not be entitled to get refund of the duty or to reconcile or adjust it with the chargeable duty if the duty has been collected prior to the examination of such goods.
- (8) Prior to taking delivery of the goods once cleared from the customs area or after taking them outside the customs area, any officer deputed by the Director General or the Customs Officer of the concerned Customs Office may re-examine, or cause to be re-examined, such goods wholly or partly. While making such re-examination, the Director General or the Customs Officer shall provide

information of the reason for such re-examination to the concerned importer.

29. Deemed examination:

If, while examining any consignment or packet pursuant to Section 28, the goods held in the consignment or packet are found to be conforming to the submitted bills, invoices, other documents or details, the goods in the other consignments or packets which have not been examined shall also be deemed to have been examined.

30. Specimen collection and test of goods:

- (1) If it is required to subject food or beverage or any goods to a special test from the perspective of quality test, customs valuation, classification, possible impact in health or environment the Customs Officer may take the specimen of such goods in the presence of goods owner or his/her agent and get such specimen tested by himself/herself or the concerned expert or the laboratory run by department or customs office or other government agencies.
- (2) The laboratory run by the Department or other government agencies shall promptly test the specimen of goods obtained for test pursuant to sub-section (1) and send results thereof to the concerned Customs Office promptly.

(3) If the laboratory run by the Department is unable to test the specimen of goods obtained for test from the customs office pursuant to sub-section (1) shall get the specimen tested by the laboratory run by other government agencies and send the report thereof to the concerned customs office.

(4) If, in carrying out test pursuant to sub-section (1), the goods appear to cause adverse effects or damage to the environment or health, the Customs Officer shall order the concerned importer to return such goods back to the concerned exporter of the foreign country, in such manner as prescribed.

Provided that, prior to making such order, the Customs Officer may ask the importer to submit the evidence showing the refund of foreign currency paid for such goods or a bond covenanting to have refund of such foreign currency.

(5) If the concerned importer does not send back such goods pursuant to the order issued under sub-section (4), the Customs Officer may seize such goods and destroy or decompose such goods and shall recover from the concerned importer the expenses incurred or likely to be incurred in such destroy or decomposition.

31. Power to visit and examine goods in the concerned place:

(1) Any exporter may submit an application to the Customs Officer to visit the production

site or godown of any goods to be exported by the exporter and examine such goods.

- (2) If it appears to make examination of the goods as per the application received pursuant to sub-section (1), the Customs Officer may visit such production site or godown on his or her own and examine such goods or send any of his or her sub-ordinate employee to such site or godown for such examination, by collecting the fees as prescribed.
- (3) Any importer may submit an application, accompanied by the prescribed documents and the declaration form filled up, to the Customs Officer for the examination of the goods imported by the importer outside the customs area.
- (4) If, upon inquiring into the application received pursuant to sub-section (1), it appears reasonable to make such examination, the Customs Officer may, by obtaining prior approval of the Director General, visit the site outside the customs area on his or her own

and examine the goods or send any of his or her sub-ordinate employee for such examination, by collecting the fees as prescribed.

- (5) Prior to making examination pursuant to subsection (4), the Customs Officer shall take a deposit of an amount to be set by adding fifty per cent duty to the duty chargeable on the goods according to the customs value declared by the importer. The Customs Office shall refund the excess amount to the importer if such deposit is more than the customs duty chargeable on such goods and recover from the importer the shortfall amount if such deposit is less than such customs duty.

32. Power to seal means of transport:

After the clearance of goods by the Customs Office, such goods may be kept in the means of transport which is to be used for transporting them, and the Customs Office may seal such means of transport.

33. Prohibition on opening, inspection and examination:

Nobody other than the authority authorized to make investigation under the prevailing laws on revenue leakage shall, without prior approval of the Ministry of Finance or the Director General, open, inspect and examine any goods cleared by the Customs Office and any means transporting such goods.

Chapter-8
Provisions Relating to Post Clearance Audit, Search
and Arrest

34. Power to make post clearance audit:

- (1) In order to ascertain whether the goods cleared by the Customs Office are the same as declared by an importer or confirm to the declaration made by the importer or not, the Director General or customs officer may audit, inter alia, the importer's books relating to the purchase, import or sale of goods, records, books of accounts or similar other documents, bank records, computer system and all records related to his or her business.
- (2) If, upon audit made pursuant to sub-section (1), it is found that the goods imported by the importer are different than those declared by the importer or are inconsistent with the declaration made by the importer or the transaction value or the quantity of the goods has been declared less and by virtue thereof lesser duty has been recovered, the Customs Officer shall immediately recover from the importer the duty chargeable on such less

value or quantity at the time of import and take action against such importer for the declaration of less transaction value or quantity, pursuant to this Act.

However, when less transaction amount is declared hundred percent of the duty chargeable will be collected as fine.

(3) If, upon audit made pursuant to sub-section (1), it appears that less duty has been recovered by the reason of difference in sub-heading of commodity classification, the concerned Customs Office shall recover such shortfall amount of duty and fine equivalent to that of shortfall amount from the importer.

(3a) The Director General or the Custom Officer while taking action pursuant to this section, shall use and follow the power and procedure with respect to it, to collect additional amount pursuant to existing laws, summon the concerned person, take his or her deposition, examine the evidence, require the submission of documents, issue notice.

(3b) If, upon audit made pursuant to this section, the importer does not appear within the given time or does not submit the document and evidence, the Director General or the Customs Officer shall audit on the basis of available documents and evidence, by imposing a fine pursuant to Sub-section (15a.) of Section 57 and withholding the import export transactions.

However, if additional document evidence is found with respect to the importer after audit is made pursuant to this section, this section shall not be deemed to prohibit conducting re-audit based on such additional documents.

(3c) While determining duty pursuant to this section, concerned person shall be provided fifteen days time to submit the clarification.

(3d) The duty and fine amount determined under this section shall be deposited within thirty-five days from receiving the order to deposit the amount by the person so ordered. Duty and fine amount not paid within mentioned time shall bear interest at the rate of fifteen

percent annually for the period beginning with the date of order and ending with the date on which the payment is made.

- (3e) If, any importer does not deposit the amount that should be deposited pursuant to subsection (3d), Customs officer shall freeze moveable or immoveable property of such importer and collect such amount from the said property.
- (3f) If any amount cannot be collected Pursuant to subsection (3e), the due amount shall be collected as government debt.
- (3g) Pursuant to this section, The director general or the customs officer shall, if necessary, require submission of documents relating to the importer, businesses owned by the importer, payment of goods, bank accounts, profit and loss statement, tax details, invoices or other such required documents from concerned bank or Financial institution, and any other organization or individual related to importers' business. When asked upon, the

organization or individual should compulsory furnish the documents as required.

- (4) The audit referred to in this Section may be made until four years after the date of clearance of goods.

35. Goods and persons to be produced before Customs Officer:

If any employee of the Customs Office or authority deputed by the Director General finds that any person has exported or imported any goods through any route other than the route prescribed pursuant to Section 3 or smuggled the goods or is going to make such export or import, such employee or authority shall capture such goods and the person and motor vehicle carrying such goods and produce them before the Customs Officer. The Customs Officer shall institute action against and in relation to the goods, person and motor vehicle so produced on the offense of export smuggling or import smuggling.

36. To make search on suspicion or ground:

If there is a reasonable ground or reason to believe that or there is a suspicion that any person has brought any goods subject to customs duty without paying such duty or smuggled and imported such goods or is going to smuggle and export such goods or has exported or imported or is going to export or import any restricted goods, any employee of the Customs Office may, at any time, stop such person or any motor vehicle and search such person or motor vehicle.

37. Demand of person to be searched for being produced before Customs Officer:

- (1) Where any employee other than the Customs Officer or the employee designated for that purpose intends to make search pursuant to Section 36, the concerned person may make a demand that he or she be produced before the Customs Officer prior to making such search.
- (2) Where demand is made for presence before the Customs Officer pursuant to sub-section

(1), the employee of the concerned Customs Office shall produce him or her before the Customs Officer promptly.

- (3) Where the Customs Officer has a reasonable ground to search the person produced pursuant to sub-section (2), he or she himself or herself may search such person or cause any of his or her subordinate employees to make such search, and where the Customs Officer does not see such ground, he or she shall release such person immediately.

38. Import smuggling or export smuggling to be deemed:

Where, upon making a search pursuant to Section 36 or 39, any goods which are subject to the customs duty or which have to be exported or imported by making declaration pursuant to this Act are seized, the Customs Officer shall give order to the person searched to submit the declaration form of such goods and evidence of payment of duty if such goods are those which are subject to customs duty. In the event of failure to submit such declaration or evidence, such person shall be

deemed to have committed export smuggling or import smuggling.

39. To search house, building, godown or place:

- (1) Where there is a reasonable ground to believe or doubt that any person has hidden or kept any goods brought into by evading the customs duty or by way of import smuggling in any house, building, godown or other place, the Director General or the concerned Customs Officer may make decision, accompanied by the reason, and search such house, building, godown or place or give order to make such search.
- (2) The employee who gets order pursuant to sub-section (1) shall, prior to searching such house, building, godown or place, give a notice, accompanied by the reason for making such search, to the owner of that house, building, godown or place or the person who are residing in such house, building, godown or place for the time being. If such owner or person refuses to acknowledge such notice, a copy of the

notice shall be affixed to such house, building, godown or place in a manner conspicuous to all; and after the notice is so affixed, the concerned owner or person shall be deemed to have duly received the notice of search.

- (3) After the notice has been given to the concerned owner or person pursuant to sub-section (2), such owner or person shall allow the employee deputed to make search to search such house, building, godown or place.
- (4) If any person makes any obstruction or objection to making search pursuant to sub-sections (2) and (3), the employee deputed to make search shall give a notice and opportunity to the persons who are staying in the house, building, godown or place to be searched to leave such house, building, godown or place. If such persons do not leave in spite of such notice and opportunity, such employee may search the house, building, godown or place required to be searched at any time between sunrise and

sunset by opening or breaking the external or internal door, window or locker thereof also by using necessary force with the assistance of the security body.

- (5) In making search pursuant to this Section, the employee deputed to make search shall, to the extent of availability, make search in witness of the ward chairperson or ward member of the concerned **Village Council** or Municipality or an employee of any office or house owner or his or her agent or any person having attained the age of sixteen years. If no such person is found to witness the search or such person refuses to witness the same, the person making search shall execute a memo of remarks to that effect and sign it.
- (6) If, on making search pursuant to this Section, any goods brought by evading the customs or by way of import smuggling are seized, the employee making such search shall take such goods in his or her custody, prepare an inventory indicating the details of such goods and deliver a copy of the inventory to the

concerned person of the house, building, godown or place searched immediately. If the concerned person refuses to receive such copy or if it is not possible to deliver it to such person, that copy shall be posted by executing a recognizance deed in witness of two witnesses. If the copy of inventory is so posted, it shall be deemed to have been delivered to the concerned person.

- (7) Such employee shall produce the goods and inventory as referred to in sub-section (6) to the concerned Customs Officer; and upon such production, the Customs Officer shall take action under this Act.

40. Power to arrest:

- (1) Where, upon making a search pursuant to Section 36 or 39, any person is found to have committed any offence under this Act, the employee making such search may arrest, or cause to be arrested, such person.
- (2) If there is a reasonable ground or reason to believe or doubt that any person is going to

commit or has committed export smuggling or import smuggling or any act contrary to this Act, the concerned Customs Officer or any other employee of the Customs Office authorized by him or her may arrest, or cause to be arrested, such person in any motor vehicle or place.

- (3) Any person arrested pursuant to sub-section (1) or (2) shall be produced before the Customs Officer within twenty four hours excluding the time required for journey.
- (4) The Customs Officer shall immediately take legal action against the person produced pursuant to sub-section (3). Such person shall not be held in detention for more than twenty four hours without taking such action.

41. Power to release on bail or detain:

- (1) If any person produced pursuant to sub-section (3) of Section 40 is found to be an offender based on the evidence available for the time being, the Customs Officer may release such person on bail which includes the amount for imprisonment and fine that can be imposed on such person pursuant to this Act and the amount equal to the amount in controversy where such amount is also to be recovered on the condition that such person shall make presence at the prescribed place and time.
- (2) Any person who fails to furnish the bail demanded pursuant to sub-section (1) shall be held in detention until such bail is furnished to the Customs Office.
- (3) Notwithstanding anything contained in sub-section (1), if there is a ground that such person may destroy evidence if he or she is released on bail, the Customs Officer may forward action by holding such person in detention, by assigning the reason for the same.

- (4) Notwithstanding anything contained in sub-section (2) or (3), such person shall not be held in detention for a term that exceeds the maximum term of punishment that can be imposed on such person pursuant to this Act.
- (5) While taking bail for punishment pursuant to sub-section (1), it shall be taken by fifty rupees for one day of imprisonment.

42. Subsequent arrest of absconding person:

If any person who commits any act that is considered an offence under this Act cannot be arrested at the time of commission of the offence or such person, despite being arrested, absconds, the Customs Officer or the employee authorized by him or her or the employee deputed for that purpose may arrest such person at any time. Action shall be taken against such person as if he or she were arrested at the time of commission of the offense.

43. Power to use maximum force:

- (1) If any person attempts to export or import any goods through any route other than that prescribed pursuant to Section 3, the Customs Officer or the employee of the Customs Office authorized by him or her or

the competent government employee may stop such person.

- (2) If, while trying to stop such person pursuant to sub-section (1), such person manhandles or uses force, the Customs Officer or such employee shall request and convince such person not to do so.
- (3) If, despite the request and convincing pursuant to sub-section (2), that person does manhandling or uses force, the Customs Officer or such employee may arrest him or her.
- (4) If, while trying to make arrest pursuant to sub-section (3), that person uses force or tries to escape or go away and cannot be arrested for the time being, the employee deputed for security on the spot may, by order of such Customs Officer or competent authority for his or her security and for the observance of duties, first make an aerial firing and then open fire in such a manner as to cause a minimum of loss provided the situation cannot be controlled despite such

firing or the person using force has also a weapon.

- (5) An employee of the Customs Office may order any person who makes movement by a motor vehicle through the route prescribed under Section 3 to stop, or cause to be stopped, such motor vehicle, as well. If such person does not carry out such order but manhandles or uses force and attempts to take away or takes away such motor vehicle without getting it examined, the employee deputed for the security of customs may, by order of the Customs Officer, open fire at the tyre of such motor vehicle in such a manner as to cause a minimum of loss.
- (6) If it is necessary to open fire pursuant to sub-section (4) and (5), the Customs Officer or the authorized person shall give by faster means the information of that matter to the Director General or the Concerned Chief District Officer.

Chapter-9
Provisions Relating to Seizure, Forfeiture and Auction
of Goods

44. Power to seize goods liable to be forfeited:

The Customs Officer or the employee of the Customs Office authorized by him or her or the employee authorized by the Government of Nepal may, if he or she sees or finds any goods liable to be forfeited pursuant to this Act, seize such goods at any place and time.

45. Proof of seizure to be provided:

The Customs Officer or the employee who seizes goods pursuant to Section 44 shall provide a proof indicating the reason for so seizing the goods and an inventory setting out the details of goods so seized to the owner of such goods within a maximum of three days after the seizure of such goods.

46. Handing over of goods:

(1) Any employee of the Customs Office or other body shall promptly hand over the goods

seized by that employee or body pursuant to Section 44 and a copy of the inventory referred to in Section 45 to the Customs Officer in accordance with this Act.

- (2) After the goods have been handed over pursuant to subsection (1), the Customs Officer shall inquire into whether such goods are liable to be seized under this Act. If, upon such inquiry, it appears either that such goods have been seized for no reason or that it is not necessary to seize such goods, the Customs Officer shall immediately return such goods to the owner thereof.
- (3) If, upon making inquiry pursuant to subsection (2), it appears that the goods are liable to be seized, the Customs Officer shall take action as referred to in this Act in relation to such goods.

47. Ownership of goods seized and not cleared from customs belonging to Government of Nepal:

- (1) Any goods which are seized under this Act shall belong to the Government of Nepal.

- (2) The owner of goods concerned shall take delivery of the goods held in customs within the prescribed period.
- (3) The concerned Customs Office shall publish a seven-day public notice for taking delivery of the goods which have not been cleared within the period referred to in sub-section (2).
- (4) If, after the publication of the notice referred to in subsection (3), the owner of goods concerned makes an application, accompanied by a reasonable ground for not being able to clear the goods within the period referred to in sub-section (2), to the Customs Office and such reason appears to be reasonable, the Customs Officer may, by collecting the chargeable duty, permit the owner to clear such goods.
- (5) The concerned Customs Officer shall forfeit the goods not cleared from the Customs Office even upon the publication of the notice as referred to in sub-section (3). Such goods shall belong to the Government of Nepal.

48. Notice of forfeiture to be given:

Where any goods are forfeited pursuant to this Act, the Customs Officer shall give information thereof to the concerned exporter or importer.

49. Goods to be forfeited:

If a decision is made to forfeit any goods pursuant to this Act, the following goods related with such goods shall also be forfeited:

- (a) Parcels, packets or containers used to pack or transport such goods,
- (b) All kinds of motor vehicles including, rickshaws, carts and animals, other than trains and aircrafts, used to transport such goods,
- (c) Clothes, furniture, electronic goods and other materials held in motor vehicles referred to in clause (b).

50. Power to auction:

- (1) Except where the Government of Nepal has itself used any goods which have been

forfeited pursuant to this Act, the concerned Customs Officer may auction such goods as prescribed.

