Content

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Chapter I General Provisions

Article 1

The smuggling of import or export cargoes shall be suppressed by Customs pursuant to the provisions of this Act.

Article 2

"Commercial ports" referred to in this Act mean the harbors, airports, or other commercial ports opened to foreign trade by the government, and within which Customs offices have been established.

Article 3

The term "the smuggling of import or export cargoes" referred to in this Act means the shipment of cargoes into or out of the Republic of China without making a declaration to Customs, and thus results in an avoidance of Customs inspections, evasion of Customs duties, or escape of Customs controls. However, this doesn't include wastes cleared out of vessels that have been examined and paid due duties after making declarations to Customs.

Article 4

The term " a declaration of import or export cargoes is made" referred to in this Act means the importation or exportation of cargoes through a commercial port associated with a Customs declaration pursuant to the Customs Act and relevant laws and regulations.

Article 5

Where a fine, pursuant to this Act, is imposed on the basis of the value of cargoes, the duty-paid value or the FOB value shall be referred for import and export cargoes respectively.

Chapter II The suppression of smuggling

Article 6

The enforcement of suppressing smuggling shall be conducted at the commercial ports of the Republic of China, in the waters within 24 nautical miles from shore and in the areas or places where as otherwise provided in this Act or other laws.

Article 7

For the necessity of suppressing smuggling, Customs may be equipped with vessels, aircrafts, vehicles, arms, ammunition and necessary tools, and the Regulations governing their usage shall be established by the Executive Yuan.

When enforcing the suppression of smuggling, Customs officers may carry arms and ammunition.

Article 8

For the necessity of suppressing smuggling, Customs may order a vessel, aircraft, vehicle or any other means of transport to stop, turn back or land at a designated place. If such means of transport defies doing so,

Customs may open fire upon it, but only for the purpose of preventing it from further moving.

Article 9

For the necessity of suppressing smuggling, Customs may inspect the import cargoes, export cargoes, through cargoes, transit cargoes, bonded cargoes parcels, baggage, means of transport, warehouses or other places of storage, and the persons concerned at the scene.

Article 10

Where Customs deems valid that a violation of this Act has taken place, it may survey and search the places in question. To perform the aforesaid survey and searching, however, Customs shall ask the occupant of the place, his/her cohabitant, employees, or neighbors, and local policeman to be present for witness. If the survey or searching is conducted on a vessel, aircraft, vehicle or other means of transport, Customs shall ask its manager to be present for witness.

Where a place referred to in the preceding paragraph belongs to a government agency or public enterprise, the survey or searching shall be conducted jointly with the designated personnel of that agency or enterprise.

Article 11

Where Customs deems valid that the carriage of an article by a person may well constitute a violation of this Act, it may order that person to hand in the article in question for examination; if that person refuses to do so, Customs may search his/her body. The aforesaid searching shall be accompanied by no less than two Customs officers or a third person other than Customs officer, and the search of female's body shall be conducted by female Customs officer.

Article 12

For the necessity of suppressing smuggling, Custom may interrogate the suspect, witness and other persons concerned.

A written record shall be taken from the interrogation referred to in the preceding paragraph; provisions of Article 39 to Article 41 of the Criminal

Proceeding Code shall apply mutatis mutandis to the particulars to be covered in such written record.

Article 13

A survey or search shall not be conducted after sunset and before sunrise, unless such action has been started before sunset and it is necessary to continue, or it is found that a violation of this Act is being done.

Article 14

The process of a survey or search shall be recorded in writing and handed to the person interrogated or the witness at the scene and ask them to sign or seal, after they have read over the record. If the person interrogated or the witness is unable or refuses to sign or seal on the written records, the recording Customs Officer shall take note accordingly.

Article 15

When enforcing the duty of suppressing smuggling, Customs officers shall wear uniform, badge, or other certificates sufficient to identify themselves.

Article 16

Where necessary for the suppression smuggling, Customs may request military or police authorities, or other relevant agencies to provide assistance.

In places other than commercial ports, military or police authorities may take anti-smuggling actions on their own if they find a violation of this Act. However, the results of their actions, together with the cargoes seized, shall be transferred to Customs for disposal.

