

# Customs Act (Republic of Korea)

By Ministry of Legislation

## INTRODUCTION

### Details of Enactment and Amendment

● **Enactment:** The Customs Act was enacted in 1949, and after being amended over more than 35 occasions, wholly amended in the year of 2000, and then partly amended in the year of 2002. This Act provides not only the regulatory details on the imposition and collection of customs, but also the matters concerning the overall customs administrative details, such as the taxpayer's right and procedure for filing objections, bonded area, clearance procedures, and punishment of customs criminals, etc.

● **Amendment:** The recent amendments of the Customs Act have been made in the year of 1998, 1999, 2000 and 2002, and such amendments are meant to improve the bond systems in order to induce foreign investments, to simplify the appeal procedures against the imposition of customs, and to strengthen the guarantee of duty payer's right by enacting the Charter of Duty Payer's Rights. The grounds for TSG (Transitional Safeguard) against China are newly established according to the joining of China in WTO, the e-delivery system and the system of designation of e-document brokerage operator are newly introduced to implement e-government, and the requirements for the return of travelers' personal effects excessively carried in are strengthened to restrict indiscreet shipping-in of personal effects.

### Main Contents

● The customs are imposed in principle based on the time of import declaration, but their tax rates are separately stipulated in the Tariff Schedule: Provided, That the simple customs are imposed on personal effect, mail, and consignment. And, in case where the anti-dumping duties (51~56), countervailing duties (57~62), retaliative tariffs (63~64), safeguards (65~67), special emergency duties on farm and dairy product (68), control tariffs (69~70), quota duties (71), seasonal duties (72), international cooperation tariff (73), convenience duties (74 • 75), or general preferential tariff (76 • 77) are imposed, the customs rates as listed in the Tariff Schedule are applied after the required adjustments.

● The bond systems have been improved in order to induce foreign investments. A selected area is designated as a bonded area, and by making it possible to comprehensively perform the functions of bonded warehouse, bonded factory, bonded exhibition facilities, bonded construction site, and bonded stores within the general bonded areas, the occupying companies are to become capable of producing, storing, selling and exhibiting goods and products under the conditions of

foreign goods. Also, the renovation works, which have been allowed only within the bonded area, are now allowed to be made outside of the bonded areas.

- The appeal procedure against the imposition of customs duties are adjusted so that the payers of customs duties are now given the prompt reliefs to rights. Previously, in case where any person was dissatisfied with the imposition of customs duties, an administrative litigation might be initiated only when going through the request for investigation and of trial; however, it has been amended that such an administrative litigation may be initiated if one goes through only one of the said requests. In case where a customs collector intends to collect, on account of any shortage in payment of customs duties, such an insufficient amount by means of revising the amount of customs duties, he shall notify in advance the tax payer thereof. If the tax payer is dissatisfied with such a revision of customs duties, he is entitled to request an investigation on the legitimacy of such duties. Furthermore, the period for requesting a revision, in case where the tax amount returned and paid is excessive, has been extended to within 2 years from the date of first tax return, from the previous period of one year.

- The Commissioner of the Korea Customs Service shall set forth the Charter of Taxpayers and publicly notify thereof, and if any customs official investigates a case of offense against an evasion of customs duties, illegal reduction or exemption, and illegal refund, or makes an investigation by visiting the taxpayer for a disposition of customs duties imposition, he shall deliver the Charter of Taxpayers to the relevant taxpayer. If any taxpayer requests for an information required for exercising his rights, the customs official shall provide it swiftly, and at the same time, every effort has been made for ensuring that no taxpayer shall be subject to any disadvantages due to insufficient information, by providing the information of which the taxpayers are to become aware, along with the information requested by them.

- The permit system for a temporary unloading of foreign goods on board the ships or aircraft and a cargo transfer, etc. between the transport means has been converted into the report system, and the approval system for the cargo unloading by the vehicles gaining access to the border and the transport of domestic goods by foreign trade ships or trade aircraft has also been converted into the report system.

- The rapid clearance system has been introduced for the goods in the electronic commercial transactions, and the goods for which a storage period has been expired are now allowed to be sold in the cybermalls.

- Emergency tariffs may be imposed in case where the increased import of the goods of a particular country causes disruption to the domestic market or is seriously feared to cause disruption to the domestic market or where the goods of a particular country are additionally imported to Korea following measures taken by other member nations of the World Trade Organization against the goods of such particular country to relieve or prevent their damages.

- The head of any custom house may make e-delivery by means of a computer. E-delivery shall be made only when any person entitled to taking such delivery applies for such e-delivery and shall be deemed to be delivered when it is input in the computer designated by the person entitled

to taking the delivery. Any person who intends to run the business of brokerage of e-declaration using electronic data-processing equipment shall get his intended business designated by the Commissioner of the Customs Service.

● The return of travelers' personal effects as otherwise determined by the Commissioner of the Customs Service shall be subject to any method and time as determined by that Commissioner.

Wholly Amended by Dec. 29, 2000 Act No. 6305

Amended by Aug. 26, 2002 Act No. 6705

Dec. 18, 2002 Act No. 6777

## CHAPTER I GENERAL PROVISIONS

### SECTION 1 Common Provisions

#### ■ Article 1 (Purpose)

The purpose of this Act is to properly administer the imposition and collection of customs duties and customs clearance of goods exported and imported and to secure revenues from customs duties with the aim of contributing to the development of the national economy.