- (2) Notwithstanding anything contained in sub-section (1), provisions relating to the auction of the gold, silver or bullions which have been forfeited and devolved on the Government of Nepal because of failure to clear them from the Customs Office or those goods which have been so forfeited and devolved and can be sold only after obtaining license pursuant to the prevailing laws and other provisions pertaining thereto shall be as prescribed.
- (3) If any goods forfeited pursuant to this Act are such that their value may diminish because of being perishable or old or it is difficult to keep them because of the lack of godown or space or in the case of animals, the Customs Officer may immediately auction such goods as prescribed.
- (4) The Customs Office shall credit the proceeds of the auction referred to in sub-section (3) to the deposit account.

- (5) If it is held subsequently that those goods which have been auctioned pursuant to sub-section (1), (2) or (3) are to be returned to the owner thereof, only the proceeds of such auction shall be returned to that owner.
- (6) If it is not appropriate to hold in the Customs Office any motor vehicle used to transport goods by way of export smuggling or import smuggling and produced before that Office because of the lack of space or being unable to protect it, the concerned Customs Officer shall get the value of such vehicle fixed by the prescribed committee and auction, or cause to be auctioned, such vehicle at that value.
- (7) Notwithstanding anything contained in sub-section (6), the owner of such motor vehicle may submit an application to clear that motor vehicle, by furnishing a cash deposit of the amount consisting of the value fixed pursuant to sub-section (6) as well as the amount to be set by adding the tax and charge chargeable on such value pursuant to the prevailing laws.

- (8) Where an application is submitted pursuant to sub-section (7), the Customs Officer may collect such deposit and return the motor vehicle to that owner; and if, on taking action on and disposing such application, the motor vehicle is held to be forfeited, the Customs Office may credit the deposit so furnished into the revenue and return that motor vehicle to its owner. If it is decided that such motor vehicle is not liable to be forfeited and the owner of that vehicle is entitled to get it returned, the deposit furnished by that owner shall be refunded as prescribed.
- (9) Notwithstanding anything contained elsewhere in this Section, the Customs Officer may decompose, decay or destroy, as prescribed, those goods which cannot be auctioned pursuant to this Act or which cannot be brought into use in any manner.

Chapter-10
Provisions Relating to Customs Agent

51. Provisions relating to license of customs agent:

- (1) A person who wishes to act as the customs agent or representative of any importer or exporter to clear goods to be imported or exported from the Customs Office or to do any act related with the Customs Office shall obtain the license of customs agent from the Department or Customs Office.
- (2) The provisions relating to the license of customs agent shall be as prescribed.

52. Appointment of customs agent:

If any exporter or importer wishes to get the goods to be exported or imported cleared not by himself or herself but through a customs agent or to do any act related with the Customs Office not by himself or herself but through a customs agent, such exporter or importer may appoint his or her customs agent as prescribed.

53. Customs agent to be deemed owner of goods:

If the owner of any goods appoint any person as his or her customs agent to get such goods cleared from the Customs Office or to do any other act as referred to in this Act and the Rules framed under this Act, such customs agent shall, for that purpose, be deemed to be the owner of such goods.

53A. Duties of Customs Agent:

Duties of Customs Agent, appointed pursuant to this Act for the purpose of releasing goods from the Customs Office or to do other works relating to customs office, shall be as follows:

- (a) To fully comply with the laws related with customs,
- (b) To provide necessary support to the customs office to simplify customs clearance process,
- (c) To provide necessary support to the customs office in duty recovering work,
- (d) Not to cause any kind of obstruction in work and activities of the customs office,

- (e) If Customs Officer give written notice for making presence the importer or exporter who appointed him or her, to give such notice to the concerned importer or exporter.

54. Customs agent to be responsible:

If any customs agent appointed pursuant to Section 52 does any act contrary to this Act or the Rules framed under this Act, thereby causing any loss and damage to the owner of goods, such agent shall pay an amount equal to that loss to the owner of such goods, as prescribed.

55. License to be suspended and canceled:

- (1) The Customs Officer may suspend any customs agent on whom a fine is imposed pursuant to Section 59 or who does any act contrary to this Act or the Rules framed under this Act or fails to fulfill his or her duty for a period from one month to six months.
- (2) If any customs agent does the act referred to in Sub-section (1) for the third time or gets license by submitting fake academic qualification certificate or other fake

document, the Customs Officer may cancel his or her license.

- (3) Prior to suspending pursuant to sub-section (1) or canceling the license pursuant to sub-section (2), the concerned Officer shall give an opportunity to such customs agent to defend him or herself.
- (4) In the event of suspension pursuant to sub-section (1) and (5), such customs agent shall not do any act relating to customs during the period of such suspension, and in the event of cancellation of license pursuant to sub-section (2) and (6), such customs agent shall not be entitled to obtain the license of customs agent again.
- (5) If case has been filed in court in accusation of criminal offence as per the prevailing law against the customs agent, he/she shall, *ipso facto*, be suspended from the date of filing the case.

- (6) If any customs agent is proved offender from the court in any criminal offence, his/her license shall, ipso facto, be cancelled.
- (7) If case has been filed in court in accusation of corruption as per the prevailing law against the customs agent, he/she shall, *ipso facto*, be suspended from the date of filing the case. If he or she is proved offender from the court in such case, his/her license shall, ipso facto, be cancelled.

56. Application to be made:

Where the Customs Officer makes decision to suspend or cancel the license of a customs agent or to impose a fine on him or her pursuant to Section 55, the customs agent who is not satisfied with that decision may file an application to the Director General within thirty five days after the date of such decision. The Director General shall make decision on such application normally within thirty days and such decision shall be final.

Chapter-11 Punishment

57. Punishment:

- (1) If any person commits or attempts to commit export smuggling or import smuggling of any goods or exports or imports or attempts to export or import any goods through any route other than the route so prescribed under Section 3 that such goods are to be exported or imported only through that route, the Customs Officer, if the amount in controversy is up to ten million rupees and District Court if the amount in controversy is more than ten million rupees, may forfeit such goods and impose a fine equal to the amount in controversy of such goods and imprisonment as follows:
 - (a) For a term not exceeding one month where the amount in controversy is more than one million to two million five hundred thousand rupees,
 - (b) For a term from one month to three months where the amount in

controversy is more than two million five hundred thousand rupees to five million rupees,

(c) For a term from three months to one year where the amount in controversy is more than five million rupees to ten million rupees,

(d) For a term from one year to two years where the amount in controversy is more than ten million rupees to thirty million rupees,

(e) For a term from two years to five years where the amount in controversy is more than thirty million rupees,

(2) Where the motor vehicle used to transport the goods to be forfeited pursuant to subsection (1) has been used with the consent or knowledge of the owner of that motor vehicle, the Customs Officer or the District Court shall forfeit such motor vehicle and punish the owner with imprisonment for a term not exceeding one year. Where the driver of such motor vehicle has knowingly used it to transport such goods without consent or knowledge of the owner of that motor vehicle, the Customs

Officer or the District Court may punish such driver with a fine of up to five thousand rupees or with imprisonment for a term not exceeding one year or with both punishments.

- (3) The Customs Officer or the District Court may punish any person who aids and abets the commission of offense referred to in subsection (1) as if such person were the offender.
- (4) If any person hides or knowingly keeps any goods exported or imported by way of export or import smuggling, the Customs Officer may forfeit such goods and punish such person with a fine of up to ten thousand rupees.
- (5) If any exporter, importer or customs agent make declaration with under invoicing despite that the name, nature, physical features, characteristics, measurement, size and quality of goods are accurate, the Customs Officer may clear such goods by imposing a fine of cent percent of the value of those

goods which have been under-invoiced on the owner of such goods and collecting the chargeable duty.

- (6) If any exporter, importer or customs agent makes declaration falsifying the country of origin despite that the name, nature, physical features, characteristics, measurement, size, quality and quantity of goods are accurate, the Customs Officer may clear such goods by imposing a fine that is 25 percent of the customs duty chargeable on such goods on the owner of such goods and collecting the chargeable duty.
- (7) If any exporter or customs agent declares the quantity that exceeds the actual quantity of the goods to be exported, the Customs Officer may clear the goods by imposing a fine that is two hundred percent of the value of goods so declared as excess and mentioning that fact in the declaration form.
- (8) If any exporter or customs agent make declaration falsifying all or any details out of the name, nature, physical features,

characteristics, measurement, size and quality of goods, the Customs Officer may forfeit such goods and impose a fine that is equal to the amount in controversy on the owner of such goods.

(9) If any importer or customs agent makes declaration falsifying the goods or the materials of which the goods are made or falsifying all or any details out of the nature, physical features, characteristics, measurement, size and quality of goods or does not make declaration of any goods, the Customs Officer may forfeit such goods by imposing a fine that is equal to the value of such goods on the owner of such goods or clear such goods by imposing a fine that is equal to two hundred percent of the value of such goods and collecting the chargeable duty.

(10) If any person causes or attempts to cause a loss of revenue or duty by submitting a forged, fake or false document to the Customs Office, the Customs Officer may punish such person with a fine that is two

hundred percent of the amount of duty or revenue the loss of which has been so caused or attempted to be caused or with imprisonment for a term from six months to one year or with both punishments; and the matter shall be forwarded to the concerned body or authority to take action under the prevailing laws in relation to the commission of forgery of governmental documents.

- (11) If the owner of any goods or his or her agent opens in any manner any customs godown or goods stored in that godown with intention to steal goods or cause loss of or damage to such goods, the Customs Officer may punish such owner or agent with a fine not exceeding five thousand rupees.

- (12) If any person removes or takes goods stored in a customs godown from such godown without approval of the Customs Office, the Customs Officer may punish such person with a fine that is equal to the amount in controversy and with imprisonment for a term not exceeding six months or with both punishments.

- (13) If any person knowingly writes, signs or uses the specific matter of the declaration form or document utilized in the performance of the functions of the Customs Office or forges or alters or destroys any document signed, stamped or sealed with initial, signed by or any sign or symbol affixed therein by the Customs Officer in the course of the performance of the functions of the Customs Office, the Customs Officer may punish such person with a fine not exceeding five thousand rupees and with imprisonment for a term not exceeding one year or with both punishments, and the matter shall be forwarded to the concerned body or authority to take action under the prevailing laws in relation to the commission of forgery of governmental documents.
- (14) If the person or employee who has the custody of the goods stored in the customs godown recklessly loses or knowingly damages such goods, the Customs Officer may punish such person or employee with a fine not exceeding five thousand rupees, by

recovering from such person or employee the value of such goods and the chargeable duty.

- (15) If any unauthorized employee removes or gives order to remove any goods stored in the customs godown, the Customs Officer may punish such employee with a fine not exceeding five thousand rupees or with imprisonment for a term not exceeding **one year** or with both punishments.
- (15a) If the documents required for audit according to section 34 are not presented within stipulated time, Director General or Customs Officer can determine a penalty of Rs. 10,000 each time from the importer.
- (16) If it appears, from the review carried out pursuant to Section 70, that there is a difference in the customs duty by the reason of submission by the owner of goods of goods of fake bills, invoices or documents, the Customs Officer may punish such owner with a fine that is two hundred percent of the value of the goods cleared from the Customs Office or with imprisonment for a term not

exceeding one year or with both punishments.

- (17) If any person commits any act contrary to this Act or the Rules framed under this Act, except that set forth in this Section, the Customs Officer may punish such person with a fine not exceeding five thousand rupees.
- (18) Notwithstanding anything written elsewhere in this Section, if Authorized Officer, in the course of re-examination pursuant to this Act before or after removal the goods from the customs area, made clearance pursuant to clause (a), (b) or (c) of the Sub-section (2) of Section 20, finds the name, nature, physical feature, characteristics, measurement, size and quality standard are difference than those declared by the importer, such Officer may release the goods by recovering an additional fine that is equal to three hundred percent of the value of such goods apart from the fine and duty mentioned in this Section or impose a fine that is equal to two hundred

percent of value of such goods by confiscating such goods.

- (19) The Department may withhold the transaction subject to not allowing to import and export again by the importer who has been punished pursuant to Sub-section (18).
- (20) If any person is found using or selling the goods against the objective for which the goods is imported with full or partial customs duty exemption or facility pursuant to this Act or other prevailing Act or the person who is not entitled to get exemption or facility but he/she has imported goods in partial customs duty exemption or facility, the Customs Officer may impose a fine that is equal to cent percent of the customs value of such goods.

58. Punishment to those who cause obstruction:

If any person deliberately obstructs or hinders the Customs Officer or any employee of the Customs Office in the exercise of the powers conferred by this Act and the Rules framed under this Act, the

Customs Officer shall punish such person with a fine not exceeding five thousand rupees or with imprisonment for a term not exceeding one year or with both punishments, if such person is a governmental employee, and with a fine not exceeding one thousand rupees or with imprisonment for a term not exceeding six months or with both punishments if such person is not a governmental employee.

59. Punishment to customs agent:

- (1) The Customs Officer may punish a customs agent who commits any act as referred to in sub-sections (5), (6), (7), (8) and (9) of Section 57 with a fine from twenty five thousand rupees to fifty thousand rupees or with imprisonment for a term from one month to six months or with both punishments.
- (2) The owner of goods of goods shall not be deemed to have been released from punishment or fine imposable on him or her pursuant to this Section by the reason only that the customs agent has been subject to punishment pursuant to sub-section (1).

60. Punishment to be imposable pursuant to prevailing laws:

Where any offense or act under this Act is punishable under the prevailing laws, this Act shall not be deemed to bar the taking of action and imposing of punishment also under such laws.

60A. Government of Nepal to be plaintiff:

Government of Nepal shall be the plaintiff of the case under this Act.

60B. Investigation and filing the case:

- (1) Investigation shall be made by the Customs Officer or the officer designated by him or her of the case to be punished pursuant to clause (d) and (e) of sub section (1) of section 57.
- (2) The officer making investigation pursuant to subsection (1) should file the case in the District Court within 25 days of commencement of investigation.
- (3) The advice from the Government Attorney shall be required before filing the case pursuant to sub section (2).

Chapter-12

Provisions Relating to Review and Appeal

61. Provisions relating to valuation review committee:

- (1) A person who is not satisfied with any decision or order made by the Customs Officer pursuant to Section 13 may, for the review of such decision or order, file an application, as prescribed, to the valuation review committee formed pursuant to sub-section (2) no later than thirty days after the date of such decision or order.
- (2) For the purpose of sub-section (1), the Government of Nepal shall form the following valuation review committee:
 - (a) At least Gazetted First Class officer of the Civil Service who has knowledge and experience in the field of revenue administration -Chairperson
 - (b) One person who is incumbent in the office of at least Gazetted Second Class and has gained at least three years of

experience in the Gazetted post on customs administration or who has retired from the office of that Class and has gained the said experience –Member

(c) One person who is incumbent in the office of at least Gazetted Second Class and has gained at least three years of experience in the Gazetted post on international trade –Member

(3) The term of the chairperson and members of the valuation review committee referred to in sub-section (2) shall be of three years.

(4) Notwithstanding anything contained in sub-section (3), the Government of Nepal may, by providing an opportunity for defense, remove, at any time, the chairperson or any member of the valuation review committee from the office on grounds of his or her incompetence or misbehavior or failure to discharge the duties of his or her office honestly.

(5) The Valuation Review Committee shall, while making review pursuant to this Section,

inquire into whether the customs valuation determined by the Customs Officer pursuant to Section 13 is accurate or not and may approve or void the valuation determined by the Customs Officer or make valuation of such goods pursuant to this Act or order Customs Officer for revaluation. The Valuation Review Committee shall also assign clear reasons and bases while so approving, voiding valuation or making valuation or ordering for revaluation.

- (6) The other functions, duties, powers and procedures of the valuation review committee formed pursuant to sub-section (2) and the remuneration and terms and conditions of service of the chairperson and member of that committee shall be as prescribed.
- (7) A person who files an application pursuant to sub-section (1) shall, prior to making such application, furnish with the Customs Officer a deposit of the duty chargeable according to the valuation determined by the Customs Officer pursuant to Section 13.

- (8) The Valuation Review Committee shall review in accordance with Sub-section (1) of Section 13 while reviewing pursuant to Sub-section (5).

61A. Provision of review upon classification of goods:

- (1) The person who doesn't satisfy upon the classification of goods done pursuant to Section 22 by the Customs Officer may make application before the Director General for the review within thirty days of the date of making clearance of such goods.
- (2) Specimen of such goods and necessary documents to clarify content of the application should be submitted along with the application pursuant to Sub-section (1).
- (3) While reviewing upon the decision of classification of goods pursuant to this section or taking decision pursuant to Sub-section (7) of section 22, the Director General may take bases the prevailing Fiscal Act, Harmonized Commodity Description and

Coding System formulated by World Customs Organization, General Rules for the Interpretation of that system, explanatory notes, decisions on goods classification taken by the World Customs Organization and opinions given by the Harmonized System Committee of World Customs Organization.

- (4) Before taking decision on classification of any goods, the Director General shall test from laboratory of department or other government body and take opinion of specialist thereof or take opinion of concerned specialist or national or international body in regards to any goods.
- (5) The Director General should take decision within sixty days upon the application of review on classification submitted pursuant to Sub-section (1).

Provided that, on the condition if the decision is made after taking opinion with the international body, the time period pursuant to this Sub-section shall not be adopted.