Article 16-1

Where suspicious criminals are found in the anti-smuggling actions conducted by Customs, or by military or policy authorities as they assist Customs or on their own take anti-smuggling actions pursuant to the preceding Article, the case shall be immediately transferred to the

competent authority for disposal according to relevant laws.

Chapter III Seizure

Article 17

Customs shall seize the cargoes deemed as violating this Act.

Where the cargoes referred to in the preceding paragraph are seized within a means of transport and the violation is serious by nature, Customs may seize that means of transport for further survey and search, but only for a time period necessary for such survey and search.

Article 18

Customs may seize the vessels, aircrafts, vehicles or other transport that are subject to confiscation or may be confiscated pursuant to provisions of this Act.

Article 19

Where it is difficult to deliver or store the cargoes or means of transport seized, Customs may hand them to the owner, manager or holder after such person has made an undertaking, or to a local government agency for safekeeping. If the latter is the case, a notice shall be given to the owner, manager, or holder of the cargoes or means of transport seized.

Article 20

Where articles seized cannot be disposed pursuant to the preceding Article, or are likely to perish or be damaged, Customs may either, before the case is terminated, sell those articles after making a public notice and keep the money, or just deliver them to the responsible government agency for disposal, and give a notice to their owner, manager or holder.

For the purpose of securing evidence, Customs may take samples or pictures on the seized articles to be disposed pursuant to the preceding paragraph.

Seized articles that are likely to cause danger may be destroyed and discarded.

Article 21

The owner, manager or holder of the cargoes or means of transport seized may provide Customs with equivalent bonds or other guarantee to apply for cancellation of seizure.

Article 22

The provisions of Articles 13 and 14 shall apply mutatis mutandis to the procedures of making seizure. In addition, a seizure receipt, containing description of the article, the place and time of seizure, and the name and dwelling address of the owner, manager or holder, shall be issued and signed by the enforcement Customs officer.

Articles seized shall be marked and sealed, and stamped by the enforcement agency or Customs officer.

Chapter IV Penalties

Article 23

Where a vessel, aircraft, vehicle or other means of transport violates the provision of Article 8 and disobeys Customs order, the captain or manager shall be imposed with a fine of no less than NTD 60,000 and no more than NTD 120,000. Furthermore the aforesaid means of transport shall be confiscated if Customs confirmed that it is mainly used for smuggling.

Article 24

Where a vessel, aircraft, vehicle or other means of transport entered a place other than a commercial port without permission, it shall be confiscated, unless the captain or manager in question reports in writing, explaining that such behavior was caused by irresistible factors or based on any other justifiable reason, to the local competent authority and thus be accepted.

Article 25

Where cargoes or documents pertaining to them on board a vessel are destroyed or thrown into water for evading Customs seizure, whether the vessel in question is within 24 nautical miles from shore or has been chased outward to a point outside that boundary, the captain and the offender shall be respectively imposed with a fine of no less than NTD 30,000 and no more than NTD 150, 000, and the vessel may also be confiscated.

Article 26

Anyone who sends off signals or transmits message to a means of transport smuggling import or export cargoes shall be imposed with a fine of no more than NTD 30,000.

Article 27

Where a vessel, aircraft, vehicle or any other means of transport is used to smuggle import, export, unload or convey cargoes, the captain or manager in question shall be imposed with a fine of no less than NTD 50,000 and no more than NTD 500,000. Where it is confirmed that the carrier supports, instigates or adopts any other undue method to make the crew of the aforesaid means of transport to conduct smuggling, that carrier shall be penalized pursuant to this Act and other relevant laws, and the means of transport in question may be suspended from Customs clearance up to 30 days.

Where the means of transport referred to in the preceding paragraph is mainly used for smuggling arms, ammunitions or drugs, it shall be confiscated .

Article 28

Where a vessel, aircraft, vehicle or any other means of transport fails to arrive at the specified unloading place in a commercial port, and unloads the cargoes or self-use articles without Customs permission, the captain or manager shall be imposed with a fine equivalent to one or two times the value of the goods in question, and such goods may also be confiscated.

Any persons who transits, places, receives, or provides assistance in

loading and unloading the cargoes or articles referred to in the preceding paragraph shall be penalized pursuant to the provision of the preceding paragraph.