#### ■ Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "import" means the shipment of foreign goods into Korea (including any foreign goods shipped into Korea through any bonded area in the country) for consumption and use (including the consumption and use of foreign goods made in the process of transporting foreign goods in Korea and excluding the consumption and use of foreign goods falling under each subparagraph of Article 239) in the country;

2. The term "export" means the shipment of domestic goods out of Korea into foreign nations;

3. The term "foreign goods" means goods falling under each of the following items:

(a) Goods (including marine products, etc. collected or caught by foreign fishing boats, etc. in the high seas) which arrive in Korea from any foreign nation before an import declaration thereon under Article 241 (1) (hereinafter referred to as "import declaration") is accepted; and

(b) Goods whose export declaration under Article 241 (1) (hereinafter referred to as "export declaration") is accepted;

4. The term "domestic goods" means goods falling under each of the following items:

- (a) Goods which exist in Korea and which are not foreign goods;
  - (b) Marine products, etc. collected or caught by Korean fishing boats in the high seas;
  - (c) Goods whose import declaration filed under Article 244 (1) prior to their arrival in the port of entry (hereinafter referred to as "import declaration prior to port entry") is accepted;
  - (d) Goods shipped into Korea upon shipment approval prior to the acceptance of an import declaration under Article 252; and
  - (e) Goods shipped into Korea on the immediate shipment declaration prior to the import declaration under Article 253 (1);
5. The term "foreign trade vessel" means the vessel sailing between Korea and foreign nations for international trade;
6. The term "foreign trade aircraft" means the aircraft flying between Korea and foreign nations for international trade;
7. The term "domestic vessel" means the vessel sailing exclusively within the territorial waters of Korea;
8. The term "domestic aircraft" means the aircraft flying exclusively in the territorial sky of Korea;
9. The term "vessel supplies" means beverages, foodstuff, fuel, consumables, ropes, spare parts used for repairs and components, office fixtures and other similar goods which are exclusively used in the relevant vessels;
10. The term "aircraft supplies" means supplies which are corresponding to the vessel supplies and used exclusively for the relevant aircraft;
11. The term "vehicle supplies" means supplies which are corresponding to the vessel supplies and used exclusively for the relevant vehicle;
12. The term "customs clearance" means exporting, importing or returning goods according to procedures prescribed by this Act;
13. The term "transshipment" means the act of transshipping goods from any entering or incoming transportation means onto any departing or outgoing transportation means in the jurisdictional area of the same customhouse; and
14. The term "operator" means the person falling under each of the following items:
- (a) A person who has been granted a licence for establishing and operating a licensed bonded area under Article 174 (1); and

(b) A person who has filed a report on the establishment and operation of a general bonded workplace under Article 198 (1).

### ■ Article 3 (Priority Given to Collection of Customs Duties)

(1) The collection of customs duties on dutiable goods shall take precedence over the collection of taxes, public charges and claims thereon.

(2) If customs duties are collected according to the practices of collecting a national tax and the object of a disposition taken for recovery of arrearages is a property, not dutiable goods, the same priority order shall be given to both the national tax under the Framework Act on National Taxes and the customs duties.

### ■ Article 4 (Imposition and Collection of Internal Tax, etc.)

(1) If the provisions of the Framework Act on National Taxes, the National Tax Collection Act, the Value-Added Tax Act, the Special Consumption Tax Act, the Liquor Tax Act, the Education Tax Act, the Traffic Tax Act, and the Act on Special Rural Development Tax are in conflict with the provisions of this Act with respect to the imposition, collection, refund and write-off, etc. of the value-added tax, the special consumption tax, the liquor tax, the education tax, the traffic tax and the special rural development tax (hereinafter referred to as the "internal tax, etc.", but the surcharge, additional duty and the cost of a disposition taken for recovery of arrearages are included) which are imposed and collected by the head of a customhouse on imported goods, the provisions of this Act shall prevail.

(2) The provisions governing the imposition, collection and refund, etc. of customs duties of this Act shall apply to the imposition, collection and refund, etc. of surcharge, additional duty and the cost of a disposition taken for recovery of arrearages under the provisions of this Act.

## SECTION 2 Principle of Applying Act

### ■ Article 5 (Criteria for Interpreting Act and Prohibition on Retroactive Imposition of Customs Duties)

(1) This Act shall be interpreted and applied in a manner that the property right of any duty payer is not unfairly infringed on in the light of the equity of duty imposition and the basic objectives of the relevant provisions.

(2) Once an interpretation of this Act and the practices of the tariff administration are accepted by duty payers without any objection, any act performed or any calculation made according to such interpretation and practices shall be deemed justifiable and no customs duties shall be imposed retroactively according to any of new interpretation or new practices.

### ■ Article 6 (Good Faith and Sincerity)

Every duty payer shall fulfill his obligations in good faith and sincerity and every customs officer shall also perform his duties in such a manner.

#### ■ Article 7 (Discretionary Limits of Customs Officers)

Every customs officer shall, when he carries out his duties at his discretion, strictly adhere to the limits generally deemed reasonable in the light of the equality of duty imposition and the objectives of this Act.

### SECTION 3 Term and Time Limit

#### ■ Article 8 (Calculation of Term and Time Limit)

(1) In the calculation of any term under the provisions of this Act, if approval is granted for shipping imported goods to the country prior to the acceptance of an import declaration filed in accordance with Article 252, the date of approval shall be deemed the date on which such import declaration is accepted.

(2) The calculation of any term under the provisions of this Act shall be governed by the Civil Act, except as especially provided for in this Act.

(3) If the time limit fixed in the provisions of this Act falls under a holiday or a day prescribed by the Presidential Decree, the next day shall be such time limit.

(4) If a breakdown, prescribed by the Presidential Decree, of electronic data-processing equipment described in Article 327 renders impossible any declaration, application, approval, permission, acceptance, delivery, notice, notification and payment, etc. as prescribed in this Act within a time limit set under the provisions of this Act, the day following the day on which such breakdown is repaired shall be such time limit.

#### ■ Article 9 (Duty Payment Time Limit)

(1) Except as otherwise provided for in this Act, the duty payment time limit shall be governed by the classification falling under each of the following subparagraphs:

1. Where a duty return is filed in accordance with Article 38 (1): within 15 days from the day on which such duty return was received;
2. Where a duty payment notice is served in accordance with Article 39 (3): within 15 days from the day on which such notice was received; and
3. Where a report on immediate shipment is filed before an import declaration is filed in accordance with Article 253 (1): within 15 days from the day on which such import declaration is filed.