62. Appeal:

- (1) A person who is not satisfied with the customs duty determined by the Customs Officer or other employee under this Act or with any order or punishment or decision issued or made by customs officer, except any decision or order referred to in Section 13, or with any decision made by the valuation review committee formed pursuant to Section 61 may make an appeal to the Revenue Tribunal within thirty five days after the date of the determination of such customs duty or the imposition of punishment or the making of decision.
- (2) A person who files an appeal pursuant to sub-section (1) may make such appeal by making payment of or furnishing a deposit of the duty and amount of fine and penalty chargeable pursuant to that decision or order against which such appeal is to be made, to or with the concerned customs office or post clearance office.

Provided that the person who is imprisoned being unable to furnish the amount of such fine and penalty wishes to make an appeal

need not furnish the deposit pursuant to this subsection.

- (3) A person who files an appeal pursuant to sub-section (1) shall give a copy of such appeal to the concerned customs office or post clearance office no later than seven days after the filing of such appeal.
- (4) In the event of not being satisfied with any decision made by the valuation review committee formed pursuant to Section 61, the Customs Officer may file an appeal to the Revenue Tribunal no later than thirty five days after the making of such decision.
- (5) A person who is not satisfied with the decision of classification or review made by the Director General pursuant to Section 61a, may file an appeal to the Revenue Tribunal no later than thirty five days of being informed of such decision.

Chapter-13

Provisions Relating to Punishment to Employees

63. Petition to be made:

- (1) If one has a reasonable cause to believe that the Customs Officer or any employee of the Customs Office has done any act contrary to this Act or the Rules framed under this Act or has caused revenue loss or done any act guided by the sole motive to harass any importer or exporter, one may file a petition to the Director General in the case of the Customs Officer and to the Customs Officer in the case of the employee of the Customs Office.
- (2) The Director General or the Customs Officer shall examine any petition made pursuant to sub-section (1) and give information thereof to the petitioner.
- (3) If, upon the examination conducted pursuant to sub-section (2), it appears that the Customs Officer or the employee of the Customs Office has done any act contrary to

this Act or the Rules framed under this Act or has caused revenue loss or done any act guided by the motive to harass any importer or exporter, the Director General shall initiate departmental action against such Customs Officer and the Customs Officer shall initiate such action against the employee of the Customs Office, and if any act considered to be corruption under the prevailing laws is found committed, the matter shall be referred to the concerned authority.

- (4) If any employee of the Customs Office does not abide order or direction given by the Director General in the course of act and action pursuant to this Act or act recklessly or with mala fide intention, the Director General may take departmental action to the employee.

64. Notice of action and limitation:

No action may be instituted in relation to any act, which has been done considering that such act would be in accordance with this Act or the Rules framed under this Act, unless and until a period of

two months has expired after a written notice, setting out the cause to institute the case against the Customs Officer or another employee, the name and address of the person to be plaintiff and of his or her attorney, if any, has been delivered to or sent by a registered post, to such Customs Officer or employee and a duplicate copy thereof has been submitted to the Director General.

65. Punishment to employees:

(1) Where departmental action is initiated against any civil employee who performs functions relating to customs under the prevailing Civil Service Act and Regulation and the competent authority is of the opinion that only the punishment specified in that Act and Regulation is inadequate, the competent authority specified in that Act and Regulation may also issue order for the recovery of all or any of the loss caused from the following act to any person from the property of such employee:

(a) Deliberate violation of the provisions of this Act, or

- (b) Commission of any act done deliberately or with mala fide intention to cause loss and damage to the Government of Nepal, or
 - (c) Except for the performance in good faith of the duties of his or her office in accordance with this Act in relation to any goods, disclosure of any matters to his or her knowledge by virtue of his or her office with intention to make benefits for him or her or for any other person or to cause loss to any person or showing or supplying any matter which has been assigned to him or her and is required to be kept secret to any person.
- (2) The concerned employee may file an appeal to the competent authority under the prevailing Civil Service Act and Regulation against any order issued by the competent authority under this Act; and such competent authority shall settle such appeal in accordance with that Act and Regulation.

- (3) While recovering fine imposed pursuant to this Section, the competent authority may recover the same by exercising, and in accordance with, the prevailing laws on the recovery of court punishment and fine.
- (4) Nothing contained in this Section shall be deemed to bar the provisions of prevailing laws under which court action can be instituted against any employee who commits offense.

Provided that no action under this Section shall be taken under this Section after court action is instituted.

66. Not to be liable for any act and action done in good faith:

Notwithstanding anything contained elsewhere in this Act, no customs employee shall be personally liable for any act and action done and taken in good faith in the course of discharging his or her duties.

67. Inspection:

- (1) The Ministry of Finance shall, in relation to the activities carried out by the Director General, and the Department shall, in relation to the activities carried out by the Customs Officer, make inspection once a year.
- (2) In carrying out inspection pursuant to sub-section (1), the Ministry of Finance and the Department shall inspect, inter alia, whether the duty of goods exported or imported has been recovered actually, whether post clearance audit has been made pursuant to Section 34, whether or not declaration review has been made pursuant to Section 70, whether the goods required to be auctioned have been auctioned in time and whether the revenue omitted to be collected has been recovered as promptly as possible and give a report of such inspection to the Council of Ministers and the Ministry of Finance, respectively.
- (3) On receipt of a report pursuant to sub-section (2), the Council of Ministers and the Ministry

of Finance shall give necessary direction to the Ministry of Finance and the Department, respectively.

- (4) The Ministry of Finance shall monitor whether the direction referred to in sub-section (3) has been observed or not, and shall also mention matters pertaining thereto in the report to be submitted to the Council of Ministers pursuant to subsection (2).

Chapter-14
Miscellaneous

68. Application for withholding goods intended to be exported or imported in violation of intellectual property rights:

- (1) If any person is going to export or import any goods in violation of intellectual property rights such as patent, design, trademark, and copy right acquired by any one pursuant to the prevailing laws, the concerned person may submit an application, accompanied by evidence, to the concerned Customs Officer for withholding such export or import.
- (2) If an application is made pursuant to sub-section (1), the concerned Customs Officer shall withhold such goods in the Customs Office and make a request to the concerned body or authority for necessary action in that respect.
- (3) Such body or authority shall, upon being requested pursuant to sub-section (2), take action in that respect and settle the matter in

accordance with the prevailing laws and give information thereof to the Customs Office.

- (4) If, upon taking action in accordance with the prevailing laws, the body or authority referred to in sub-section (3), holds that such goods are liable to be forfeited, the Customs Officer shall hand over such goods to such body or authority.

69. Compensation for goods withheld in Customs Office or godown:

- (1) The Customs Office or the godown shall so safely keep the goods held in the Customs Office or the godown that no loss or damage is caused to such goods.
- (2) If the goods referred to in sub-section (1) are stolen, lost or otherwise destroyed, damaged or get damaged, except for a wear and tear due to a natural calamity or accident or wear and tear likely to arise normally in the course of holding or lifting goods, the owner of such goods shall be entitled to recover, as prescribed, compensation for such goods

from the Customs Office or the body operating the godown.

However, such owner shall not be entitled to make a claim for compensation unless and until his or her title to such goods is established.

70. Power to review:

- (1) The concerned Customs Officer or the employee designated by him or her may review the declaration forms of the goods cleared by the Customs Office no later than four years after the date of clearance of such goods.
- (2) If, in making review pursuant to sub-section (1), it appears that the duty recoverable has been omitted from being recovered, the duty so omitted shall be recovered from the owner of such goods as if it were a governmental due.

71. Reward to person who arrests export or import smuggling or gives clues:

- (1) If any employee or person gives clues as to that any one has committed or is going to commit export or import smuggling of any goods or arrests such goods and hands over them to the Customs Office, reward, as prescribed, shall be provided to such employee or person if such act is proved.
- (2) The concerned Customs Office shall provide the reward referred to in sub-section (1) out of the proceeds of auction of the goods so exported or imported by way of smuggling.
- (3) Notwithstanding anything contained in sub-section (2), if the Government of Nepal makes a decision to provide such goods to any government body for use, such body shall get the value of those goods determined by the prescribed committee and, based on that value, provide the amount of reward referred to in sub-section (1) to the concerned Customs Office, and the Customs Office shall provide that amount to the

concerned person who has given clues and arrested them.

- (4) The Customs Office shall keep secret the name, surname and details of any informant who gives clues about any export or import smuggling pursuant to sub-section (1).
- (5) Notwithstanding anything contained in the prevailing Nepal laws, the Customs Office shall not be compelled to provide the name, surname and details of an informant as referred to in this Act to any person or body, except when so asked by a body carrying out investigations under law in the course of such investigations or by a court, and an informant shall not be compelled to appear in any court, body or office by the reason only that the informant has provided clues.
- (6) Other provisions relating to taking reports from informants and distribution of rewards shall be as prescribed.

72. Demurrage:

- (1) If the owner of goods stored in a customs godown operated by the Customs Office does not get clearance and get delivery of such goods within the prescribed time limit, demurrage shall be charged as prescribed.

Provided that no demurrage shall be charged in the case of those goods which could not be cleared by the Customs Officer because of confusion about the valuation, classification of goods or for other reason.

- (2) Notwithstanding anything contained in sub-section (1), if there is a reasonable ground for remitting demurrage chargeable on any goods because of the occurrence of any special circumstance or condition, the prescribed authority may make full or partial remission, as prescribed.

73. Goods not to be lifted until payment of fine:

If, in relation to any goods, a fine or excess duty is imposed or charged on the owner of such goods pursuant to this Act, such owner shall not be entitled

to lift such goods from the Customs Office until that fine or excess duty is paid.

74. Payment of omitted amount or fine:

- (1) If it is subsequently discovered that any duty, fine or other amount payable by any person to the Customs Office pursuant to this Act or the prevailing laws has been omitted while making valuation or classification of any goods or because of mathematical error or otherwise or department orders to recover by getting information through any medium, such Customs Office shall immediately recover the amount so omitted from that person.
- (2) If the concerned person does not pay the amount referred to in sub-section (1), that Office shall withhold the transactions of that person and recover that amount by auctioning, or causing to be auctioned, as prescribed, any goods whatsoever which belong to that person and are held in that Office or other Customs Offices.

- (3) If the amount of duty or fine referred to in sub-section (1) cannot be recovered even from the proceeds of auction made or caused to be made pursuant to sub-section (2), that duty or fine or amount shall be recovered from that person as if it were a governmental due.

75. Refund of customs duty or fine:

- (1) If any exporter or importer has paid the customs duty in excess of the duty which is chargeable on exportation or importation under the laws, the concerned Customs Office shall refund, as prescribed such excess customs duty to that exporter or importer.
- (2) Notwithstanding anything contained in sub-section (1), no customs duty shall be refunded on the following condition:
 - (a) If no application is submitted to the concerned Customs Office to take refund of such duty within sixty days after the release of goods, or

- (b) If the figure claimed for refund is less than five hundred rupees.
- (3) If, in making decision on an appeal made under this Act against the duty or fine recovered by the Customs Officer, decision is made to waive all or any of the duty or fine so recovered, the Customs Officer may, notwithstanding anything contained in the prevailing laws, refund such customs duty or fine to the concerned person only where no further appeal can be made against that order or only after the concerned court decides not to grant permission.

76. Owner of goods or agent to be responsible:

- (1) If, in the opening and examination subsequently by the competent authority, within or outside the customs area, of any goods which the Customs Office has already examined under Section 28 or 29 and cleared under Section 23, the goods or units or pieces inside the luggage or packets do not correspond to the bills, invoices, other documents or details submitted by the

importer, the owner of such goods or his or her agent shall be responsible therefore.

- (2) A person holding any goods shall be responsible for the production of such evidence as is satisfactory to the Customs Officer that the person has imported such goods in accordance with law or has paid the duty chargeable on such goods in accordance with law.

77. Owner of goods to bear expenses:

The owner of goods shall at his or her own expense do such acts as carrying the goods, taking the goods to the proper place for their opening or examination, putting the goods on and off a machine, open and set aside the goods and putting marks on the containers, boxes, bags, packets, sacks of or containing the goods or similar other packing materials of the goods.

78. Duplicate copies to be provided:

- (1) The concerned person who wishes to obtain a duplicate copy of any certificate, bill or other document held in the Customs Office

may submit an application, accompanied by the fees as prescribed.

- (2) The concerned Customs Officer may inquire into the application made pursuant to subsection (1) and issue a duplicate copy of such bill or document.

79. Issuance of certificate of goods imported:

If a person who imports goods subjected to sales tax or any other tax in a foreign country submits an application to the concerned Customs Office for a certificate thereon, the Customs Officer may issue the certificate in the form as prescribed to the applicant, by collecting the fees as prescribed from such applicant.

80. Information to be sought:

- (1) Any importer may submit an application to the concerned Customs Office and seek information on the bases adopted by that Customs Office in the determination of customs value of the goods imported by the importer.

- (2) If an application is submitted pursuant to sub-section (1), that Office shall provide such information to that importer within seven days.

81. Issuance of summons and action and settlement:

- (1) Notwithstanding anything contained in the prevailing laws, in issuing the initial summons in the name of the concerned person in relation to an offense under this Act, the Customs Officer or such other officer employee of the Customs Office as authorized by the Customs Officer shall issue such summons as prescribed.
- (2) The summons issued pursuant to sub-section (1) shall not be extended.
- (3) The Customs Officer shall settle any case filed pursuant to this Act normally within three months.
- (4) In the event of failure to settle any case within the time referred to in sub-section (3), information thereof, setting out the reason for

such failure, shall be given to the Director General.

82. Mode of issuance of notice:

Except where separate provisions are made in this Act and the Rules framed under this Act, the Customs Office shall, while issuing a personal or public notice in the name of a person who has or may have concern with the activities of the Customs Office, issue a notice, as prescribed, by giving a period of fifteen days.

83. Delegation of powers:

- (1) The Government of Nepal may, by notification in the Nepal Gazette, delegate any or all of the powers conferred to it by this Act or the Rules framed under this Act to the Director General or any other official prescribed in that notification.
- (2) The Director General may, as required, delegate some of the powers conferred to him or her by this Act to any subordinate officer employee.

84. Power of Ministry of Finance to designate any official and confer powers to such official:

The Ministry of Finance may confer all or any of the powers which to customs officer has under this Act to any official.

85. Powers of Ministry of Finance to designate any official:

(1) If a petition is filed that the Customs Officer alone or in connivance with any other employee, is going to do or is doing or has done any act contrary to this Act or the Rules framed under this Act, the Ministry of Finance may designate another Customs Officer or other official to perform activities pertaining to that function.

(2) The official designated pursuant to subsection (1) shall perform such activities in accordance with this Act.

86. To exercise same powers as court has:

For the purposes of this Act, the Customs Officer or other employee shall have the same powers as the

court of first instance has under the prevailing laws in relation to the summoning of the concerned person, taking his or her deposition, examination of evidence, requiring the submission of documents and the trial of case.

87. Duty to render assistance and help:

If, in the course of exercising powers and performing duties under this Act or the Rules framed under this Act, the Customs Officer or other employee asks the police and other governmental employee for any kind of assistance or help, it shall be the duty of such police or employee to render such assistance or help.

88. Other body not to intervene:

No authority or body shall, in relation to any goods remaining within the Customs Office for export or import, make any kind of intervention until such goods are cleared by that Office and removed from the customs area.

88A. Provision relating to confidentiality:

The information which is by nature confidential provided by the exporter or importer to the customs

office for the purpose of customs valuation and other personal commercial information shall be kept confidential except to the extent that it may be asked by authorized officer for the purpose of an investigation or an audit or may be asked by the Court in the context of judicial proceedings.

89. Provision relating to Advance Ruling:

- (1) Government of Nepal may, by publishing notice in Nepal Gazette, form a committee subject to issue advance ruling on classification of goods.
- (2) Other provision relating to Committee formed pursuant to Sub-section (1), shall be as prescribed in the same notice.

89A. May enter into agreement to help on customs issues:

- (1) Government of Nepal may enter into agreement with foreign country for trade facilitation, mutual help and information exchange on customs issues.
- (2) The Director General shall work as competent officer for carrying out work pursuant to Sub-section (1).

- (3) Subject to the prevailing law on Treaty, the Director General may hold dialogue with competent officer of other country on agreement pursuant to this Section or accept final draft or certified copy of the agreement.

89B. To obtain Export Import Code:

Person who wishes to export or import shall obtain the Export Import Code for doing such business from the date as specified by the Department.

90. Power to issue order:

- (1) If there arises any difficulty in the course of implementing this Act, the Ministry of Finance may, for the removal of such difficulty, publish a notice in the Nepal Gazette in a manner that such notice is not contrary to this Act.
- (2) If customs officer gets confusion on any matter relating to customs value determination or clearance of goods or customs process, or faces any difficulty in work performance, the Director General may give reasonable order to the customs officer for the removal of such confusion or set free from the difficulty subject to not being contrary to this Act.

91. Power to take action:

If any person arrests any other person while bringing goods through elsewhere than the customs area by evading the customs duty and produces such other person for action under this Act, the Director General or the official deputed by him or her, and if such goods produced to any customs office customs officer concerned, shall have the power to take action against such person.

92. Power to frame Rules:

- (1) The Government of Nepal may frame Rules in order to implement the objectives of this Act.
- (2) Without prejudice to the generality of sub-section (1), the Government of Nepal may frame rules of origin in relation to goods to be exported or imported.