Article 29

Where a vessel, aircraft, vehicle or any other means of transport arrives at a commercial port and loads or unloads cargoes without Customs permission, the captain or manager or offender shall be imposed with a fine of no more than NTD60, 000.

Article 30

Where a vessel, aircraft, vehicle or any other means of transport fails to submit manifest or list of consignments to Customs pursuant to relevant provisions of this Act, the captain or manager shall be imposed with a fine of no less than NTD 3, 000 and no more than NTD 30, 000.

Article 31

Where Customs has confirmed that a vessel, aircraft, vehicle or any other means of transport carries any cargo other than listed in the manifest or list of consignments, the captain or manager shall be imposed with a fine of no less than NTD 12,000 and not more than NTD 180,000. The fine shall be imposed to the shipper if the liability is attributable to him/her.

Where two or more packages of cargoes are bundled into one, and it is not noted in the manifest or list of consignments, a fine shall be imposed pursuant to the provision of the preceding paragraph.

Where Customs has confirmed that the cargoes referred to in preceding paragraphs are not accompanied with shipping documents, the provisions of paragraphs 1 and 3 of Article 36 shall be applied.

Article 31-1

Where Customs has confirmed that certain imported cargoes or cargoes in transit to another domestic port carried by a vessel, aircraft, vehicle or any other means of transport are not listed in the manifest, list of consignments, or shipping documents, such cargoes shall be confiscated, unless it is proved the cargoes in question were loaded by mistake.

Article 32

Where the cargoes carried by a vessel, aircraft, vehicle or any other means of transport falls short of those listed in the manifest or list of consignments, the captain or manager in question shall be imposed with a fine of no more than NTD 30,000, unless it is proved that the short-carried cargoes were unloaded by mistake at a halfway port or not loaded at the port of loading, or such shortage is resulted from other valid reasons.

Article 33

Where the materials for ships' use, belongings of captain, or personal effects of crew are not listed for declaration or are declared falsely, the captain in question shall be imposed with a fine of no less than NTD 6,000 and no more than NTD 60,000; the aforesaid goods may also be confiscated.

Article 34

Where a vessel, aircraft, vehicle or any other transport fails to submit export manifest or list of consignments to Customs, and tries to leave the port without Customs clearance, the captain or manager in question shall be imposed with a fine of no less than NTD 6,000 and no more than NTD 30,000.

Article 35

Where a carrier or a warehouse operator fails to load, unload, or stored the import cargoes, export cargoes, through cargoes, transit cargoes, bonded cargoes, postal parcels, passenger baggage, and containers at specified time and places, or fails to seal them as required, the carrier or operator shall be imposed with a fine of no less than NTD 6,000 and no more than NTD 60,000. The fine may be doubled in case of the violation is severe by nature, and may be imposed continuously if that carrier or operator fails to follow Customs instruction to correct the misconduct within a given time limit.

Where cargoes, postal parcels, passenger baggage, or containers are stored in a vessel, aircraft, vehicle or any other means of transport or other places that are under Customs custody, or have been sealed or locked by Customs, any person who repackages, moves, conveys such goods or alters their marks, or breaks the seals or opens the locks thereof, shall be penalized pursuant to the provision of the preceding paragraph.

Article 36

Any person who smuggles import or export cargoes, or handles smuggled cargoes shall be imposed with a fine equivalent to one to three times the value of the cargoes in question.

Any person who loads or unloads, delivers, receives, hides, buys, or sells the smuggled cargoes shall be imposed with a fine of not more than NTD 90,000; anyone who hires or induces others to do so shall also be imposed with the same amount of fine.

The smuggled cargoes referred to in the preceding paragraphs shall be confiscated.

A person who has loaded or unloaded, delivered, received, stored, bought or sold smuggled goods in ignorance shall be exempted from penalties provided such case is confirmed by Customs.

Article 37

In case a declaration of import cargoes is made, Customs may, according to the nature of the case, either imposes a fine equivalent to two to five times the duties evaded together with the confiscation of the cargoes in question, or only confiscates the cargoes in question, if there is:

(1) a false declaration of the description, quantity or weight of the cargoes;

(2) a false declaration of the quality, value or specification;

(3) a submission of forged, altered, or false invoice or certificate; or

(4) any other violation of this Act and relevant laws.