(2) Any person liable for duty payment may pay his customs duties even before his import declaration is accepted, notwithstanding the provisions of paragraph (1).

■ **Article 10 (Extension of Time Limit due to *force majeure*)**

The head of any customhouse may, when it is deemed impossible to file a report, an application and a request, submit documents, serve a notice, and make payment or collection in accordance with the provisions of this Act within a fixed time limit due to *force majeure* and other grounds prescribed by the Presidential Decree, extend such time limit within a period not exceeding one year as prescribed by the Presidential Decree.

**SECTION 4 Service of Documents, etc.**

■ **Article 11 (Service of Duty Payment Notice)**

(1) Any duty payment notice shall be served on any person liable for duty payment by means of someone or mail save when such notice is served directly on such person liable for duty payment.

(2) The head of any customhouse may, when he is unable to serve a duty payment notice on a person liable for duty payment due to the impossibility of identifying the domicile, residence, business place or office of such person, publish matters concerning such duty payment notice on the bulletin board of his customhouse or in other proper place.

(3) When matters concerning a duty payment notice are published in accordance with paragraph (2), such notice shall be deemed to be served on a person liable for duty payment upon the expiration of 14 days from the date of publication.

■ **Article 12 (Period for Keeping Reporting Documents)**

Any person who has filed a dutiable value return, a duty return, an export and import declaration or a report on bonded transportation shall keep documents pertaining to such reports for a period fixed by the Presidential Decree within the limit of five years from the day on which such reports were filed.

**SECTION 5 Tariff Deliberative Committee**

■ **Article 13 (Tariff Deliberative Committee)**

(1) The Ministry of Finance and Economy shall establish a Tariff Deliberative Committee mandated to deliberate on key matters involving the tariff policy under this Act.

(2) Necessary matters concerning the composition, function and operation of the Tariff Deliberative Committee shall be prescribed by the Presidential Decree.

## CHAPTER II DUTIABLE VALUE AND IMPOSITION AND COLLECTION OF

### CUSTOMS DUTIES

#### SECTION 1 Common Provisions

##### ■ Article 14 (Dutiable Goods)

Customs duties shall be imposed on imported goods.

##### ■ Article 15 (Duty Base)

The duty base for customs duties shall be determined based on the price or quantity of imported goods.

##### ■ Article 16 (Time for Determining Dutiable Goods)

Customs duties shall be levied on imported goods according to their quality and quantity when an import declaration (including any import declaration prior to port entry; hereafter the same in this Article shall apply) is filed: *Provided*, That customs duties shall be imposed on imported goods falling under each of the following subparagraphs according to their quality and quantity at the time prescribed each in the following subparagraphs:

1. Goods whose customs duties are collected in accordance with Article 143 (4) (including a case where the provisions are applied *mutatis mutandis* in Article 151 (2)): When permission is granted for loading and unloading imported goods;
2. Goods whose customs duties are collected in accordance with Article 158 (5): When approval is granted for repair work outside a bonded area;
3. Goods whose customs duties are collected in accordance with Article 160 (2): When relevant goods are destroyed or lost, or disposed of;
4. Goods whose customs duties are collected in accordance with Article 187 (6) (including a case where the provisions are applied *mutatis mutandis* in Articles 195 (2) and 202 (3)): When permission is granted or a report is filed with respect to the work outside a bonded factory, the work outside a bonded construction work site or the work outside a general bonded area;
5. Goods whose customs duties are collected in accordance with Article 217: When a report is filed or approval is granted with respect to bonded transportation;
6. Goods consumed or used before an import declaration is accepted (excluding any goods whose consumption or use is not deemed import under Article 239): When relevant goods are consumed or used;

7. Goods that are shipped out after an immediate shipment report is filed prior to filing an import declaration in accordance with Article 253 (1): When an immediate shipment report is filed prior to filing an import declaration;

8. Goods imported by mail: When the relevant goods arrive in a clearance post office (hereinafter referred to as "clearance post office") in accordance with Article 256;

9. Stolen goods or missing goods: When the relevant goods are stolen or missing;

10. Goods sold in accordance with the provisions of this Act: When the relevant goods are sold; and

11. Goods imported without filing an import declaration thereon (excluding goods of subparagraphs 1 through 10): When the relevant goods are imported.

#### ■ Article 17 (Application of Acts and Subordinate Statutes)

Customs duties shall be levied on imported goods in accordance with Acts and subordinate statutes in force at the time that an import declaration thereon is filed: *Provided*, That with respect to imported goods falling under each of the following subparagraphs, customs duties shall be levied on them in accordance with Acts and subordinate statutes in force on the day falling under each of the following subparagraphs:

1. Goods falling under each subparagraph of Article 16: The day on which the fact accrues; and

2. Foreign goods shipped into a bonded construction work site in accordance with Article 192: The day on which an import declaration is accepted before such foreign goods are used.

#### ■ Article 18 (Foreign Exchange Applicable to Assessment)

If a price indicated in a foreign currency is converted into the domestic currency to determine a dutiable value, the Commissioner of the Korea Customs Service shall determine a rate thereof calculated by averaging foreign exchange rates of the week preceding the week to which the day fixed under Article 17 (referring to the day on which an import declaration is filed in case of goods shipped into a bonded construction work site) belongs.