93. Power to make directives or procedure:

The Department may, subject to this Act or the Rules framed under this Act, make directives or procedures on following subjects and apply thereof:

- (a) Relating to valuation of goods,
- (b) Relating to clearance of goods as per selectivity system,
- (c) Relating to Post Clearance Audit,
- (d) Relating to clearance of relief materials,
- (e) Relating to electronic declaration, clearance of goods and revenue payment,
- (f) Relating to providing Export Import Code
- (g) Relating to other subject on execution of work of customs.

94. Repeal and saving:

- (1) The Customs Act, 2019 (1962 A.D.) is hereby repealed.
- (2) The Customs Department and Customs Offices established under the Customs Act, 2019 (1962 A.D.) shall be deemed to have been established under this Act.
- (3) All acts done and actions taken under the Customs Act, 2019 (1962 A.D.) shall be deemed to have been done and taken under this Act.

Customs Regulation, 2007

In exercise of the powers conferred by Section 92 of Customs Act, 2064 (2007), Government of Nepal has framed the following Rules.

Chapter 1

Preliminary

1 Short Title and commencement:

- (1) These rules may be cited as Customs Regulation 2064 (2007)
- (2) This regulation shall commence at once.

2. Definition:

Unless the subject or context otherwise requires, in this Regulation

- (a) "Act" means Customs Act,
- (b) "Third country" means foreign countries other than India,
- (c) "Valuation Review Committee" means Committee constituted under the subsection (2) of section 61 of the Act,
- (d) "Owner of Goods" means the owner of any goods to be exported or imported.

Chapter 2
Customs duty privilege, exemption and other
privileges

3. Diplomatic privilege or duty privilege may be granted

- (1) As per the sub-section (1) of section 9 of the Act, those institutions, officials or persons., who are entitled to diplomatic privilege or duty privilege, should apply in the Ministry of Foreign Affairs declaring the descriptions of the goods, price and quantity in order to avail of such privileges.
- (2) The application received, under sub rule (1), should be scrutinized and, if the Customs privilege or duty privilege need to be granted, the Ministry of Foreign Affairs should forward two copies of recommendation form as prescribed in Schedule 1.
- (3) Upon the receipt of the recommendation form as per sub rule (2), the Department should forward one copy of recommendation form for execution to the Customs office or Duty Free

Shop.

- (4) Upon the receipt of the recommendation form as per sub rule (3), concerned Customs office or Duty Free Shop should grant diplomatic privilege or duty privilege to the concerned institution, official or person as recommended in the form.
- (5) Concerned Customs office or Duty Free Shop should submit the description form of diplomatic privileges or duty privileges as per sub rule (4) to the Department and one copy of such description form should be kept for record in the office.
- (6) For the purpose of this sub-rule, the Ministry of Foreign Affairs should provide at a prior date the specimen signature of the authorized official to the Department, who will recommend the diplomatic privilege or the duty privilege.

4. Formality to be fulfilled regarding duty privilege for sending goods from one part of Nepal to another part of Nepal through foreign territory:

- (1) In case of sending Goods from one part of Nepal to another part of Nepal through foreign territory, the owner of goods should submit declaration form containing full particulars to the concerned Customs office. Such declaration form should also clearly specify the Customs office from which the goods reenter into Nepal.
- (2) In case a declaration form as mentioned in sub rule (1) is received, the Chief of the Customs Office shall not permit the movement of such goods through foreign territory if cheaper or more convenient means of transport are available for carrying them through the territory of Nepal itself or that it is advisable to send such goods through the territory of Nepal itself from the viewpoint of the Customs administration also.
- (3) In case a declaration form as mentioned in sub rule (1) is received, the Chief of the

Customs Office shall permit the movement of such goods through foreign territory by keeping record of the duty or Customs duty on deposit, specifying such goods, affixing Customs seal, recording the transit time on the declaration and submitting the same declaration to the owners of the goods, if he is satisfied that cheaper or more convenient means of transport are not available for carrying them through the territory of Nepal itself or that it is advisable to send such goods from the viewpoint of the Customs administration also,

- (4) In case of goods banned to import in foreign country needs to be transported from one part of Nepal to other part of Nepal through their territory, the owners of the goods should follow the prescribed rules as incorporated in the Transit Treaty or Agreement between Nepal and the foreign country if there is any such Treaty or Agreement in effect.
- (5) The Customs office receiving the declaration form of the Customs office authorizing to export goods as per sub rule (3) and the

goods declared in the declaration form and transport document and found the goods as per the description in the declaration form should allow the import of such goods without charging Customs duty by noting in the declaration form. The Customs office should inform and send one copy of declaration form to the Customs office authorizing for export within 30 days. Nevertheless, if the declaration form as issued by the Customs office to export is not presented to the Customs office, the importing Customs office should allow the import by depositing the Customs duty equivalent.

Nevertheless, if the declaration form as issued by the Customs office allowing export is not presented to the customs office, the importing customs office should allow the import by depositing the customs duty equivalent.

- (6) Upon the receipt of the information as per sub rule (5), the export authorizing Customs office may allow the refund of the Customs duty or reconciled the record, if the

circumstances warranted such action.

Provided that in case the goods permitted for the import of which has been granted are found to have been partially imported, such amount of the Customs duty as is due on the goods which are not imported shall be deducted from the amount of the deposit. In case the goods are released keeping duty on record, such amount shall be collected from the owner of the goods within seven days.

5. Formality to be fulfilled regarding duty privilege for sending Goods from one part of foreign country to another part of foreign country through Nepalese territory :

- (1) In case of sending Goods from one part of foreign country to another part of foreign country through Nepalese territory, the owner of goods should submit an application in the Department of Customs specifying the reasons for using Nepalese territory, export and import Customs point and description of particulars of goods.

- (2) In case the application as mentioned in sub-rule (1) is received, the Department of Customs, after the scrutiny of the application, shall permit the movement of such goods through Nepalese territory if the Department is satisfied. The Department may seek recommendation letter from the concerned Embassy or Diplomatic office located in Nepal, before granting such permission.
- (3) In case of permission granted as per the sub-rule (2), the owner of the goods should submit the declaration form with description of goods and the permission letter in the concerned Customs office. The name of the Customs office from which the goods are re-exported should be mentioned clearly in such declaration form.
- (4) In case a declaration form as mentioned in sub-rule (3) is received, the Customs Office, after certifying the description of goods with the seal of the office, shall permit the movement of such goods from one part of foreign territory to another part of foreign territory through Nepalese territory as per the

decision of the Department inserting condition to reach in the specified place of exit within seven days in the declaration form and submitting such declaration form to the owner of the goods. 5) In case the declaration form, the particular of goods and the transit permission as mentioned in sub-rule (4) is received, the Customs office, after the scrutiny of the papers are found valid and after noting in the declaration form shall release such goods for export and a copy of such declaration form shall be notified to the import allowing Customs office within 3 days.

- (5) After receiving the declaration form, the import allowing Customs office shall release any deposit of Customs duty in case such duty is deposited.

Provided that in case the goods permitted for the import of which has been granted are found to have been partially exported such amount of the Customs duty as is due on the goods which are not exported shall be deducted from the amount of the deposit. In case the goods are permitted without keeping

duty on deposit, the duty shall be collected from the owner of the goods.

- (6) Notwithstanding anything contained in this rule, in case of goods which are banned to import in Nepal, need to be transported from one part to another part of foreign country through Nepalese territory, provisions relating to the bilateral Treaty or Agreement between Nepal and respective countries shall prevail.

6 Formality to be fulfilled for sending goods from one foreign country to another foreign country through Nepalese territory:

- (1) The Department may specify the Customs offices for the purpose of sending goods from one foreign country to another foreign country through Nepalese territory.
- (2) In case of sending goods from one foreign country to another foreign country through Nepalese territory, the owner of goods should submit goods and the four copies of application form prescribed by the Department and the declaration form in the

related Customs office.

- (3) On the scrutiny of the declaration form and prescribed form as mentioned in sub-rule (2) is found to be not containing the banned goods, the Customs Office shall permit the movement of such goods within a period up to fifteen days transit period through Nepalese territory to the foreign country by charging service fee as determined by the Government of Nepal. The container with the goods should be sealed, and the forms should be certified. One copy of the certified form should be handed over to the owner of goods, one copy should be kept for office record and two copies of the forms should be sent to the exporting Customs point.
- (4) Upon receiving the goods by the export permitting Customs office, such office shall certify the forms as per sub-rule (2) and permit the export of such goods and send a copy of the certified copy to the import allowing Customs office.
- (5) In case the goods are not exported as per

sub-rule (3) using the transit of Nepal to another foreign country within the time period, the owner of goods should apply in the Department for the extension of the time period stating the reason for the delay. Upon receiving the application and if the reason is found satisfactory, the Department may extend the time period.

- (6) In case such imported goods are not exported within the prescribed time period and sold or used in Nepal, the owner of goods should pay the due Customs duty as well as additional hundred percent Customs duty.
- (7) As per this rule, for sending goods from one foreign country to another foreign country through Nepalese territory, sealed container should be used.

7. Export or Import of goods for repair :

- (1) In case it becomes necessary to send any goods to a foreign country from Nepal for the purpose of repair or to bring such goods into

Nepal from abroad after repair thereof, full particulars regarding the number, and size and specification of such goods, as far as possible, shall be filled up in the declaration form and submitted to the Customs officer.

- (2) In case any declaration form as mentioned in sub rule (1) is received, Customs officer may allow passage for such goods, after receiving guaranty of airlines operator without any cash deposit for aeroplane, helicopter and engines thereof, and after receiving deposits equivalent to 0.5 percent of the value of goods for spare parts of aeroplane and helicopter and 5 percent of the value for the other goods.
- (3) Goods exported to foreign country for repair shall have to be brought back within three months and Customs duty is chargeable on the expenses involved in such repair or on the price of the spare parts which are replaced. The chargeable Customs duty will be deducted from the amount of the Customs deposit furnished and the balance of the deposit will be refunded.

- (4) In case time limit prescribed in sub rule (3) for bringing back such goods after repair is inadequate, an application accompanied with documentary evidence of such inadequacy shall be submitted to the Customs officer. The Customs officer may, if he so deems appropriate, extend the time limit by a period not exceeding three months. In case the additional time limit is inadequate, the Customs officer should write to the Director General of the Department of Customs with the reasons and in case the Director General approves the extension of the time limit, the Customs officer should extend the time accordingly.
- (5) As per this rule, the goods exported for repair are not brought back within the time limit prescribed under sub-rule (3) and (4) but brought back after the lapse of time limit, the deposited amount shall be seized and such goods shall be treated as fresh import and Customs duty shall be chargeable accordingly.
- (6) In case it becomes necessary to bring any

goods from a foreign country to Nepal for the purpose of repair or to send back such goods from Nepal to abroad after repair thereof, full particulars regarding the number, specification and size of such goods shall be filled up in the declaration form and submitted to the Customs officer.

- (7) In case any declaration form as mentioned in sub-rule (6) is received, Customs officer may allow passage for such goods, after receiving deposits equivalent to the chargeable Customs duty and noting the time limit of six months for the export of such goods.
- (8) As per sub-rule (7), the goods imported for repair is returned within three months time limit and the documentary evidence is presented for the payment of repair, the Customs duty deposited at the import time shall be refunded. In case goods are not returned or the specification of the goods did not match with the goods that is presented for export or documentary evidence for the payment is not presented, such goods and the deposited amount at the time of

importation shall be seized.

- (9) In case airline company registered to operate airlines have to export engines of airplane or helicopter for repair and during the period of repair if the airway company has to import engine on rent from the foreign country, the company may import engine on bank guarantee equivalent to Customs duty in the Customs office and such import should be for maximum period of six months. If the engine is exported within the period, the bank guarantee will be released. If the engine is not exported within the period, the Customs duty should be charged treating engine as fresh import.
- (10) Notwithstanding anything contained in this rule, on the recommendation of the Ministry of Foreign Affairs, the diplomatic mission may export to repair goods and import after repair without deposit and on record.

8. Re-export or Re-import of exported or imported goods:

- (1) The purpose for which the goods have been imported, did not achieve the purpose or found to be sub-standard quality upon the laboratory test the chief of Customs office may release duty free such goods for re - export within a period of ninety days from the date of import or from the date of arrival at the Customs office on the condition that the similar goods are imported as replacement or the remittance of foreign exchange in Nepal in case payment in foreign exchange is already made on the import of such goods.
- (2) If the goods have been re-exported as per sub-rule (1), and the goods for replacement have not been imported or the foreign exchange paid for the goods have not been remitted within six months from the date of re-export of goods, the concerned Customs officer should write to the concerned office to take action in accordance with prevailing law of the land.

- (3) In case the supplier has supplied the goods as replacement, before re-exporting the goods within the time limit as per sub-rule (1), the Customs officer may release the goods levying the Customs duty after the scrutiny of the application of the importer and the documentary evidence of goods imported.
- (4) In case the goods have been received as replacement as per sub-rule (3), the goods to be re exported shall not attract the Customs duty or if the Customs duty was paid before, such Customs duty shall be refunded.

But, in case the goods is re-exported after the lapse of the time limit, the Customs duty paid before shall not be refunded.

- (5) In case it becomes necessary to export or import any goods for the purpose of sale or display at any seasonal market, or at any fair or exhibition inside or outside of Nepal the owner thereof shall indicate in the declaration form the purpose of such export or import

and produce such goods at the Customs office.

- (6) A deposit equivalent to the amount of the Customs duty due on the import or export of goods under sub rule (5) shall be collected.
- (7) In case of goods exported or imported after sale at a seasonal market, fair or exhibition, the Customs office shall forthwith refund the deposit after deducting the amount which are not re-imported or re-exported as the case may be; provided such goods are brought in the customs offices the following day after the seasonal market, and within 30 days excluding time consumed for transportation after the end of fair or exhibition.
- (8) Notwithstanding anything contained in this rule, the Customs officer may release the goods without duty and keeping record only, in case the goods are exported or imported according to this rules and on the recommendation of the fully owned or majority owned government enterprises or the diplomatic missions. In case the goods

exported are consumed in the foreign country or goods imported are consumed in Nepal, the concerned importer or exporter of goods should pay the applicable duty on the amount of goods consumed.

- (9) Importation and exportation of goods pursuant to this rule should be made through the same customs office.
- (10) In case the import or the export of goods cannot take place as per sub-rule (9), the concerned person should apply stating the reasons at the Department. If the reason stated in the application is found to be justifiable, the Department may allow the import or export of goods from different Customs office.
- (11) In case of containers supplied for the use and transportation of such goods, for the repeated use of such goods, and as long as it is used the container cannot be emptied, the Customs officer may release such container without charging Customs duty due after the furnishing of the bank guarantee for the

Customs duty equivalent, and noting in the declaration form the time period for the return of such container. If the container is not returned within the specified time period, the Customs duty shall be deducted from the bank guarantee. If the user of the goods in the container can be transferred to other container by pouring such goods, this facility will not be granted under this rule.

- (12) If any industry intend to export the empty container as per sub rule (11) for importing the goods by fulfill such empty container for the industry's own use, such industry should apply to the Customs officer specifying the details.
- (13) In case such application is received as per sub rule (12), the Customs officer may permit the export of container on the conditions that five percent of the value of empty container is deposited in cash or bank guarantee equivalent to the amount valid for six months is furnished and the container is imported with the goods within three months.

- (14) If the container is not imported within the specified time period as per sub-rule (13), the industry should apply stating the reasons for the extension of time period .In case of such application, if the Customs officer found the reason justified, the chief of Customs office may extend the time period by one month.
- (15) If the container is imported within the specified time period as per sub-rule (14), by loading the goods by the industry, the Customs officer should collect the chargeable Customs duty and refund the cash deposited earlier or release the furnished bank guarantee as per sub-rule (13).
- (16) In case the container is not imported within the specified time period as per sub-rule (14) by the industry, the Customs officer should transfer the deposited cash amount in the revenue account or forfeit the bank guarantee from the bank or the financial institutions. In case such container is imported after the elapse of the time period, the Customs officer should transfer the deposited cash amount in the revenue account or forfeit the bank

guarantee from the bank or the financial institutions and the goods contained in the container should be cleared by charging the Customs duty.

- (17) Any importer or the local purchaser of the chassis for the bus or truck would like to export such chassis for the purpose of building the body should apply to the Customs officer enclosing the copy of import declaration form or Invoice of local purchase within the three months from the date of import or local purchase.
- (18) If the application is received as per sub-rule (17), the Customs officer may permit the export of chassis on the condition that five percent of the value of the chassis is deposited in cash or bank guarantee equivalent to the amount is furnished and the chassis with body is imported within six months.
- (19) If the chassis with body is imported within the specified time period as per sub-rule (18), the Customs officer should collect chargeable

Customs duty on the expenditure made on the making of the body and refund the cash deposit or release the bank guarantee whatever the case may be.

(20) In case the chassis with body is not imported **by the person concerned** within the specified time period as per sub rule (18), the Customs officer should transfer the deposited cash amount in the revenue account or forfeit the bank guarantee from the bank or the financial institutions. In case of re- import of chassis after the elapse of time period, the Customs officer should transfer the deposited cash amount in the revenue account or forfeit the bank guarantee from the bank or the financial institutions and clear bus or truck by collecting duty on the value of making body of such bus or truck.

(21) Any Nepali contractor who get contract to work in foreign country would like to take motor vehicle, machinery, equipment and parts thereof for the purpose of such work should apply to the chief of the customs office along with the required evidence.