Where any of offenses specified in the preceding paragraph occurs after a declaration of export cargoes is made, a fine of no less than NTD 3,000,000 shall be imposed, and the cargoes in question may be confiscated.

Where any of the offenses specified in the preceding paragraphs is involved with an evasion from trade control, a penalty shall be imposed pursuant to paragraphs 1 and 3 of the preceding Article.

Where any of the offenses specified in paragraph 1 occurs while declaring the exportation of processed cargoes eligible for duty drawback of the import material used, a fine equivalent to two to five times the duty over-rebated shall be imposed, and the export cargo in question may be

confiscated.

Article 38

Where there are dutiable or controlled goods in a postal letter or parcel, and the envelope thereof is neither correctly marked with the quality, quantity, weight and value of the goods, nor attached with those information, Customs may confiscate the goods and notify its receiver or sender, if the involvement of smuggling or evading from control is confirmed,.

Article 39

Where an inward or outward passenger carrying dutiable or controlled goods but not applies for inspection or intends to evade inspection, the goods in question shall be confiscated, and that passenger may be penalized pursuant to paragraph 1 of Article 36.

Where a passenger declaring the importation or exportation of the unaccompanied baggage violates this Act or relevant laws, or evades customs duty, a penalty shall be imposed pursuant to the provision of Article 37.

Article 39-1

Where import or export cargoes, other than genuine goods parallel imported, that have been declared to Customs infringes the patent right, trademark right or copyright, the importer or exporter in question shall be, except otherwise specified in other acts and regulations, imposed with a fine equivalent to one to three times the value of the cargoes, and the cargoes shall be confiscated.

Article 40

Where a blank document, signed by a foreign consigner and thus can be used as the invoices for imports, has been delivered by mail, or carried into or held by someone in homeland, the holder shall be imposed with a fine of no mort than NTD 30,000, and the document in question shall be confiscated.

Article 41

Where a customs broker submits to Customs a goods declaration that falsely states weight, quantity, quality or other items regarding the goods, a fine equivalent to two to five times the duty evaded or rebated shall be imposed, and the broker may be suspended from running business for one to six months; in case of such offense is severe by nature, Customs may cancel that broker's license.

Where a false statement referred to in the preceding paragraph is caused by the forgery of the shipper and the broker is not informed, only the shipper shall be imposed a penalty pursuant to the provision of Article 37.

Where a false statement referred to in paragraph 1 is made jointly by a Customs broker and a shipper, they shall be penalized individually.

Article 41-1

Where a customs broker or shipper is aware of a false statement, but still lets a carrier or a warehouse operator to reproduce such information in the documents related to the turnover or warehousing of the import or export cargoes concerned, or makes the carrier or operator to endorse such information, the broker or shipper shall be imposed with a fine of no less than NTD 6,000 and no more than NTD 60,000.

Where a carrier or warehouse operator is aware of such false statement but still records it or endorse for it, that carrier or operator shall be penalized pursuant to the preceding paragraph.

Article 42

Where it is suspected that there is a violation of this Act in a declaration of import or export cargoes, Customs may notify the importer, exporter, shipper or consignee of the cargoes to submit the invoices, price memos, bills and other documents concerned for further review, and may check or copy information recorded in the accounting book, letters or invoice book related to the importation, exportation, transaction, cost, and payment regarding such cargoes.

Any person mentioned in the preceding paragraph fails to submit, refuses Customs request for checking or copying the aforesaid documents or records, or hides or destroys those documents or records with an attempt to eliminate evidence, shall be imposed with a fine of no more than NTD 60,000.

Article 43

Where a person requests exemption, reduction or drawback of duties by any undue way, a fine equivalent to two to five times the duties evaded or rebated shall be imposed, and the cargoes concerned may be confiscated.

Article 44

Where there is a violation of this Act, Customs shall, in addition to impose penalties pursuant to the provisions of this Act, expropriate the duties evaded or rebated. However, the expropriation or penalty shall not be enforced if a period of five years has passed since the violation occurred.