#### ■ Article 19 (Person Liable for Duty Payment)

(1) Any person falling under each of the following subparagraphs shall be liable for duty payment:

1. The owner of goods, on which he files an import declaration (referring to any person falling under each of the following items if such owner is unidentifiable; hereafter the same in this Article shall apply): *Provided*, That if customs duties paid or to be paid on goods whose import declaration is accepted or on goods shipped out upon shipment approval granted before an import declaration is accepted fall short of the amount of customs duties payable, and the domicile and residence of the owner of such goods are unidentifiable or a person acting on behalf of such

owner in filing an import declaration fails to identify such owner, both the person acting on behalf of the owner in filing the import declaration and the owner shall jointly pay the customs duties in question:

(a) If an import firm imports goods for a customer, such customer;

(b) If goods are not imported by an import firm for a customer, a consignee entered in a commercial document prescribed by the Presidential Decree; and

(c) If imported goods are transferred before an import declaration is filed, a transferee;

2. With respect to goods whose customs duties are collected in accordance with Article 143 (4) (including a case where the provisions are applied *mutatis mutandis* in Article 151 (2)), a person who is granted permission for loading and unloading such goods;

3. With respect to goods whose customs duties are collected in accordance with Article 158 (5), a person who is granted approval for a repair work outside a bonded area;

4. With respect to goods whose customs duties are collected in accordance with Article 160 (2), an operator or a custodian;

5. With respect to goods whose customs duties are collected in accordance with Article 187 (6) (including a case where the provisions are applied *mutatis mutandis* in Article 195 (2) or 202 (3)), a person who is granted permission for or files report on a work outside a bonded factory, a work outside a bonded construction work site or a work outside a general bonded area;

6. With respect to goods whose customs duties are collected in accordance with Article 217, a person who files a report on or is granted approval for bonded transportation;

7. With respect to goods not falling under the goods whose consumption or use is not deemed import in accordance with Article 239, their consumer or user;

8. With respect to goods whose customs duties are collected in accordance with Article 253, a person who promptly ships out such goods;

9. With respect to goods imported by mail, their addressee;

10. With respect to stolen goods or missing goods, a person falling under each of the following items:

(a) Goods stored in a bonded area: An operator or a cargo manager described in Article 172 (2) (hereinafter referred to as "cargo manager");

(b) Goods for bonded transportation: A person who files a report on or is granted approval for bonded transportation; and

(c) Other goods: A custodian or a handler;

11. A person who is otherwise prescribed as a person liable for duty payment under this Act or other Acts; and

12. With respect to goods not falling under subparagraphs 1 through 11, an owner or an occupant.

(2) If the owner or the reporter described in paragraph (1) 1 overlaps in existence with the person each described in paragraph (1) 2 through 11, the person each described in paragraph (1) 2 through 11 shall be a person liable for duty payment.

(3) Any person who has guaranteed the payment of customs duties under this Act or other Acts and subordinate statutes or a treaty or a convention, etc. shall be liable to pay such customs duties within the limit of a guaranteed amount.

(4) The provisions of Articles 38 through 41 of the Framework Act on National Taxes shall apply *mutatis mutandis* to the collection of customs duties.

(5) Any secondary person liable for duty payment under the provisions of Articles 38 through 41 of the Framework Act on National Taxes that are applied *mutatis mutandis* under paragraph (4) shall, if no security is offered for the payment of customs duties and a person liable for duty payment and other person who has guaranteed the payment of customs duties fail to fulfill their liability for paying customs duties, bear the liability to pay the customs duties in question.

(6) If any person liable for duty payment (including any person who guarantees the payment of customs duties and any secondary person liable for duty payment; hereafter the same in this Article shall apply) defaults in paying customs duties, a surcharge, an additional duty or the cost of a disposition taken for recovery of arrearages, but holds a transfer-secured property described in Article 42 (2) of the Framework Act on National Taxes, his transfer-secured property may be used to pay such customs duties, surcharge, additional duty or the cost of a disposition taken for recovery of arrearages through the *mutatis mutandis* application of the provisions of Article 13 of the National Tax Collection Act only in case that proceeds from the disposal of other property of the person liable for duty payment fall short of the amount of such customs duties to be collected: *Provided*, That the same shall not apply to any transfer-secured property that is used as the object of security prior to the day on which a duty return was filed (referring to the day on which a duty payment notice is sent out in case that an imposition notice is served in accordance with Article 39).

## SECTION 2 Extinguishment of Duty Payment Liability

### ■ Article 20 (Extinguishment of Duty Payment Liability)

The liability for paying customs duties, a surcharge or the cost of a disposition taken for recovery of arrearages shall be extinguished when such liability falls under each of the following subparagraphs:

1. When customs duties are paid or any property is appropriated for customs duties;
2. When the imposition of customs duties is cancelled;
3. When customs duties are not imposed within a period during which such customs duties are to be levied in accordance with Article 21 and such period expires; and
4. The extinctive prescription for the authority to collect customs duties under Article 22 expires.

■ **Article 21 (Limitation Period for Imposing Customs Duties)**

(1) Any customs duties shall not be levied after the expiration of two years from the day on which the relevant customs duties were due to be imposed: *Provided*, That in the case falling under each of the following subparagraphs, the customs duties shall not be levied after the expiration of five years from the day on which the relevant customs duties were due to be levied:

1. Where customs duties are evaded or refunded in a fraudulent and unfair manner; and
2. Where the amount of customs duties payable comes short due to the failure to file a dutiable value return in contravention of Article 27 (1) or to file fully a dutiable value return.

(2) In the case falling under each of the following subparagraphs, notwithstanding the provisions of paragraph (1), prior to the expiration of one year from the day on which a decision or a judgment was made final and conclusive, a correctional decision or other necessary disposition may be made or taken according to the relevant decision or judgment:

1. Where a decision is made on an objection raised, or an examination request or an adjudication request filed under the provisions of the Section 2 of Chapter V (Articles 119 through 132);
2. Where a decision is made on an examination request filed under the Board of Audit and Inspection Act;
3. Where a ruling is handed down on a litigation instituted under the Administrative Litigation Act; and
4. Where a decision is made to return seized goods under Article 313.