- (22) Upon receiving of application as per sub rule (21), chief of the customs office may examine the case, and if found justifiable, shall allow to export such goods to the foreign country without charging any duty. No duty shall levy on the goods exported under this provision while return back after completion of the work.
- (23) In case it becomes necessary to export the goods, produced in Nepal, for quality test, the chief of the Custom Office may allow to export by keeping a deposit which shall be five percent of the value of such goods.
- (24) If the goods, exported for quality test pursuant to sub-rule (23), is returned back within three months, previously deposited amount shall be refunded after imposing the chargeable duty on the expenses involved in such testing.
- (25) If the goods, exported for the quality test pursuant to sub-rule (23), is returned back after three months, the duty shall be imposed as imported as new goods.

Chapter 3

Provision relating to Bonded Warehouse, Bank Guarantee, and Special Economic Zones

9. Arrangements for the license of the Bonded Warehouse:

(1) Following Industry or person intending to avail of the facilities of bonded warehouse should apply at the Department for the license:

(a) Industry exporting garment to foreign country,

(b) Industry exporting its product to third country,

(c) Except the Industry mentioned in clause (a), other industries exporting at least fifty percent of its production to India,

(d) Person who is importing goods to sale

through the government licensed duty free shop

- (2) Industry applying under sub rule (1) should submit certificate stating that the industry qualifies as per clause (a), (b) or (c) of sub rule (1).

In case the industry which is not operating for more than a year, intends to get license for the bonded warehouse should not need to submit certificate if it submits conditional contract paper with the export plan and conformity of its export to third country or exports to India of its production at least fifty percent.

- (3) If the application as per sub-rule (1) is found to be justified to issue the license, the Department may issue license to the industry by charging Rs. six thousand as a license fee. .
- (4) The time period for the license as per sub-rule (1) will be valid for one year. The licensee can get the license renewed from

the Department by paying renewal fee of Rs. Three thousand before the next fiscal year starts, if licensee intends to renew the license for the next fiscal year.

- (5) If the licensee failed to renew the license as per sub-rule (4), the licensee should pay additional fee of Rs. three thousand for each fiscal year for renewal of the license.
- (6) Notwithstanding the provision mentioned in the sub-rule (5), the licensee is deprived of the bonded warehouse facilities accorded to the licensee for the period failing to renew the license.

10 Facilities granted to the licensee of the Bonded Ware House:

- (1) As per rule 9, the licensee of the bonded ware house, may import necessary raw materials and the auxiliary raw materials (including the packaging materials not produced in Nepal) with the furnishing of the bank guarantee equivalent to the chargeable Customs duty for the purpose of producing

goods for export or sale in Nepal in convertible foreign currency. .

- (2) As per sub-rule (1) the Bank Guarantee should be furnished to the amount equivalent to the total of chargeable Customs duty in addition to 15 percent on such Customs duty.
- (3) As per sub-rule (1), time period of the bank guarantee should be from six months to twelve months. In case of six months bank guarantee, if the extension is required beyond 6 months, it can be extended from 6 months to 12 months. In case of time extended as per rule 13, Bank Guarantee time period should be extended accordingly.
- (4) In case of packing materials not produced in Nepal, the Department will provide bonded warehouse facilities on the recommendation of the Department of Industry stating that the packing materials are not produced in Nepal and bonded warehouse facility be extended.
- (5) The owner who received the license of bonded warehouse to operate the duty free

shop should furnish the bank guarantee equivalent to the chargeable Customs duty for the import of goods to sale from the duty free shop. In order to import such goods, the Department should approve the list of goods and their quantity.

(5a) The goods imported as per sub-rule (5), the liquor and cigarette should be sold to the person and organization specified to receive diplomatic and Customs duty privilege on the recommendation of Ministry of Foreign Affairs , Government of Nepal as incorporated in sub-rule (2) of rule 3.

(6) Customs Industry licensed to operate bonded warehouse as per agreement with the foreign buyer to buy its product under buyback agreement and with the recommendation of Department of Commerce can import raw materials and auxiliary raw materials under bank guarantee equivalent to Customs duty without opening of Letter of Credit. The product under this agreement should be made of the raw materials and auxiliary raw materials of no value sent by the foreign

buyer charging only the cost of production incurred during production process and the profit and exported to same buyer or other buyer if recommended by Ministry of Commerce.

- (7) The importer who is importing as per sub rule (6) should submit the recommendation letter of the Department of Commerce specifying the necessary procedures and the terms and condition for the import without letter of credit agreement with the foreign buyer, and invoice of value for the Customs purpose only with the declaration form.
- (8) In order to furnish the bank guarantee pursuant to this rule, the bank guarantee should be issued only by the Bank and the financial institution permitted to do so according to the prevailing law.

11. Special arrangement for the import of goods by furnishing bank guarantee or deposit:

- (1) Airline companies can import goods for catering services and for in-flight duty free shop in the international flight by furnishing bank guarantee or cash deposit equivalent to the chargeable Customs duty. In case the airlines import such goods by itself and prefer to buy such goods from bonded warehouse or duty free shop, the airlines can buy such goods from bonded warehouse or duty free shop designated by the Department.

- (2) If the Nepali textile industry intends to sale its product to the export oriented garment industry, the yarn needed for the production of such product may be allowed to import by furnishing bank guarantee equivalent to the chargeable Customs duty on the recommendation of Textile Industry Association. Customs

12 Terms and conditions to be followed by the industry with bonded warehouse facility :

- (1) The industry with bonded warehouse facility should export the goods through Letter of Credit or banking documents.
- (2) The industry with bonded warehouse facility should export, or sell in homeland against convertible foreign currency, the finished products within eleven months from the date of import of raw materials or auxiliary raw materials (including packing materials not produced in Nepal)
- (3) On the export of the finished product made of raw materials or auxiliary raw materials (including packing materials not produced in Nepal), imported as per rule 10 by the industry with bonded warehouse facility, the value addition should be ten percent over the value as determined by the Customs.
- (4) The rate of value addition as per sub-rule (3) is calculated as:

The amount, obtained by subtracting the value

of materials used in the production of goods to be exported determined by the Customs at the time of import of the materials imported pursuant to rule 10, from FOB price of the goods to be exported, is divided by value determined by the Customs at the time of import of materials used in the finished product, and the amount so derived is multiplied by hundred is the percentage of value addition.

- (5) The person getting the license of bonded warehouse should sale the goods from the duty free shop in one year from the date of import as imported for the sale in duty free shop.
- (6) The textile industry importing yarn as per sub-rule (2) of rule 11 should sale its textile made from such yarn to the export oriented garment industry within eleven months from the date of import of yarn.

13 Time period extension:

If the concerned person applies for the time

extension with the reasons for not being able to export or sale the product within the time period mentioned in sub-rule (2),(5), and (6) of rule 12, and such reason appears to be reasonable, the chief of the customs office may extend the maximum time period by six months.

14. Application to be submitted for the release of Bank Guarantee or deposit

(1) The industry with the bonded warehouse facility should apply for the release of the bank guarantee in the concerned Customs office as per the time period of rule 12 or extended time period of rule 13 with the attachment of the following documents;

- (a) Document relating to import of goods as per rule 10,
- (b) Document relating to the export of finished product,
- (c) Certificate of foreign exchange earning issued by the concerned bank,
- (d) Certificate of consumption ratio of use

of raw materials and the auxiliary raw materials from the concerned agency.

- (2) The person with the bonded warehouse facility to sale the goods from the Duty Free Shop, should apply for the release of the bank guarantee or cash deposit in the bank guarantee or cash guarantee deposited Customs office as per the time period of sub rule (5) of rule 12 or extended time period of rule 13 with the documents relating to the sales from the Duty Free Shop.
- (3) The Airline companies should apply for the release of the bank guarantee or the cash deposit as per sub (1) of rule 11 in the bank guarantee or cash guarantee deposited Customs office with the documents relating to the use of the goods at the international flight.
- (4) The Textile Industry should apply for the release of Bank Guarantee at the Customs office where the bank guarantee is deposited as per sub rule (2) of rule 11 along with the certificate of sales of textile to the garment industry made from the yarn within eleven

months from the date of import of yarn with minimum ten percent value addition, sales agreement between the textile purchasing garment industry and the yarn importing textile industry, yarn consumption ratio certified by concerned agency and bank guarantee paper issued on the recommendation of the textile purchasing garment industry equivalent to the chargeable Customs duty on the import of yarn.

- (4a) Notwithstanding anything contained in sub rule (4), yarn importing industry after the sale of textile to the garment industry, may chose not to release the bank guarantee until the garment industry exported the garment. In such a situation, the textile industry should apply for the release of the bank guarantee within twenty two months from the date of import of yarn with the attachment of the documents as mentioned in sub rule (4), documents certifying the export of garment with the minimum ten percent value addition by the garment industry, documents relating to the ratio of consumption certified by the

concerned agency and foreign exchange earning certificate certified by the concerned bank.

- (5) Export oriented garment industry which purchased textile from the industry importing yarn by furnishing bank guarantee as per sub rule (2) of rule 11, should submit application for the purpose of release of the bank guarantee furnished by yarn importing industry as per sub rule (4), along with the evidence relating to export of garments manufactured of the textile purchased from yarn importing industry, with minimum ten percent value addition within eleven months from the date of purchase; certificate of foreign exchange earning authenticated by the concerned bank; and certificate of ratio of consumption of textile certified by concerned authority.
- (6) In order to release the bank guarantee furnished at the time of import as per sub rule (6) of rule 10, should submit application to the customs office in which the bank guaranty is furnished along with the evidence of the

export of garments manufactured with the value addition as prescribed by the Department of Commerce, certificate of foreign exchange earning equivalent to the amount of value addition authenticated by the concerned bank and certificate of ratio of consumption of raw materials and the auxiliary raw materials authenticated by the concerned authority, within the time limit as specified in sub rule (5) of rule 12 or within the extended time period in accordance with rule 13.

(7)

15. Release of Bank Guarantee and the deposit:

- (1) Upon the scrutiny of the application received as per rule 14 and it is found that the applicant has fulfilled all the terms and condition mentioned in that rule, the Customs office should release the bank guarantee and the deposit within one month.
- (2) The bank guarantee or the deposit equivalent to the duty shall be partially released to the

extent of partial use of materials imported under the bonded warehouse facility in the manufacturing of the product exported or sell in homeland against convertible foreign currency or partial sale of the goods from the Duty Free Shop within the time limit or the yarn imported pursuant to sub rule (2) of rule 11 is partially used in the manufacturing of textile sold to the export oriented garment industry or locally purchased of such textile is partially used by the export oriented garment industry for the manufacturing of the garment and export of such garment.

16. To recover Customs duty from the bank guarantee and the deposit :

- (1) If the importer, who imported goods pursuant to rule 10 or 11, do not comply with the terms and conditions mentioned in rule 12 and such importer not submitting application as per rule 14, chargeable Customs duty will be recovered from the furnished bank guarantee and chargeable Customs duty will be transferred to the revenue account from the deposited amount if such amount was

deposited.

- (2) The customs duty that will be recovered from the bank guarantee as per sub-rule (1) will be equivalent to the sum of the customs duty chargeable on the day of import and fifteen percent addition on such customs duty.
- (3) In case of partial use of materials as per sub-rule (2) of rule 15, chargeable customs duty to be recovered from the bank guarantee on the materials not used will be equivalent to the sum of the customs duty chargeable on the day of import and fifteen percent addition on such customs duty.
- (4) Notwithstanding anything contained elsewhere in this rule, customs duty only will be recovered in case of transfer of deposit in the revenue account, and the duty free shop not able to sale the products within the time limit from the bank guarantee or deposit.

17. The amount of Bank Guarantee should be paid on Customs office's demand :

- (1) On the request of the customs office, the

bank guarantee issuing Bank or financial institution should pay the amount equivalent to the bank guarantee amount to the requesting customs office in whose favor the bank guarantee is issued within fifteen days of the date of request.

- (2) Until the payment as per sub-rule (1) is made by the Bank or Financial Institution to the customs office, the bank guarantee subsequently issued by the Bank or Financial Institution should not be accepted.
- (3) The Bank or Financial Institution which issued the bank guarantee in favor of the customs office, is not immune from the liability of payment equivalent to the amount mentioned in the bank guarantee, unless the bank or the financial institution receive letter notifying the release of the concerned bank guarantee by the customs office.

18 Arrangement for the sale of goods and the refund of the customs duty on such goods sold to the industry located in the Special Economic Zone:

- (1) On the prior approval of the Department, if the importer sales imported goods to the industry located in the Special Economic Zone, such importer, in case of payment of customs duty at the time of import, should apply at the customs office for the refund of the customs duty within sixty days of the date of import along with the attachment of the following documents:
 - (a) Invoice, Customs declaration form and cash receipt at the time of import;
 - (b) Sales Agreement between the purchaser industry and the seller importer;
 - (c) Receipt of sales of goods
 - (d) Certified copy of the ledger for the purchase of goods by the purchasing industry;
 - (e) Documents relating to the payment for the purchase by the purchasing industry; and

- (f) Bank Guarantee issued in favor of the customs office equivalent to the customs duty on behalf of the purchasing industry or the sales importer.
- (2) If the chief of the customs office found, on the scrutiny of the application received as per sub-rule (1), that the refund of the customs duty is justified, refund full or partial- should be made within thirty days from the date of application received.
- (3) If the chief of the customs office found, on the scrutiny of the application received as per sub-rule (2), that the refund, full or partial, of the customs duty is not justified, the applicant will be notified accordingly.
- (4) If the industry located in the Special Economic Zone submits the documents relating to the sales of finished product manufactured from the goods sold as per sub-rule (1), and the foreign exchange receipt against the export of such finished product , the bank guarantee as per clause (f) of sub-

rule (1) will be released.

- (5) Notwithstanding anything contained in sub-rule (1), in case the seller has sold the goods by adding the customs duty in the import price, such customs duty will not be refunded.

Chapter 4
Arrangement for the inspection of the Customs
Declaration form and goods and destruction of not
usable goods

19. Details may be sent through electronic medium:

- (1) Any exporter or importer may send particulars of the goods for export or import to the customs officer through electronic medium.
- (2) As per sub-rule (1) the procedure to send description through electronic medium shall be determined by the department.

20. Particulars to be furnished by the driver of the vehicle:

As per section 17 of the Act, the driver of the motor vehicle should submit the particulars of the goods in the format prescribed in Schedule 2.

21. Attachment of the documents with the declaration form:

- (1) As per section 18 of the Act, the person

importing or exporting goods, while submitting declaration form to the customs officer, should submit following documents:

- (a) For importation from third country
 - (1) Banking document regarding payment procedure
 - (2) Invoice
 - (3) Packing list
 - (4) Bill of Lading or Airway Bill
 - (5) Certificate of Origin
 - (6) Foreign exchange Control Form
 - (7) Customs transit document in case of import through India transit
 - (8) Airlines Delivery order in case of import through Airway
 - (9) Terminal Management's delivery order in case of customs office managing the terminal
 - (10) Documents which are required as per prevailing law regarding

the recommendation, license, or certificate from any institution

(b) For importation from India

- (1) Invoice
- (2) Packing list
- (3) Documents which are required as per prevailing law regarding the recommendation, license, or certificate from any institution
- (4) In case of import under inbond, in addition to the documents mentioned in sub clause (1),(2), (3), documents relating to Nepal Invoice (In-bond form), Foreign Exchange Control form, Banking document regarding payment procedure and documents mentioned in it.

5.

Explanation: For the purpose of this

clause, “inbond” means import from India by paying foreign exchange as specified in the procedure issued by Nepal Rastra Bank.

- (c) For exportation
 - (1) Invoice
 - (2) Packing list
 - (3) Certificate of Origin
 - (4) Banking document regarding payment procedure, in case of export to third country
 - (5) Documents which are required as per prevailing law regarding the recommendation, license, or certificate from any institution.

However Certificate of Origin shall not be mandatory for the export in which G.S.P. certificate is required.

- (2) Notwithstanding anything contained in sub-rule (1), if the firm or industry is exporting or importing for the first time, such firm or industry should submit certified documents

relating to the firm registration license in case of firm, the certificate of registration in case of industry, PAN number in case of both firm and industry.

22. Format of Declaration Form:

Format of Customs Declaration Form shall be as prescribed in Schedule 3.

23. Goods may be returned:

- (1) As per section 30 of the Act in case the goods have to be returned, the importer of the goods should apply with the customs officials and attach documents relating to invoice, letter of credit in case import is done through letter of credit, bill of lading ,or airway bill and copy of packing list. Depending upon the nature of product, customs officer may ask for other papers relating to import as well.
- (2) After the application is received as per sub-rule (1), the customs officer should write to Director General with the description and his opinion.

- (3) In case of receiving a letter from the customs officer, if the Director General is satisfied after investigation that the goods should be allowed to return, the Director General should instruct the customs officer accordingly. After receiving such instruction, the customs officer should allow the importer to return goods to the supplier of foreign country within thirty days.
- (4) While allowing the goods to be returned, the customs officer should ask the importer to sign a bond stating that the importer will remit the foreign currency paid at the time of import within a reasonable time.
- (5) As per sub-rule (4), if the importer did not submit the certificate of foreign exchange within the time limit, the customs officer should write to the concerned agency to take action against the importer on the foreign exchange deflection as per prevailing law.

24. Arrangement to inspect goods on the spot:

- (1) Pursuant to section 31 of the Act, any

exporter or importer may apply to the customs officer attaching declaration form and other documents as per rule 21 for the inspection of exportable goods in the production centre or go-down in case of export or inspection of imported goods outside the customs area in case of import.