Article 45

Where a person, to whom the disposition of expropriation or penalty has been determined, violates the same provision set forth in this Act again within five years after such imposition, the fine to be imposed on that person may be increased by one half, and by one time for the third and subsequent violations.

Article 45-1

Where an offense subject to imposition of a fine pursuant to this Act, is minor by nature the fine may be reduced or remitted.

The term “minor by nature” shall be prescribed by the Ministry of Finance.

Article 45-2

The goods which may be confiscated pursuant to this Act are not limited to those belonging to the person disposed .

Chapter V Procedures for disposition

Article 46

Where a disposition under this Act for suppressing smuggling has been made by Customs, a notice of such disposition shall be produced and delivered to the person be penalized .However , where the owner of the goods or articles confiscated pursuant to this Act is unascertainable , the actual delivery notice may be replaced by a public notice or the publication in the government gazette or newspaper .

Article 47

Where the person disposed or a third party with interest at stake does not agree with the disposition referred to in the preceding Article, he/she may, within 30 days from the day following the date of receipt of the disposition notice, file a written protest in given format against Customs for review.

Customs shall make a determination of the protest within two months from the day following the date of receipt of a protest, and notify the person disposed or the third party with interest at stake; where necessary, the term may be prolonged once for no more than two months.

The original of the determination of protest shall be delivered to the person disposed within 15 days from the date on which such determination is made.

Article 48

Where the person disposed does not agree with the determination of protest made by Customs, he or she may file an appeal and administrative proceeding according to relevant laws.

In case any duty should be refunded as a result of an irrevocable determination given on a review, appeal, or in administrative litigation, Customs shall refund it within ten days following the date of final determination. The refund shall include duty plus interest payable for the period beginning on the day following the date on which duty was paid by the duty-payer up to the date on which a refund notice or treasury check is issued, calculated on a daily basis according to the annual interest rate of one-year fixed savings in Postal Savings.

Article 49

(Deleted)

Article 49-1

Where neither goods owned by a person disposed have been seized, nor proper security has been provide by that person, Customs may, for preventing the person from evading the execution through hiding or transferring properties, after the delivery of the disposition notice, ask the court to conduct provisional seizure or disposition without providing guarantees. However, if the person disposed has provided sufficient guarantee, Customs shall apply for the cancellation or exemption from provisional seizure or provisional disposition.

The provisions of Articles 9 and 48 of the Customs Act shall apply mutatis mutandis to the fines imposed under this Act.

Chapter VI Enforcement

Article 50

Where a disposition pursuant to this Act is determined but the due duties and fines are not paid within 30 days after the day following the date of receipt of Customs notice, then the duties and fines may be levied from the security or the sale of goods seized. Where the duties and fines have been liquidated, the residual shall be refunded and the shortage shall be collected.

The sale referred to in the preceding paragraph shall be conducted by way of public auction, and the person disposed shall be notified five days before the auction.

Article 51

Where duties and fines are not paid pursuant to the preceding Article and there is no security or seized goods for deduction or for sale, or the value of security or goods is not enough for liquidating the duties and fines, the case shall be referred to relevant authorities for compulsory execution, and Customs may suspend the person from declaring import or export at any commercial ports until those duties and fines are paid off.

Article 52

Where an employee of a vessel, aircraft, vehicle or any other means of transport owes import duties or fines and there in no bonds or other securities for liquidation, Customs may suspend the means of transport concerned from clearance at any commercial port until those duties and fines are liquidated.

Article 53

After the disposition of confiscation is determined, the person disposed may pay the duties according to relevant Acts and then apply for the redemption of the goods confiscated at the value determined by Customs, provided that:

(1) Such goods are permitted for import or export;

(2) Such goods are subject to trade control but valued no more than NTD 450,000. However, the aforesaid value may not apply if such goods are too huge, or perishable or easily damaged, or difficult to be auctioned or disposed.

The provision of the preceding paragraph shall not apply to the goods prohibited from importation or exportation.

Chapter VII Supplementary Provisions

Article 54

This Act shall take effect from the date of its promulgation.

NOTE

In case of any discrepancy between the English version and the Chinese text of this Statute, the Chinese text shall govern.