(3) The date on which any customs duties may be levied in accordance with paragraph (1) shall be determined by the Presidential Decree.

■ **Article 22 (Extinctive Prescription of Authority to Collect Customs Duties)**

(1) If the authority to collect customs duties has not been exercised for five years from the day on which such authority was granted, the extinctive prescription of such authority shall expire.

(2) If the right to request the refund of any customs duties paid by mistake by a duty payer and other customs duties has not been exercised for two years from the day on which the right was granted, the extinctive prescription of such right shall expire.

(3) The date on which the authority to collect duties and the right to request the refund of any customs duties paid by mistake or other customs duties under paragraphs (1) and (2) may be exercised shall be determined by the Presidential Decree.

#### ■ Article 23 (Suspension and Discontinuation of Prescription)

(1) The extinctive prescription of the authority to collect customs duties shall suspend on the grounds falling under each of the following subparagraphs:

1. A duty payment notice;
2. A correction disposition;
3. A demand notice on duty payment (including a peremptory duty payment notice);
4. A disposition taken for serving a notice;
5. A complaint filed;
6. A public prosecution instituted in accordance with Article 16 of the Act on the Aggravated Punishment, etc. of Specific Crimes;
7. A request filed for delivery; and
8. A seizure.

(2) The extinctive prescription of the right to request any refund of customs duties paid shall be suspended by the exercise of the right to request such refund.

(3) The extinctive prescription of the authority to collect customs duties shall not progress during the period of paying customs duties in installments or the grace period of collecting customs duties.

(4) The provisions of the Civil Act shall apply *mutatis mutandis* to the extinctive prescription of the authority to collect customs duties and the right to request any refund, except as otherwise provided for in this Act.

### SECTION 3 Security for Payment of Customs Duties

#### ■ Article 24 (Kinds of Security, etc.)

(1) Kinds of security offered under the provisions of this Act shall be as follows:

1. Money;
2. Bonds and securities issued by the State or local governments;
3. Written payment guarantees given by banks;
4. Securities prescribed by the Presidential Decree from securities listed on the Korea Stock Exchange;
5. Guarantee insurance policies of the payment of customs duties;
6. Letters of guarantee issued by any credit guarantee fund established under the Credit Guarantee Fund Act or any credit guarantee foundation established under the Regional Credit Guarantee Foundation Act;
7. Letters of guarantee issued by the Technology Credit Guarantee Fund established pursuant to the Technology Credit Guarantee Fund Act;
8. Real estate;
9. Vessels, aircraft and construction machinery which are registered or entered in the register and insured;
10. Letters of guarantees given by guarantors prescribed by the Presidential Decree; and
11. Promissory notes issued or guaranteed by persons recognized by the Commissioner of the Korea Customs Service.

(2) The written payment guarantees and securities referred to in paragraph (1) 3 and 5 through 7 shall carry a content assuring that specific persons, upon a request from the head of any customhouse, pay, whenever necessary, the amount payable to the head of such custom-house after the expiration of a certain period of time.

(3) Necessary matters concerning the pledging of security referred to in paragraph (1) shall be determined by the Presidential Decree.

(4) Any person liable for duty payment (including any person who guarantees such duty payment) may, when the grounds occur that require him to keep his security offered under the provisions of this Act, offer his security in the block to the head of any customhouse beforehand for a period of certain time as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 25 (Appropriation of Security for Customs Duties)

(1) The head of any customhouse may, if a person liable for duty payment, who has offered security, fails to pay the relevant customs duties within a time limit fixed for the payment of such customs duties, appropriate such security for the customs duties payable pursuant to the

Ordinance of the Ministry of Finance and Economy. In this case, when the money offered as security is appropriated to the relevant customs duties, the provisions of Article 41 shall not be applied even if the appropriation is made after the expiration of such time limit fixed for the payment of such customs duties.

(2) The head of any customhouse shall, if any balance accrues from the appropriation of security for customs duties in accordance with paragraph (1), pay such balance to persons who have offered such security, and he may, if unable to do so, deposit the balance.

(3) If a person who is not liable for duty payment has offered security, the head of any customhouse shall appropriate such security to the relevant customs duties and pay any balance accruing from the appropriation of such security directly to the person who has offered the security.

#### ■ Article 26 (Collection of Customs Duties in Case of Lack of Security)

(1) If no security is offered for customs duties or a collected amount falls short of the customs duties payable, the collection of such customs duties shall be dealt with according to the practices of the Framework Act on National Taxes and the National Tax Collection Act, except as otherwise provided for in the provisions of this Act.

(2) The head of any customhouse may, if he takes a disposition to collect customs duties in arrears, collect the cost of a disposition taken for recovery of arrearages, which is equivalent to the cost involved in seizure, custody, transportation and auction of property.

### SECTION 4 Return and Determination of Dutiable Value

#### Sub-Section 1 Dutiable Value Return, etc.

#### ■ Article 27 (Dutiable Value Return)

(1) Any person liable for duty payment shall, when he files an import declaration, file with the head of a customhouse a dutiable value return on the relevant goods (hereinafter referred to as "dutiable value return") as prescribed by the Presidential Decree: *Provided*, That if it is deemed necessary to facilitate the efficiency of customs clearance, a dutiable value return may be filed before an import declaration is filed as prescribed by the Presidential Decree.

(2) Where a dutiable value return is filed, data necessary to determine a dutiable value (hereinafter referred to as "duty data") shall be furnished as prescribed by the Presidential Decree.

(3) With respect to goods deemed by the Ordinance of the Ministry of Finance and Economy as clear to determine its dutiable value, a dutiable value return may be omitted.

#### ■ Article 28 (Return of Provisional Dutiable Value)

(1) In filing a dutiable value return, any person liable for duty payment may, in any case as prescribed by the Presidential Decree in which a dutiable value to be returned is not determined, file a provisional dutiable value return. In this case, the method of filing the return and other necessary matters shall be prescribed by the Presidential Decree.