- (2) As per application in sub-rule (1), in case of inspection of exportable goods in the production centre or go-down in case of export or inspection of imported goods outside the customs area in case of import, Rs. 1000 fee will be charged for each consignment.
- (3) In case of export of goods as per sub-rule (2) above, the inspection officer should seal the goods in the container in his presence after the inspection of the exportable goods and at the time of export the customs office should check the seal and allow to export after the customs office is satisfied.
- (4) In case of inspection of the goods going outside the customs area, as per sub rule (1),

the exporter or importer should make arrangement for the vehicle, in case the inspector needs to use vehicle for this purpose.

25. Arrangement to remove or destroy the goods which cannot be used:

(1) Chief of the customs office should make written decision giving reasons for the removal or destroying of the goods and also specify the procedure for carrying out the decision in case of following goods :

(a) As per section 7 of the Act, the goods imported and abandoned and handed it over to the government by the importer, which cannot be used or condition of the goods is such that which cannot be auctioned.

(b) As per section 30 of the Act, goods, upon the laboratory test, found to be harmful for health or environment or found to be adversely affecting health or environment, the exporter did not return

the goods, despite the instruction issued by the customs officer to return such goods.

- (c) Goods which could not be auctioned or which could not be used , should be destroyed or left to rot or worn out as per sub section (9) of section 50 of the Act.
- (2) In accordance with the decision made under sub-rule (1), the customs office should publicly destroy or remove the goods by making the list of items in the presence of two representatives of the two offices either from District Administration Office or District Treasury Office or nearby government office, representative of the local Federation of Nepalese Industry and commerce, if available; and customs Officer.
 - (3) After the destroying or removing of goods as per sub-rule (2) the chief customs officer should certify such act and write off the goods from the list and inform the Department accordingly.

- (4) Notwithstanding anything contained elsewhere in this rule, the customs office should follow the instruction in case the destroying of goods or poisonous product or heavy equipment or vehicles adversely affect the people's health or environment.

Chapter 5

Arrangement for Post Clearance Audit

26. Importers need to keep the documents safely:

In accordance with section 34 of the Act, the importers should keep the following documents and papers relating to the import for the purpose of post clearance audit for four years from the date of import:

- (a) Import Declaration form, customs receipt, and purchase document;
- (b) Sales invoice and sales document;
- (c) Stock list with specific amount;
- (d) Banking transaction relating to import and sales of goods;
- (e) Balance Sheet and Profit and loss account and relating document;
- (f) If the transaction is done through computer system, such a system;
- (g) Any other documents relating to import, export and sales

27. Other provisions for post clearance audit:

- (1) For the purpose of sub section (2) of section 34 of the Act, in order to determine whether the transaction value of the goods as declared by the importer is realistic or not, the value may be determined through the application of the all or any methods as stipulated in section 13 of the Act.
- (2) For the purpose of sub section (2) of section 34 of the Act, in order to determine whether the quantity of the goods as declared by the importer is correct or not, the quantity may be determined by physical verification of the stock.
- (3) In order to determine the reality of the value as declared in the customs office at the time of import, the ledger of transaction may be checked from the sales of the product up to the retail level.
- (4) In order to do post clearance audit, the customs officer or the Director General should notify the concerned importer about

the date and time of audit in advance, to the extent practicable.

28. Power to demand documents:

- (1) Post Clearance Auditor, the Director General or the customs Officer may ask for the documents as required, for the purpose of auditing from the bank, financial institution, any person or institution relating to the importer's business transaction or goods regarding the payment, Bank deposit, profit and loss account, tax returns, invoices, and other documents etc.
- (2) It is the duty of the concerned bank, financial institution or other agencies to make available the documents as per sub-rule (1).
- (3)

Chapter 6
Purchase of under invoiced Goods

29. Arrangements for the purchase of goods imported under invoicing:

Government of Nepal shall provide the fund to the Department for the purpose of purchase of the goods pursuant to clause (b) of sub section (15) of section 13 of the Act.

30 Purchased goods may be auctioned or may be used for the government:

The goods purchased pursuant to clause (b) of sub section (15) of section 13 of the Act may be auctioned following the procedure laid down in Chapter 7 or may be used for government purpose.

31. Information to be given to importer:

The customs officer should notify in writing, in the format of Schedule 4, to the importer or their customs agent in case the goods are being purchased pursuant to clause (b) of sub section (15) of section 13 of the Act.

Chapter 7

Confiscation of goods and the auction procedure

32. Goods deposited in customs go-down should be cleared:

- (1) The owner of the goods should arrange for clearance of goods within sixty days from the date of deposit of such goods in the customs go-down.

But the chief of the customs office may notify the owner of the Goods to clear goods within a reasonable time limit before the expiry of the date on the ground that the goods are harmful, perishable, not appropriate to keep in the go - down or unavailability of the go - down space. If the owner of the goods does not clear within the notified time, the chief of the customs may take action under section 47 of the Act.

- (2) The Manager of the go-down managed by the other person should notify the customs office immediately the list of goods not

cleared by the owner of the goods under sub-rule (1).

- (3) After receiving the list under sub-rule (2), the chief of the customs office should take action immediately as per section 47 of the Act.

33. No auction without written notice:

Without the written notice of the Customs Officer, any goods seized under the Act or goods to be auctioned under sub section (2) of section 74 of the Act, should not be auctioned.

34. Minimum value should be fixed:

- (1) In case of auctioning of the goods, Customs officer should fix minimum value of such goods for the purpose of auctioning.
- (2) In order to fix minimum value under sub-rule (1), in case of vehicles, heavy equipment and the goods abandoned to be owned by the Government of Nepal pursuant to sub-Section (1) of Section 7 or purchased pursuant to Part (b) of sub-Section (15) of the Section 13 of the Act, the minimum value

determined by the committee under Rule 54 shall be the minimum value, for other goods other than mentioned above, the value declared at the time of deposit at the customs office shall be the minimum value for that purpose.

35. Procedure for auction:

- (1) The customs office should invite bid for the auction of the vehicles, or heavy equipment which carries more than minimum value of rupees one hundred thousand, by notifying the public giving notice of 21 days in the National level daily newspaper with the following particulars:
 - (a) Vehicles or transportation vehicle's particulars, engine number, chassis number or year of production;
 - (b) Matters that in case of vehicles which is more than Ten years old from the date of production or not revealed engine number or chassis number or year of production or removed most of

spare parts or not suitable to repair and operate on cost point of view, the re-registration of such vehicle cannot be done as vehicle after auction

- (c) Minimum value;
 - (d) Bid sending procedure; fee for tender document; bid opening time, date and place; bank accounts for depositing 10 percent of the bidding price by the bidder and the true copy of the voucher of deposit;
 - (e) Any tax or fee to be charged on the auctioned amount;
 - (f) Time period to take away the auctioned goods;
 - (g) Place and time for the inspection or observation of the goods;
 - (h) Any other particulars
- (2) Except the goods mentioned in sub-rule (1), the other goods should be auctioned by

giving notice of fifteen days with the following particulars mentioned in the notice displayed in the Public Notice Board of the customs office for the sealed quotation or open bidding. Such notices should be circulated to the District Administration Office, District Land Revenue Office, District Development Committee, District Treasury office and office of the District Federation of Nepalese Chamber of Commerce and Industry requesting them to display in the Public Notice Board.

- (a) particulars mentioned clause (a), (b), (c), (e), (f), (g) and (h) of sub-rule (1)
- (b) description of the goods;
- (c) in case of sealed quotation, quotation sending procedure; fee for sealed quotation document; bid opening time ,date and place;
- (d) In case of open bidding, place for open bidding, beginning and closing time and date;

- (e) Bidding to start from the minimum value of the goods;
 - (f) Before starting the open bidding, ten percent cash deposit of the minimum value of goods and increment in the amount as the bidding amount increases in the same proportion.
- (3) The concerned customs office should make arrangement for the sale of the sealed quotation document or taking cash deposit, in case of sealed quotation or open bidding as per sub-rule (1) or (2).
- (4) Notice published as per sub-rule (1) or (2), the person bidding either for sealed quotation or open bidding should deposit 10 percent of the accepted value of the auction, more than the minimum value, in the bank designated by the customs office or attach the true copy thereof.
- (5) If the vehicle used for the smuggling of the goods is deposited in the customs office, and the customs office found that there is parking

problem or could not be protected, the customs officer should arrange for the committee as mentioned in rule 54 to recommend minimum value and auction such vehicle following the procedure of this chapter.

36. Tender Approval or Re-tendering

- (1) The application of bidding or quotation received as per rule 35, should be opened at the time and place mentioned in the public notice and the customs officer should prepare comparative chart of bidding amount or should prepare the evidence for the highest price bidding amount in case of public auction.
- (2) On the basis of comparative chart or higher bidding amount as per sub-rule (1), the bidder bidding the minimum price or more than the minimum price should be approved. In case of number of bidders who have quoted more than the minimum price, the bidding of highest price should be approved.

- (3) As per sub-rule (2), after the approval of the bidding amount, the bidder should be given 7 days notice to deposit the balance amount and clear the goods.
- (4) If the bidder did not deposit the balance amount and did not clear the goods within the specified period as per sub rule (3), the deposit amount should be confiscated and may award the tender to the second, third or fourth lowest bidder. In case of the approval of the lowest bidder, if the auction is not realized, the deposit should be confiscated and re-tender for the sale.
- (5) As per sub rule (4), in case of re-tendering, the seven days notice for second bidding, sealed quotation, or public auction should be given.
- (6) In case the goods could not be sold at the minimum value in the second time tendering also, as per rule 54, the committee should revalue the minimum price and fix the revised minimum price and notice for re-tender in the manner mentioned in the rule 35, should be

issued. In case the goods could not be sold through bidding in the revised minimum price, the customs officer could sale the goods directly at the minimum price fixed in the presence of the representative of concerned District Administration Office and District Treasury Office.

- (7) If the goods could not be sold as per sub-rule (6), with the approval of the Director General, the customs officer should struck off the records of such goods from the customs record and destroy such goods in the manner mentioned in rule 25.
- (8) In case of auctioning of the vehicles which is more than Ten years old from the date of production or not revealed engine number or chassis number or year of production or removed most of spare parts or not suitable to repair and operate on cost point of view; the vehicle shall be destroyed in the successful bidder's expense with intention that it couldn't be used again as vehicle and it shall be mentioned in the customs declaration form.

(9) Notwithstanding anything contained elsewhere in this regulation, the customs office should sell to the Nepal Rastra Bank at current market price confiscated or government property not cleared by the owner gold, silver, diamonds and other precious stones and ornaments and other articles made there from, if the Nepal Rastra Bank is willing to purchase them. If Nepal Rastra Bank is not willing to purchase them or if any quantity is left over after it does so, such articles, with the approval of the Department, and the minimum value fixed pursuant to this regulation shall be sold by public auction in case the minimum value of such articles is up to rupees one hundred thousand or through bidding in case the minimum value of such articles is more than rupees one hundred thousand.

(10) Notwithstanding anything contained elsewhere in this regulation, in case of selling of goods by taking approval, such goods should be sold to the licensee only;

(11) Notwithstanding anything contained

elsewhere in this regulation, in case the National Trading Limited, Salt Trading Corporation, Sajha Bhandar limited, Tara Gaon Bikash Samiti or cooperatives show willingness to purchase goods to be auctioned, the customs officer should sell such goods negotiating directly at the price not less than the fixed minimum price or more than the minimum price.

- (12) Notwithstanding anything contained elsewhere in this Chapter, in case the goods confiscated or seized by the customs office under the Act or purchased under clause (b) of sub section (15) of section 13 of the Act, include rotten or worn-out items which are liable to depreciation of value or consumer items which have less than three months expiry date or items which cannot be preserved in the customs office because of lack of space or animals or birds , these shall be sold by auction on the day they reach the customs office or on the following day by putting notice in the Notice Board. The highest price of open bidding may be approved by the customs officer for the

goods auctioned as per this sub rule.

- (13) In case there is no position of the customs officer hampering the bidding, the Director General should make appropriate arrangement for this purpose.
- (14) Notwithstanding anything contained in this regulation, on the auction of the goods stored in the warehouse or similar places owned by terminal management company, ten percent of the amount proceeds of the auction of such goods or warehouse rental amount, whichever is lesser, shall be given to the terminal management company.

Explanation: For the purpose of this chapter, Customs Officer means Chief of Customs office of the Gazetted rank or in his absence, the officiating chief of the customs office.

Chapter 8
Arrangement for Customs Agent

37. License for the customs agent:

- (1) For the purpose of appointing the customs agent, the Department may call application by issuing public notice from time to time from the persons interested to get customs agent license

- (2) After the notification is published as per sub-rule (1), interested persons to get license and with the qualification as mentioned below may apply by paying the fixed fee in the Department or the customs offices in accordance with the format mentioned in schedule 5.
 - (a) Who is more than twenty one years of age,

 - (b) Who has a minimum qualification of bachelor level pass or equivalent from recognized teaching institution with computer basic training of at least three months,

- (c) Who has no outstanding payment due to the government,
 - (d) Who has not been proved offender from the court in any criminal offence.
- (3) Notwithstanding the provisions in sub-rule (2), any person who has worked as representative of the customs agent for more than two years until Bikram Sambat 2065 Baishakh 14 and is certified by the chief of the customs office on the basis of the record, such person may apply for the customs agent and qualification mentioned in clause (b) of sub-rule (2) is not necessary for such person.
- (4) The Department will select the appropriate persons to issue license for customs agent from among the applicants through interview or written examination.
- (5) Person selected as per sub-rule (4), should pay customs agent license fee of Rs. seven thousand and deposit seven hundred thousand in cash or the bank guarantee of the equivalent amount. In such case of the

applicants applying in the Department or the customs offices, the respective offices should issue license in the format as mentioned in schedule -6.

- (6) The license issued as per sub-rule (5) will remain valid for one fiscal year. In order to renew the license, the interested licensee should apply to the license issuing authority by paying Rs. seven thousand as renew charge before the new fiscal year begins and should enclose following documents;

- (a) Certificate of income tax payment;
- (b) In case of bank guarantee, the due date of the bank guarantee should be for the period for which the customs agent license is to be renewed.

But, in case the customs agent wish to renew the license for three fiscal years, the agent may apply for renew by paying sum of the license fee for three fiscal years.

- (7) If the customs agent could not renew the

license as per sub-rule (6), the agent may renew it in one year from the date of expiry of the license by paying additional Rs. seven thousand as late fee. If any licensee did not renew the license within this period, the license will be automatically cancelled.

- (8) Notwithstanding the provision mentioned in sub-rule (7), the customs agent will not be permitted to work as customs agent for the period failing to renew the license.
- (9) The licensee should normally be present in person at the customs office. In case of his absence, he should nominate a representative with the qualification as mentioned in the sub-rule (2) and may apply for the approval to the Chief of the customs office.
- (10) The Chief of the Customs Office may permit to nominate the representative after enquiring with the customs agent and his representative, once the application as per sub- rule (9) is received. After getting permission from the customs office, the

customs agent should nominate the representative to work in the specific customs office to work on the customs agent's behalf and such nomination paper should be certified from the chief of customs office.

- (11) In case of customs agent appointing one representative as per sub rule (10), there is no need of additional deposit or bank guarantee as per sub-rule (5). If a customs agent wants to appoint more than one representative, can appoint one representative having the qualification stipulated in sub-rule (2) under the provision laid down in sub-rule (10) for each customs office, provided only one representative has been appointed in a single customs office. If such representative is to be appointed, the customs agent should deposit additional cash or bank guarantee in accordance with sub-rule (5), before the chief of the customs office approves the nomination of the representative. The chief of the customs office should give the details of such nomination of representative pursuant to sub rule (10) or this rule to the Department.

But the customs agent cannot nominate another representative in the customs office in which the representative has already been nominated in accordance with sub-rule (10).

- (12) The Person nominated by the customs agent as representative in accordance with this rule can work only in the designated customs office.
- (13) Customs agent will be fully responsible for the customs related activities of the customs agent's representative nominated in accordance with sub-rule (10) or (11).
- (14) The Department may frame and implement a manual relating to grade, code of conduct, procedure to conduct examination, syllabus and other matters of customs agent in a manner that such manual is not contrary to the Act and this Regulation.
- (15) The customs agent license issued before 2064 Baishakh 14 will be considered as the license issued under this Regulation.
- (16) Notwithstanding anything contained

elsewhere in this rule, any person who has worked as representative of the customs agent for more than two years until Bikram Sambat 2064 Baishakh 14 and it is certified by the chief of the customs office on the basis of the record, such person may be appointed as per sub rule (10) or (11) as representative and qualification mentioned in clause (b) of sub-rule (2) is not necessary for such person.

38. Appointment of customs agent:

- (1) Any exporter or importer, being present in the customs office, may clear the goods or other works relating to customs.
- (2) In case the exporter or importer is government institution, fully or partially owned public enterprises or institution , the Board of Director or the Chief Executive officer or administrative chief of such institution may decide to appoint a staff of the institution to be present at the customs office to clear the goods or do some other customs related function.

- (3) In case the exporter or importer is any legally registered firm, company, organized institution; any employee of such form, company or institution designated by the Director or partner or the Chief Executive officer or administrative chief can be present at the customs office to clear the goods or do some other customs related function.
- (4) In case the exporter or importer would like to clear the goods or do some other customs related function through the custom agent, the exporter or importer may appoint the customs agent in the format as prescribed in Schedule 7.
- (5) In case a customs agent is appointed in accordance with sub-rule (4), the exporter or importer should make available the appointment letter, renewed customs agent's license, evidence to prove that the signature to appoint the customs agent is that of the legally registered exporter or importer, certified copy of certificate of registration and Permanent Account Number in case of firm, company or organized institution. The chief of

the customs office may ask to produce the true copy of the documents In order to establish the authenticity of the documents if needed.