(2) If any person liable for duty payment files a provisional dutiable value return in accordance with paragraph (1), he shall file a final dutiable value return of his goods within a period fixed by the Presidential Decree.

(3) The head of any customhouse shall, upon receiving a provisional dutiable value return filed under paragraph (2), additionally collect or refund any difference between the amount of customs duties paid based on a provisional dutiable value return and the amount of customs duties paid based on a final dutiable value return in accordance with the Presidential Decree.

#### ■ Article 29 (Report of Dutiable Value Examination)

The Minister of Finance and Economy or the Commissioner of the Korea Customs Service may, when it is deemed necessary to determine dutiable values, request exporters, importers, economic organizations and other persons concerned to furnish data necessary to determine such dutiable values. In this case, such exporters, importers, economic organizations and persons concerned shall, upon receiving such request, comply with the request unless justifiable grounds exist that make it impossible for them to do so.

### Sub-Section2 Determination of Dutiable Value

#### ■ Article 30 (Principle of Determining Dutiable Value)

(1) The dutiable value of imported goods shall be the transaction price adjusted by adding the amount falling under each of the following subparagraphs to the price paid or to be paid actually by a buyer of goods sold to be exported to Korea: *Provided*, That the addition of the amount falling under each of the following subparagraphs shall be made based on objective and quantifiable data and if such data are unavailable, the dutiable value shall be determined using the methods of Articles 31 through 35 instead of using the methods under this Article:

1. Commission and brokerage borne by a buyer: *Provided*, That any purchase commission shall be excluded;

2. Cost involved in containers handled just like the relevant goods, labor cost and material cost involved in packing the relevant goods, which are all borne by a buyer;

3. When a buyer supplies, directly or indirectly, goods and services prescribed by the Presidential Decree, free of charge or at a reduced price, for production of the relevant goods and export transaction thereof, the price or a difference accruing from the reduced price;

4. The amount, computed under the Presidential Decree, which is paid for using a patent right, a utility model right, a design right, a trademark right and other rights similar to them;

5. The amount, from among revenues resulting from resale, disposal or use of the relevant imported goods, which reverts, directly or indirectly, to a seller; and

6. The amount, determined under the Presidential Decree, of freight, insurance bill and other cost involved in transportation to the port of entry: *Provided*, That for goods prescribed in the Ordinance of the Ministry of Finance and Economy, the whole or part of such amount may be excluded.

(2) The term "the price paid or to be paid actually by a buyer" in the main sentence of paragraph (1) means a total amount paid or to be paid by such buyer for the price of the relevant imported goods, and such total amount shall include the amount offsetting the debt of a seller by the price of the relevant imported goods, the amount repaying the debt of a seller by a buyer and other indirect payments: *Provided*, That when the amount falling under each of the following subparagraphs is clearly distinguishable from the total amount paid or to be paid by a buyer, it means an amount resulting from the deduction of such amount:

1. Cost involved in construction, installation, assembly, repair and maintenance of the relevant imported goods, which are undertaken after their import or cost necessary for technical support for the relevant imported goods;

2. Charges and insurance bill necessary for transporting the relevant imported goods after their arrival in the port of entry and other cost involved in their transportation;

3. Taxes such as customs duties and other public charges levied on the relevant imported goods in Korea; and

4. If the relevant goods are imported on a deferred payment basis, the interest on such deferred payment.

(3) In the case falling under each of the following subparagraphs, the dutiable value of the relevant imported goods shall not be the transaction price under paragraph (1), but such dutiable value shall be determined using methods described in the provisions of Articles 31 through 35:

1. Where the disposal or use of the relevant goods is limited: *Provided*, That the same shall not apply to the case prescribed by the Presidential Decree;

2. Where the effectuation of transaction or the determination of price of the relevant goods is affected by conditions or circumstances which cannot be counted in terms of money;

3. Where part of revenues accruing from a resale, a disposal or use of the relevant goods after their import reverts, directly or indirectly, to a seller: *Provided*, That the same shall not apply to a case where a proper adjustment can be made in accordance with paragraph (1); and

4. Where a special relationship between a buyer and a seller prescribed by the Presidential Decree (hereinafter referred to as "special relationship") affects the price of the relevant goods.

(4) In the event that a person liable for duty payment files a dutiable value return based on a transaction price described in paragraph (1) and the relevant returned dutiable value is found to be greatly different from a dutiable value based on the transaction price of other goods of the same kind and quality or similar goods, making it difficult to recognize such returned dutiable value as dutiable value, and in the event that the Presidential Decree prescribes, the head of any customhouse may request such person liable for duty payment to furnish data attesting that the relevant returned dutiable value is the same as the fact in accordance with the Presidential Decree.

(5) The head of any customhouse shall, if a person liable for duty payment fails to furnish the data requested under paragraph (4) or the data furnished by such person make it difficult to recognize his returned dutiable value as a dutiable value for him, determine a dutiable value for him using the methods under Articles 31 through 35, instead of determining such dutiable value using the methods under paragraphs (1) and (2). In this case, the head of the customhouse shall notify the relevant person liable for duty payment of the grounds for refusing to recognize his returned dutiable value and details of how a dutiable value is determined for him.

#### **■ Article 31 (Determination of Dutiable Value Based on Transaction Price of Goods of Same Kind and Quality)**

(1) If it is impossible to determine a dutiable value of any imported goods using the method under Article 30, a dutiable value shall be determined based on the transaction price, determined as a dutiable value in the past, of other goods of the same kind and quality, which meets requirements falling under each of the following subparagraphs:

1. Other goods of the same kind and quality are required to be produced in the nation of the relevant goods whose transaction price is to be determined as a dutiable value and required to be loaded on the same day on which the relevant goods are loaded or to be loaded for shipment to Korea during a period for which no change takes place in market conditions or commercial practices that affect prices, before and after the day on which the relevant goods are loaded; and

2. The transaction channel, transaction quantity, shipping distance and shipping style, etc. of other goods of the same kind and quality are required to be the same as those of the relevant goods. If there is any difference between the two goods, a price adjusted by such difference shall be a transaction price.