But,

- (a) If the importer or exporter has to reappoint the same customs agent in the same customs office, among the documents mentioned in this rule, the documents of non renewable nature should not be submitted;
 - (b) If the importer or exporter is a natural person, such person should submit certified copy of renewed copy of license, citizenship certificate, PAN number if the person is liable to take PAN ,along with the appointment letter of the customs agent.
- (6) The customs agent should submit the appointment letter as per sub- rule (5), and the attached documents to the Chief of the customs office from where the import or

export of the goods takes place.

- (7) Upon the enquiry into the customs agent's appointment letter as per sub rule (6) and the attached documents, if customs agent is found to be qualified to work in the customs related job, the chief of the customs office should allow the customs agent to fill in the particulars with his signature and keep the appointment letter for record and certify accordingly.
- (8) Upon the enquiry into the customs agent's appointment letter as per sub- rule (6) and the attached documents, if customs agent is found not to be qualified to working the customs related job, the chief of customs office should cancel the appointment and inform in writing to the importer or exporter accordingly through the customs agent.
- (9) Customs agent appointed before the implementation of the rule should comply with the provisions made in sub rule (5), (6) and (7) within thirty days from the date of implementation of the rule. If customs agent

does not comply with the rule, such agent will not be allowed to work.

39. Training of the customs agent:

The Department or through other institutions will , from time to time, organize training program for the licensee of the customs agent who have not started the work, or those agents who are providing services.

40.

Chapter 9
Arrangement for the review of Valuation

41. Application for the review of valuation:

The person may apply to the Valuation Review Committee in the format as prescribed in Schedule 7 against the decision or the instruction of the Customs officer as per section 13 of the Act. The copy of the application should also be forwarded to the concerned customs office within seven days from the date of application.

42. Function, duty and authority of the chairman and the members of the Valuation Review Committee:

(1) Function, duty and authority of Valuation Review Committee shall be as follows:

- (a) To examine into the evidence presented by the applicant,
- (b) To approve the decision of the customs officer or revoke the decision and take decision on behalf of the customs officer,

- (c) To ask to the applicant for submitting additional documents or evidence,
 - (d) To collect necessary information for valuation of the goods.
- (2) Valuation Review Committee's decision should be communicated within seven days from the date of the decision to the applicant, Department and concerned customs offices.
 - (3) Monthly progress report of the Valuation Review Committee should be submitted to the Ministry of Finance.

43. Valuation Review Committee's work procedure:

- (1) All the three members of the committee will exercise their authority collectively and the majority decision is considered as the committee's decision.
- (2) At the time of Valuation Review Committee's final decision on the application on the review of the valuation, the presence of Chairman and the two members are necessary.

44. Period for the final decision:

Valuation Review Committee should take final decision within ninety days from the date of registration of the application.

45. Remuneration for the Chairperson and the members of the Valuation Review Committee:

The remuneration for the Chairperson and the members of the Valuation Review Committee shall be as fixed by the Ministry of Finance.

46 Ministry of Finance to make necessary arrangement:

Ministry of Finance will make arrangement for the Valuation Review Committee's office, physical facilities and necessary staff.

Chapter 10
Arrangement for Informer and Prize

47. Arrangement for Prize:

- (1) Anybody who capture person(s) smuggling or seeking to smuggle goods, except the goods exempted from customs duty and value added tax, or furnish information relating thereto, shall be granted rewards at the rates mentioned below in case it is proved that such goods have been smuggled or have been sought to be smuggled. The reward shall be paid from the proceeds of the auction of such goods after the case is settled.
 - (a) For persons furnishing information about attempts to smuggle goods, ten percent,
 - (b) For persons seizing goods being smuggled and producing the same along with the smuggler, twenty percent,
 - (c) For persons who only seize and produce goods being smuggled, ten

percent.

- (2) According to this rule, if the reward for informer has to be given to the government employee, receipt of payment and the copy of the identity card must be enclosed in the record. If the informer is not the government employee but an individual, receipt of payment and the copy of the identity card of the individual must be enclosed in the record.
- (3) If the individuals getting reward as per sub rule (1) are more than one person, the amount of reward will be equally distributed.
- (4) Notwithstanding anything contained elsewhere in this regulation, the reward will not be paid if the informer does not comply with the regulation.
- (5) **Notwithstanding anything mentioned in Sub-Rule (1), in order to grant reward to the person who gives clue and submits the goods along with arresting with or without person in the case of gold, silver or ornament, the reward shall be granted ten percent of the**

amount received through auction or sale or one million rupees whichever shall be less.

Explanation: For the purpose of this rule “The proceeds of the auction of the goods” means the auctioned value or sales value, which does not include the legal taxes.

48. Informer’s report or information:

- (1) Informer’s report or information on export smuggling or import smuggling should be received before the goods are seized. The information will not be accepted after the seizure of the goods.
- (2) The Informer’s report or information should be provided to Chief of the Customs office or Director General.
- (3) When the Director General receives informer’s report or information pursuant to Sub-rule (2), he/she shall immediately inform the chief of the customs office verbally or in writing. The Chief of the Customs Office, after receiving informer’s report or information directly or through Director General, shall

keep record confidentially.

- (4)
- (5) Before the seizure of the goods, if more than one informer's report or information is received, the first report or information should be honored and the rest should be noted and filed.
- (6) Informer may submit report or information in the fictitious name instead of real name. In case of information given on the fictitious name, the informer shall immediately submit the real name and a copy of evidence of proof (Citizenship certificate, identity card or passport), which will reveal his/her real name and clear identification, to the Chief of the Customs office. After receiving the evidence, the chief of the customs office shall certify it and keep record confidentially.

49. Particulars to be included in the information:

- (1) In order to give information in case of export or import smuggling through airplanes, airplane's flight number, to the

extent possible, the export or import smuggler's name or passport number or physical features and name of the goods being smuggled and the mode of bringing or carrying through hidden process should be revealed.

- (2) In case of export or import smuggling through land route, name of the goods being smuggled, place, date and time of smuggling, type of vehicle and number, mode of bringing or carrying through hidden process and to the extent possible, the export or import smuggler's name or physical features should be revealed.

Chapter 11
Arrangement for Demurrage

50. Arrangement for demurrage:

- (1) No demurrage shall be charged for seven days from the date on which goods are stored in the customs office operated warehouse.
- (2) In case goods are not cleared within the time limit prescribed in sub-rule (1) the demurrage shall be charged from the eighth day at a rate mentioned in Schedule 9. The demurrage shall not be more than the customs value of goods.

51. Remission for the demurrage

- (1) If the owner of the goods has reasonable ground for the remission of the demurrage, the owner may apply for the remission with the evidence and documents to proof the claim to the chief of the customs office.
- (2) Upon receiving of the application pursuant to sub rule (1), chief of the customs office may

decide in writing within the limitation granted under sub rule (3) and (6) to grant remission from demurrage either partially or in full in respect of goods to be exported or imported, in case he is satisfied that there exist specific reasons for granting such remission.

- (3) In case of remission of the demurrage; following officers can grant remission to the following amount:
- a) Up to Rs. 25000/ if non-gazetted staff is the chief of the customs office;
 - b) Up to Rs 1, 00,000/ if third class gazetted officer is the chief of the customs office;
 - c) Up to Rs 3, 00,000/ if First or Second class gazetted officer is the chief of the customs office.
- (4) If the chief of the customs office is satisfied that the remission should be granted over and above the amount within his authority as per sub rule (3), the chief should write to the Director General with his recommendation

along with the relevant documents as per sub rule (1).

- (5) Upon the enquiry into the recommendation as per sub rule (4), if the Director General is satisfied that either partially or in full remission should be granted, he should approve and instruct the chief of the customs office.
- (6) After the approval from the Director General as per sub rule (4), the chief of the customs office should grant the amount of remission.

Chapter 12

Arrangement for the notice and time limit

52. Procedure for summons:

- (1) In order to provide initial time limit in the context of accused, as per sub section (1) of section 81 of the Act the authorized customs officer should give notice of fifteen days time limit in addition to the travel time for the accused in a format as prescribed in Schedule 10.
- (2) In order to give notice to the accused as per sub rule (1), the notification should be served to the accused or member of his family who are of the legal age limit. In case of the accused or his members of the family not available or the accused or his family members refusing to accept notice, the notice server should stick the notice at the door of their home or rented house with the two witnesses signing the notice.
- (3) If the notice server did not find the accused person or member of his family in the home

address or rented house address, he should state the same particulars and stick the notice, in case of Village Development Committee, in the village development committee office and in case of municipality, in the municipality ward where the house or rented house is located, in the absence of such offices in the public place , in the presence of person of the local entity or representative or two witnesses. In such a situation, such a notice is considered legally notified.

- (4) In case of serving the notice to the firm, company or organized sector, the notice should be served to the member of the board, or administrator, or chief of such institution or legally authorized person of such institution. In case of such person not available or the person refusing to accept the notice, the notice server while noting the particulars should stick the notice at the door of their office with the two witnesses signing the notice. In such a situation, such a notice is considered legally notified.

- (5) Notwithstanding anything contained elsewhere in the regulation, the notice served to any person through registered post in the stated address, or in such person's fax or email address is considered legally notified.
- (6) The notice server should serve notice in accordance with sub rule (2), (3) or (4) should serve notice within 3 days in addition to the travel time.
- (7) In case of receiving report stating that notice could not be served as per sub rule (2),(3), (4) or (5); the notice could be served through radio, television, website of the department or the customs office, and publication or broadcasting in the electronic media or publication in the national newspaper. In such case of serving notice through media or broadcast, the notice is considered legally served after five days of such broadcast or publication.
- (8) The expenditure incurred to serve notice as per sub- rule (7), the customs office should charge such expenditure to the accused.

53. Procedure to issue notice:

In case of issuing notice to the person related to the customs work or the person concerned with the customs as per section 82 of the Act, should provide fifteen days notice in addition to the travel time and the notice should be issued in accordance with the procedure as prescribed in sub rule (2), (3), (4), (5), (6) or (7) of rule 52.

However, regarding the notice issued as per this rule, sub rule (8) of rule 52 is not applicable.

53A. Notice for the rightful claim:

(1) If the goods deposited in the customs office as per section 46 of the Act has owner not identified, before the goods are confiscated, notice should be issued in the notice board of the customs office if anyone has rightful claim on the goods. The claimant should be present with the application attaching the evidence of claim within **fifteen days** from the date of notice in addition to the travel time.

(2) Such notice as per sub rule (1) should be sent to the District Administration office,

Revenue Office, District Development Office,
District Treasury office and Federation of
Nepalese Chamber of Commerce and
Industry to issue it as public notice.

Chapter 13
Miscellaneous

54. Valuation Committee:

- (1) The following valuation committee is formed to determine the value of vehicles and means of transportation deposited in the customs office, goods to be auctioned as per this regulation, and the goods under the sub section (3) of section 71 of the Act.
 - (a) Chief of the Customs Office or in his absence officiating Chief-Coordinator
 - (b) Representative from the concerned District Administration Office-Member
 - (c) Representative from the concerned Federation of Industry and commerce - Member
 - (d) Representative from the concerned Treasury Office -Member
 - (e) Mechanical technician in case of vehicle and means of transportation-

Member

- (2) The Committee constituted under sub rule (1), should consider physical condition, local demand, usefulness, usable period, depreciation, and market price while determining the value of the goods. While fixing the value of the goods purchased under clause (b) of sub section (15) of section 13 of the Act, the purchase price of the goods, the customs duty for the import of such goods, and the market price of the goods should be considered.
- (2a) Notwithstanding anything contained in sub rule (1), the customs officer can determined the value of the goods, except motor vehicles, for auction purpose considering the conditions stipulated in sub rule (2), presented to customs office which to be auctioned as per this rule, bearing the value up to fifty thousand. If the customs officer considers that the value of the goods is mentioned in the report unusually high while presenting the goods to the customs office for auctioning, he or she can auction such goods

by determining the value by the valuation committee as per sub rule (1).

- (3) The Valuation Committee constituted under sub rule (1) may invite other people to the meeting if the committee considers appropriate.
- (4) The quorum of committee constituted under sub rule (1), is fulfilled if the Coordinator and other two members are present and the majority decision is considered the decision of the Committee.
- (5) The remuneration of the committee members is as determined by the Ministry of Finance.

55. Refund of the deposit:

- (1) Anybody who deposited fund in the customs office as per Act or this regulation should apply for the refund to the customs officer within one year after the purpose for which the fund is deposited is realized. The application should specify the reasons and the amount of refund. The application should be enclosed with receipt of deposit and the

related documents for refund.

- (2) After the application is received as per sub rule (1), the customs officer should decide whether the deposit should be refunded and refund such deposit within three days of the date of decision. In case the deposit need not be refunded, the reasons for this should be notified to the applicant.
- (3) In case the application is not received within the time limit as per sub rule (1), the customs officer should prepare a list and decide that the deposit will be refunded in case the application received with evidence later, such deposit should be transferred to the revenue account.

56. Compensation for the goods:

- (1) The owner of goods seeking compensation pursuant to section 69 of the Act, should send application to the customs office or the operator of the go-down stating the clear reasons for compensation along with the documents to prove the claim.

- (2) In case of receiving application pursuant to sub rule (1), such application should be examined and if it is found that the compensation needs to be provided, decision should be taken to provide compensation to the total amount of price quoted in the invoice and five percent addition to the price quoted.
- (3) In case of imported goods deposited in the go-down operated by the other person pursuant to sub rule (2), and in the condition of compensation provided by such person, the customs duty equivalent amount should be deposited at the concerned customs office within seven days of receiving the compensation.

57. Procedure for recovering penalty or shortfall of the customs duty:

- (1) The exporter or importer or their customs agent, in case of shortfall in the amount to be deposited as customs duty because of mathematical error, or due to the difference in the classification head or sub-head, or for other reasons, or the penalty amount due;

should be immediately notified by the customs officer to deposit the penalty or the shortfall in the customs duty, as soon as the customs officer knows about it.

- (2) The person notified pursuant to sub rule (1) should deposit the amount in the customs office within fifteen days from the date of notification. In case the amount should not be paid or have already been paid, such information should be submitted with documentary evidence to the customs officer within fifteen days from the date of receiving the notice.
- (3) In case of the receipt of the information regarding the amount should not be paid or have already been paid, pursuant to subs rule (2), the customs officer should enquire into the matter and if found justified , should notify accordingly that the amount should not be deposited. If the documentary evidence did not justify the case, the customs officer should notify to deposit the amount within seven days. The concerned person should deposit the amount within the specified time

period. In case of not depositing the amount in time, the customs office may stop the customs transaction of such a person or may recover such amount from such person's asset located anywhere in the government office.

- (4) In case of notification given to the customs agent about the deposit of the penalty amount or the shortfall in the customs duty, the customs agent's duty is to notify the exporter or importer to recover the penalty or shortfall amount in the given time and make efforts to make the exporter or importer present, if required, at the customs office for the purpose of recovering the amount.
- (5) In case of non recovery of the amount pursuant to sub rule (3), such amount should be treated as due amount to be recovered as government due.
- (6) In case of the knowledge of the due amount and non recovery of the due amount and, if the customs official clears goods without the instruction of the chief customs officer, such

customs official is liable for disciplinary action.

58. Refund of the excess amount of the customs duty or the penalty:

- (1) If the exporter or importer paid more than the due amount of customs duty for the export or import of goods or the penalty, the exporter or importer should apply for the refund of the excess amount at the customs office.
- (2) In case of receiving application pursuant to sub-rule (1), such application should be examined and if it is found that the excess amount needs to be refunded, written decision should be taken to refund the excess amount and refund such amount within fifteen days from the date of the application received.
- (3) In case of refund of the amount pursuant to sub-rule (1), information should be given to Director General with reasons for refund.
- (4) In case of enquiry into the application pursuant to sub rule (1), if it is found that the

excess amount need not be refunded, the reasons for this should be notified to the applicant within fifteen days from the date of application received.

59. Procedure for providing copy of documents to the concerned person:

- (1) The concerned person may apply to the customs officer for providing a copy of any documents,
- (2) Pursuant to sub rule (1), the applicant should specify the description of the documents, the purpose for providing such document, and the evidence for being the concerned person.
- (3) In case of receiving application pursuant to sub rule (2), such application should be examined and if it is justified, the customs officer should provide copies of the documents to the applicant within three days of the date of application by charging fees as per sub rule (4).
- (4) While providing copy pursuant to sub rule (3), Rs. 5 per page shall be charged as fee. The

customs officer shall arrange to deposit such fee charged to the applicant in the revenue account or shall arrange to fix stamp postage equivalent to the fee and shall fix the seal on the copy.

- (5) While charging fee pursuant to sub- rule (4), the office should mention in the paper to be provided to the applicant that the cash has been collected or the stamp has been cancelled.

60. Procedure regarding the issue of certificate of import:

- (1) The person importing goods attracting sales tax or other taxes in the foreign country, may apply for getting certificate of import in the concerned customs office with the documents proving the import of such goods.
- (2) In case of receiving application pursuant to sub rule (1), such application should be examined and if it is justified, certificate should be issued in the format prescribed in schedule 11.