(2) In the application of the provisions of paragraph (1), if there are not less than two transaction prices of other goods of the same kind and quality, a dutiable value shall be determined based on the price of goods that are most similar to the relevant goods in producer, transaction time, transaction channel and transaction quantity (hereinafter referred to as "transaction substances, etc.") and if there are not less than two goods with the same transaction substances, etc. and they carry not less than two prices, a dutiable value shall be determined based on the lowest one.

■ **Article 32 (Determination of Dutiable Value Based on Transaction Price of Similar Goods)**

(1) If it is impossible to determine a dutiable value of any imported goods using the methods under Articles 30 and 31, a dutiable value shall be determined based on the transaction price, determined as a dutiable value in the past, of similar goods, which meets the requirements of each subparagraph of Article 31 (1).

(2) In the application of the provisions of paragraph (1), if the similar goods carry not less than two transaction prices, a dutiable value shall be determined based on the transaction price of the similar goods that are most similar to the relevant goods in the transaction substances, etc. and if there are not less than two goods with the same transaction substances, etc. and they carry not less than two prices, a dutiable value shall be determined based on the lowest price.

■ **Article 33 (Determination of Dutiable Value Based on Domestic Sale Price)**

(1) If it is impossible to determine a dutiable value of any imported goods using methods under Articles 30 through 32, a price obtained by deducting the amount of the following subparagraphs 2 through 4 from the amount of the following subparagraph 1 shall be a dutiable value: *Provided*, That if there is a request from a person liable for duty payment, a dutiable value may be determined according to the provisions of Article 34:

1. An amount computed based on the unit price of goods sold in Korea in the largest quantity to a person with no special relationship from among the relevant goods, the goods of the same kind and quality or similar goods which are put on market under the same conditions as imported on the day on which an import declaration is filed with respect to the relevant goods or nearly at the same time when an import declaration is filed with respect to the relevant goods;

2. An amount equivalent to a commission usually paid or payable under an agreement in connection with the domestic sales of goods, or profit and general expenses accruing usually from the domestic sales of the goods of the same kind and quality;

3. Usual charges, insurance bill and other related expenses that accrue in Korea after the arrival of imported goods at the port of entry; and

4. Taxes and public charges paid or payable in connection with the import of the relevant goods and their domestic sales.

(2) If there is no precedent that the relevant goods, the goods of the same kind and quality, similar goods are put on domestic market under the same conditions as imported and there is a request from a person liable for duty payment, a price obtained by deducting the amount falling under each of the following subparagraphs from the amount computed based on the unit price of domestically processed goods sold in the largest quantity to a person with no special relationship shall be a dutiable value:

1. The amount of paragraph (1) 2 through 4; and

2. Added value resulting from domestic processing.

■ **Article 34 (Determination of Dutiable Value Based on Calculated Price)**

If it is impossible to determine a dutiable value of any imported goods using the methods under Articles 30 through 33, such dutiable value shall be determined based on a price combined with the amount falling under each of the following subparagraphs:

1. The cost of raw materials used to produce the relevant goods, and the expenses necessary for assembling and processing the relevant goods or their price;
2. An amount equivalent to general expenses and profit usually accruing from the sale of the goods of the same kind and quality as the relevant goods manufactured by a maker in an exporting nation for their export to Korea; and
3. An amount, determined under Article 30 (1) 6, as freight, insurance bill and other transportation cost of the relevant goods to the port of entry.

■ **Article 35 (Determination of Dutiable Value Based on Reasonable Criteria)**

If it is impossible to determine a dutiable value of any imported goods using the methods under Articles 30 through 34, such dutiable value shall be determined based on a reasonable criteria in conformity with the principles of Articles 30 through 34 under the conditions as prescribed by the Presidential Decree.

■ **Article 36 (Notice of Method of Determining Dutiable Value)**

The head of any customhouse shall, upon receiving a written request from any person liable for duty payment, notify in writing such person liable for duty payment of the method used to determine a dutiable value, a determined dutiable value and a calculation basis thereof.

■ **Article 37 (Prior Examination of Dutiable Value)**

(1) Any person liable to file a duty return in accordance with Article 38 (1) may, when he has any question about matters falling under each of the following subparagraphs, which are the basis for determining a dutiable value, file with the Commissioner of the Korea Customs Service or the head of any customhouse an application, appended with documents prescribed by the Presidential Decree, for examining his dutiable value beforehand before he files his dutiable value return:

1. The amount described in each subparagraph of Article 30 (1) or the amount that has to be added or deducted in the calculation of the price a buyer has actually paid or has to pay for imported goods in accordance with paragraph (2) of the same Article;
2. Whether the requirements of each subparagraph of Article 30 (3) are satisfied; and

3. Other important matters, prescribed by the Presidential Decree, which are the basis of determining any dutiable value.

(2) The Commissioner of the Korea Customs Service or the head of any customhouse shall, upon receiving an application referred to in paragraph (1), examine such application and deliver a written prior examination statement on dutiable value (hereinafter referred to as "written prior examination statement") to the applicant within one month from the date of application.

(3) In the event that a person liable for duty payment files a duty return based on a written prior examination statement under Article 38 (1), if such person and the applicant referred to in paragraph (1) are one and the same person, and goods on which an import declaration is filed and the dutiable value return thereon are deemed identical in contents of the written prior examination statement to each other, the head of any customhouse shall determine a dutiable value for him according to contents of the written prior examination statement unless the special grounds prescribed by the Presidential Decree exist that make it impossible for him to do so.