- (3) While issuing certificate pursuant to sub rule (2), Rs. 5 per certificate should be charged. The customs officer should put a seal of the office on the certificate by mentioning that the cash has been collected or the stamp postage has been cancelled.
- (4) The certificate shall not be issued if the application is not received within fifteen days from the date of import of goods for which the certificate is requested pursuant to this rules. If the goods are imported from time to time from the same single invoice, the date of the last clearance of goods is considered the date of import.

60A. Special arrangement for the import of goods under the Baggage Rules:

Notwithstanding anything contained in this regulation, the importer, while importing the goods of personal use or importing the goods under the baggage rules, should fill out the summary declaration form as prescribed in Schedule 10A.

61.

62. Export or Import through the branch customs office:

- (1) Following goods may be exported or imported through the branch customs office:
 - (a) On import, except the customs offices listed in Schedule 12, other customs offices may allow to clear goods valuing up to Rs. 5000/ except the import of goods that the Director General has approved, other machinery operated vehicles on a permanent or temporary basis are prohibited for import.
 - (b) On the export, unprocessed agriculture goods and the local natural production,
- (2) While exporting or importing goods pursuant to this rule, export or import of goods other than the immediate neighboring countries are not permitted.
- (3) Director General may frame and implement the procedure to manage the export or import

through the branch customs offices.

63. Private sector may operate warehouse:

- (1) With the approval of the government, any person may operate warehouse to store goods for import or export by constructing the warehouse in the premises of the customs office
- (2) Customs warehouse operator pursuant to sub rule (1) may charge, with the prior approval of the government, specified rate of rent.

64. Responsibilities of the private operator of the Warehouse:

- (1) The responsibilities of the proprietor of the non- governmental warehouse are as follows:
 - (a) To make arrangement for the safety of goods stored in the warehouse,
 - (b) To make necessary arrangements for the maintenance of up to date records indicating the particulars of goods

stored in the warehouse,

- (c) Not to store goods if the customs office has not allowed to store in the customs go-down,
- (d) To refrain from taking out goods without the prior approval of the custom office
- (e) Goods taken out for the clearance once should not be deposited again without the approval of the customs officer.
- (f) Not to open or make arrangement not to open the goods deposited in or intended to deposit in the go- down without the approval of the customs office.
- (g) Inform the customs office in case of loss or destruction of goods deposited in the go-down
- (h) Submit list of goods which have been deposited in the go-down for more

than sixty days to the customs office,

- (i) Customs officer should be allowed to inspect go- down as and when he wishes to do so and submit information and particulars immediately,
- (j) Submit the list of goods deposited in the go-down to the customs office on a daily basis,
- (k) While depositing the goods in the go-down, name of the owner of the goods, address and telephone number and email address should be recorded.

65. Goods imported through the post office should be deposited at the customs office:

- (1) In case any parcel imported in the name of consignee, the concerned post office should send this parcel at the nearest customs office, while at the same time inform the consignee about the arrival of the parcel.

- (2) In case anyone would like to export goods through a parcel to the foreign country, the post office may export it on the condition that the exporter clears the goods from the nearest customs office and produces the declaration form along with the goods.

66. Opening or closing of customs office:

- (1) The chief of the customs Office shall prescribe the opening or closing hours for his office and affix a notice thereof in the notice board of the office for the information of the public.
- (2) In case the Chief of the Customs Office feels that there exist special circumstances for the customers' interest or excessive work necessitating the release of goods during a public holiday, or when office is closed, the Chief may keep it open and release the goods.
- (3) In case of providing facilities to the customers or to simplify the procedure relating to export or import, if the local condition warrants, the

Chief of customs office, with the prior approval of the Director General, may close the office on the day which is not the public holiday, or open the office on the public holiday.

- (4) In case of the decision taken on the opening or closing hours for the office pursuant to sub rule (3), the chief of the customs office shall affix a notice thereof in the notice board of the office and publish it in the national newspaper for the information of the public.
- (5) Customs Office at Dry Port with the railway service, should make arrangement for the opening or closing of office hours, upon the request of the terminal operator, in such a way that the owner of the goods should not incur additional cost due to demurrage charge from the time of the arrival of the railway and make arrangement of the departure of the railway.

66A. Partial clearance:

- (1) If the importer wishes to make partial clearance of goods imported with a single invoice and stored in the customs warehouse may submit an application to the Customs Officer.
- (2) If an application received as per sub rule (1), the customs officer shall make clearance of goods which is wished to be cleared, by charging the duty only on the quantity of goods to be cleared, provided no any reason that obstructs making partial clearance.
- (3) If any goods, out of the imported goods listed in a single invoice, are found restricted by laboratory test, the customs officer shall, except such restricted goods, make clearance of rest of the goods by charging the duty only on the goods to be cleared.

66B. Missing Cargo to be returned back:

If any goods mistakenly received in wrong address through the air-routes and if the concerned party submitted an application with the reason for taking

back, the chief of the customs office, if found reasonable after conducting necessary investigation, may allow the applicant to take back such goods.

66C. Provision on clearance of goods and duty of the goods imported with having damaged or low quantity:

- (1) If the goods are imported having damaged or broken or low quantity pursuant to subsection (3) of section 7 of the Act, the goods-owner shall make an application to the Custom Officer by mentioning the same content before conducting clearance of the goods.
- (2) In order to make application pursuant to Sub-rule (1), clear reason for importing goods of such condition and insurance surveyor's report to verify the same fact, certification document of authorized body, event spot inquiry or other relevant and subjective evidence should be included.

- (3) If application and documentary evidence have been received pursuant to Sub-rule (1) and (2), Customs Officer shall conduct necessary investigation and details physical examination and found that there was loss or the goods was valueless or imported in less quantity, he/she shall mention details in declaration form about aforementioned content and other contents that the goods can be used in other alternative way despite not using as main goods or the same goods can be reused as scrap or whether can be used as business purpose on other any way or not.
- (4) After ascertaining real condition of the goods pursuant to Sub-rule (3), the Customs Officer may make clearance of such goods by receiving duty to be imposed in the goods imported as correct condition or actual form.
- (5) The Customs Officer shall make clearance of goods by receiving duty by determining estimated customs value through separate declaration on the goods that said goods can be used in alternative way pursuant to Sub-

rule (3) despite that the goods is imported with breaking.

- (6) In case more duties have been recovered than reasonable duty pursuant to Sub-rule (3) due to paying duty before entering the goods in Customs office and if the concerned person makes application requesting to refund excess amount of the duty, the Customs Officer shall refund such excess amount of duty to the concerned person after making a written decision.
- (7) If the goods have been cleared or duty has been refunded pursuant to this Rule, the Customs Officer shall immediately inform about detailed information thereof to the Director General through quick medium.

67. Update and change of the Schedule:

Ministry of Finance, notifying in the Nepal Gazette, may update and change the schedule as and when necessary.

68. Repeal and Saving:

- (1) Customs Regulation, 2026 is hereby repealed.
- (2) All acts done and actions taken under the Customs Regulation, 2026 shall be deemed to have been done and taken under this Regulation.

Schedule- 1
 (Related to sub- rule (2) of rule 3)
**Forms for the Ministry of Foreign Affairs Recommendation for
 diplomatic privilege or duty privilege.**

Government of Nepal
Ministry of foreign Affairs

To the Department of Customs

Pursuant to the decision dated, Ministry of Foreign Affairs recommends to provide diplomatic privilege/duty privilege to following goods purchased/exported/ imported by the following purchaser/exporter/importer:

Name of the purchaser/exporter/importer	Item of goods	quantity	Country to export	Estimated value	Customs Office of ex Port/import

Registration No _____ Seal of Ministry of Foreign Affairs _____ Recommendation officer's
 Date _____

Signature
 Name _____
 Position Date _____

For Department of Custom's use

To Customs Office,

The Department of Customs requests to provide diplomatic privilege/ duty privilege to the aforesaid goods as recommended by the Ministry of foreign Affairs.

Registration No _____ Seal of Department of Customs _____
 Signature _____
 Date _____
 Name _____
 Date _____

Schedule 2
(Related to rule 20)
Forms for the description of the particulars to be submitted
by the driver of motor Vehicle

.....Customs Office,
....., NEPAL

Driver's Name:

Registration No. of Vehicle:

Type of Vehicle

Container No.:

Date of Entry

S.No.	Description of goods	Quantity or no. of package	Place of loading

Driver's signature

Schedule 3
(Related to rule 22)
Customs Declaration Form

Schedule 4
(Related to rule 31)

**Forms of Notice to the importer relating to the Purchase of
goods**

Government of Nepal
Ministry of finance
Department of Customs
..... **Customs Office**

Date:

Subject: Goods to be purchased.

To

Permanent Account Number:

Pursuant to rule 31 of the customs regulation, 2064, this is to inform you that the customs office has decided, as per clause (b) of sub-section (15) of Section 13 of the Customs Act 2064, to purchase following goods that you have imported. Please collect following amount from this office.

Description of the particulars of the goods to be purchased.

LC No. / Date:

Invoice No/ Date:

Customs Declaration Form No / Date:

Description of the particulars of the goods:

Declared value of the goods:

Payment for the purchase of goods Rs

Signature of the customs officer:

Name:

Schedule 5
(Related to sub- rule (2) of rule 37)
Application for getting Customs Agent License

Regd. no. and date Regd. office

Applicant's Name : (owner's name in case of firm/company)

Father/Mother's Name:

Grandfather/grandmother's name:

Permanent Address..... Zone District

VDC/Municipality, ward no.

Temporary Address:

Date of Birth:

Nationality:

Telephone no:

Tele fax no:

Email id:

Name of the firm/ company:

Date of registration

..... Renew valid period:

Permanent Account Number (PAN):

Date of getting PAN:

Academic qualification of the applicant (*owner's in case of firm/company*)

S.N.	Name & Address of Educational Institute	Passed Exam	Year of Pass	Division

I have applied in compliance with the provisions of sub-section (2) of section 37 of Customs Regulation, 2064 regarding the qualification. All the aforementioned particulars are true. I agree to prosecution accordance with the prevailing laws in case of proof that the particulars are untrue.

Date:

Thumb print

Right

Left

Signature of the Applicant

Note: Enclose certified copy of Certificate of Educational qualification, citizenship or passport and in case of firm or company enclose also certified copy of certificate of PAN registration certificate and firm registration certificate.

Entrance Card for the Customs Agent's examination

Applicant's name and surname:

Name of Firm/Company:

Examination Centre

Role Number:

Replica Signature

Passport
size photo

Govt.
Logo

Schedule 6
(Related to sub- rule (5) of rule 37)

Passpo
rt size

Government of Nepal
Ministry of Finance

Department of Customs/ Customs office

License serial no.

Date

License of Customs Agent

In accordance with Sub-section (5) of Section 37 of Customs Regulation, 2064, this Customs Agent license is issued to clear goods for export or import from the customs office or to perform customs related work as customs agent.

Customs Agent's Name:

Person's name in case of firm/company, acting as customs agent:

Signature:

PAN no:

Permanent Address:

Current Address:

Telephone no.:

Telefax no.:

Email id:

Issuing officer

Designation:

Signature:

Back flip

Renewal Details

Date of renewal	Renewal charge	Validity period	Signature of renewal officer

Schedule 7
(Related to sub- rule (4) of rule 38)
Format of the customs agent's appointment letter
Part (A)
To fill up by the Exporter/Importer

Name of the exporter/importer:

Address:

PAN No:

Registered or not Registered in VAT

If Registered, Registration No.

Mr.Customs Office

Appointer's photo Signature to Touch upon the photo as well
--

Customs Agent's photo Signature Touch upon the photo as well

Subject: **Appointment of Customs Agent.**

In compliance with the sub-rule (4) of rule 38 of the Customs Regulation, 2064, I/We inform you that I/We have appointed following licensed Customs Agent for the following time period to clear the following consignment of goods for export or import through the land route of your office. I/We abide by the provisions made in the Customs Act, 2064 and Customs Regulation, 2064. Copy of evidence regarding our business and license of the customs agent are enclosed. If deemed necessary, I/We will submit the true copy.

Name of the Customs Agent :

License no. License Issued Date:

Address:

Time period to work as customs agent from to

To clear specific consignment only: (please mention LC no, date, bank's name, invoice no. and date)

.....

Signature of Exporter/Importer

Date:

Phone no:

Name:

Address:

Relation with the business:

(Please include the evidence)

Email id:

Seal:

Fax no:

(If a single owner of the goods appoints customs agent several times in the same customs office, such appointer need not affix photo in the subsequent appointment letter

Part (B)

(To fill up by the customs agent)

I agree to work as customs agent as mentioned in part (A) above, in compliance with the provisions under customs Act, 2064 and customs Regulation, 2064. I have attached a copy of my customs agent license. If deemed necessary, I will submit the true copy.

Customs Agent's Name:

Address:

Signature

Telephone No.

License No.

Issue Date

Email

Fax no.

Seal

Date

Schedule 8
(Related to sub- rule (1) of rule 41)
Format of the application for review of the customs valuation

To Value Review Committee

Date:

Subject: Request for Revaluation.

The undersigned submits the application with the facts and the evidence requesting for the review of the decision made on the valuation of the goods by the customs officer of.... customs office on the following goods imported by me. I have enclosed the customs declaration form and copy of papers enclosed with the declaration form and copy of the notification by the customs officer for your information.

1. Supplier's Name and Address:
2. LC/Bank draft/TT/DAP no. and date:
3. Invoice no. and date:
4. Customs Declaration Form no and date:
5. Date of clearance of goods:
6. Particulars of goods (with specification)
7. Total declared value:
8. Value decided by the customs officer:
9. Evidence to proof the declared value:
10. Basis and reasons for not agreeing with the

.....

(In case of shortage of space, may attach additional paper)

Signature of the applicant:

Name:

Seal

PAN no:

Schedule 9
(Related to sub- rule (2) of rule 50)
Rate of Demurrage

(a) **In the International Airport Customs Office:**

Per day per KG 40 paisa for first 30 days, Per day per KG 80 paisa for more than 30 days up to 60 days, Per day per KG Rs.1.20 for more than 60 days.

(b) **Other customs offices**

Per day per KG 20 paisa for first 30 days, Per day per KG 40 paisa for more than 30 days up to 60 days, Per day per KG charge 60 paisa for more than 60 days.

Clarification: For the purpose of demurrage charge, to count the weight, all goods in one customs declaration form or one consignment should be counted for weight. While counting the weight if the remaining goods is less than one KG it will be treated as one KG.

Schedule 10
(Related to sub- rule (1) of rule 52)
Format of the summons to be issued by the customs office

Summons issued in the name Mr./Ms.
. from customs office
.

It is notified to you to be present at the office hour of this customs office within 15 days except the time taken to travel, for the enquiry into the offence committed in accordance with the provisions under the Customs Act 2064. If you are present, your views will be taken into account or if you are not present, the decision will be taken in accordance with the legal provisions. It will not accept the petition later and there will be no amendment in the time limit.

Issued Date:

Schedule 10A
{Related to rule 60A
Abbreviated Customs Declaration Form

Nepal Government Ministry of Finance Department of Customs
Abbreviated Declaration form
Customs Office.....(Arrival Room/ Passenger Section)

Importer's Name Address: Invoice No. and Date: Total Invoice			Exchange Rate:			Regd. No of abbreviated declaration form: Date:		
Item No	Description Of goods	Kind of package	Quantity	Invoice Value (Rs.)	Determined Value (Rs)	Classification Subheading	Flat rate or Integrated duty Rate	Duty Amount
1	2	3	4	5	6	7	8	9
Total Duty Rs. (Amount): In words:								
The information is true. In case of untrue or false information, I am prepared to face legal prosecution and accept the decision. This summary customs declaration form will not be used for commercial use. Name of the owner of goods: Signature: Date:				Cash Receipt No and date: Examiner's Signature and date: Customs Officer's Signature and date:				

**Read this before filling out the abbreviated customs
declaration form**

1. The abbreviated customs declaration form should fill out by the owner of the goods by mentioning the importer's name, address, invoice no. and date , total invoice value and description of goods only in column 2 to 4 and sign it with date. Other columns are for the official use of the customs office.
2. The abbreviated customs declaration form should be used to import goods up to the worth of Rs. 5000 or the goods listed in the notice of the Baggage Rules which can be imported by paying the duty in flat rate. Goods for Commercial use cannot be imported by using this form and cannot be accepted as evidence for commercial transaction.
3. The abbreviated customs declaration form should be used for importing of goods mentioned in 2 above by the Arrival Section of the Airport customs office or Passenger section of the land customs office.
4. Two copies of the abbreviated customs declaration form should be submitted.

Schedule 11
(Related to sub- rule (2) of rule 60)
Format of Certificate for the importation of goods

Government of Nepal
..... **Customs Office**

TO WHOM IT MAY CONCERN

This is to certify that the goods mentioned below have been duly imported into Nepal through this customs office.

Importer's Name and Address: Importer's PAN Number :

Supplier's Name and address Description of Goods:

Invoice Number and Date:

Nett Value:

Total Invoice Amount:

Customs Declaration form (Pragyapan Patra) Registration Number:

Date of Importation:

Official Seal

Customs Officer's Signature
Name: Date

Schedule 12
(Related to clause (a) of sub- rule (1) of rule 62)

List of Sub Customs Offices

1. Bhadrapur Sub -Customs Offices
2. Suthauli Sub -Customs Offices
3. Prithbipur Sub -Customs Offices
4. Satti Sub -Customs Offices
5. Darchula Sub -Customs Offices
6. Maheshpur Sub -Customs Offices
7. Bhiswa Sub -Customs Offices
8. Thadi Sub -Customs Offices
9. Gulariya Sub -Customs Offices