## **SECTION 5 Imposition and Collection of Customs Duties**

### **Sub-Section 1 Final Decision on Amount of Customs Duties**

#### **■ Article 38 (Payment of Customs Duties by Self-Return)**

(1) Any person who intends to import goods (excluding any goods whose customs duties are imposed and collected by the head of any custom-house in accordance with Article 39) shall file a duty payment return (hereinafter referred to as "duty return") with the head of any custom-house as prescribed by the Presidential Decree when he files an import declaration.

(2) The head of any customhouse shall, upon receiving a duty return, examine matters entered in an import declaration and other matters required by the provisions of this Act to be confirmed, but he shall examine the returned duty amount after receiving an import declaration: *Provided*, That if it is difficult to secure a duty claim on the returned duty amount and in case of goods that are recognized by the Ordinance of the Ministry of Finance and Economy as inappropriate to examine the amount of customs duties after receiving an import declaration, the amount of customs duties shall be examined before an import declaration is accepted.

(3) Any person liable for duty payment may, when the amount of customs duties he pays by self-return comes short, file an amended duty return as prescribed by the Presidential Decree. In this case, any person liable for duty payment shall pay the duty by the day following the day on which he files the amended duty return.

(4) Any person liable for duty payment may, when he later finds that he has overpaid his customs duties by self-return, apply to the head of any customhouse for correcting the returned duty amount within two years from the day on which he filed the initial duty return under the conditions as prescribed by the Presidential Decree. In this case, the head of the customhouse shall serve a notice on the applicant to the effect that he intends to correct the duty amount or finds no grounds

for correcting such duty amount within two months from the day on which such application was received.

(5) The head of any customhouse shall, when he finds that the amount of customs duties paid by self-return by a person liable for duty payment, the amount of customs duties on which a duty return is filed under the proviso of paragraph (2) or the amount of customs duties for which a correction application is filed under paragraph (4) is either excessive or deficient as a result of examining each of them, correct such amount of customs duties under the conditions as prescribed by the Presidential Decree.

(6) Any person liable for duty payment may, when he finds that the amount of customs duties on which he files a duty return is excessive or deficient before he pays such customs duties, correct the returned duty amount in a manner prescribed by the Presidential Decree. In this case, a time limit for paying the corrected customs duties shall be the original time limit.

#### ■ Article 39 (Duty Imposition Notice)

(1) In the case falling under each of the following subparagraphs, the head of any customhouse shall impose and collect customs duties notwithstanding the provisions of Article 38:

1. Where customs duties are collected for falling under subparagraphs 1 through 6 and 8 through 11 of Article 16;
2. Where facilities installed in a bonded construction work site are put into operation before an import declaration thereon is accepted under Article 248;
3. Where goods which were shipped into a bonded area are shipped out of such bonded area (including any place that is permitted to store goods outside a bonded area under Article 156 (1)) before an import declaration is accepted under Article 248;
4. Where a person liable for duty payment asks for an imposition notice because of his difficulty in deciding on a dutiable value and a tariff rate, etc. on the grounds prescribed by the Commissioner of the Korea Customs Service;
5. Where customs duties are collected on the immediately shipped goods under Article 253 because of the failure to file an import declaration within a period fixed under paragraph (3) of the same Article; and
6. Where any duty return filed under Article 38 is prescribed as inappropriate by the Ordinance of the Ministry of Finance and Economy.

(2) The head of any customhouse shall, when he finds that any collected customs duties come short due to an error in the application of the regulations governing the duty base, tariff rate and the reduction or exemption of customs duties, etc. and other grounds, collect the shortage thereof.

(3) The head of any customhouse shall, when he intends to collect customs duties in accordance with paragraphs (1) and (2), serve a duty payment notice on any person liable for duty payment as prescribed by the Presidential Decree.

#### ■ Article 40 (Minimum Amount of Collectable Duty)

The head of any customhouse shall not, if the amount of customs duties that has to be paid by a person liable for duty payment falls short of the amount prescribed by the Presidential Decree, collect such customs duties.

#### ■ Article 41 (Surcharge)

(1) If customs duties are not fully paid by a fixed time limit, a surcharge equivalent to 5/100 of such customs duties in arrears shall be collected from the day on which such fixed time limit expires.

(2) If customs duties in arrears are not paid, a surcharge equivalent to 12/1,000 of such customs duties in arrears plus the surcharge under paragraph (1) (hereafter referred to as "increased surcharge" in this Article) shall be collected every time when one month elapses from the day on which the payment time limit expires. In this case, the period for which the increased surcharge is additionally collected shall not exceed 60 months.

(3) If the amount of customs duties in arrears (including any internal tax collected by the head of a customhouse) is less than 500,000 won, the provisions of paragraph (2) shall not apply to such case.

(4) The provisions of paragraphs (1) through (3) shall not apply to any goods imported directly by the State or local governments and other goods prescribed by the Presidential Decree.

#### ■ Article 42 (Additional Duty)

(1) The head of any customhouse shall, when he collects customs duties whose amount comes short under Article 38 (3) or (5), collect an amount prescribed by the Presidential Decree as an additional duty within the limit of 20/100 of the relevant shortage: *Provided*, That the same shall not apply to a case where a duty return is filed based on a provisional dutiable value return and customs duties are paid according to such duty return and other case prescribed by the Presidential Decree.

(2) The head of any customhouse shall, when a person liable for duty payment files an amended duty return in accordance with Article 38 (3) within six months from the day on which he paid his customs duties by self-return, collect only 50/100 of the amount of the additional duty referred to in paragraph (1): *Provided*, That the same shall not apply to a case where any person liable for duty payment files an amended duty return in accordance with Article 38 (3) after the notice of customs investigation is served with respect to the relevant goods under Article 114 (1) (in the event that the customs investigation commences without prior notice in accordance with the

provisions of the proviso of paragraph (1) of the same Article, after the commencement of such customs investigation) or after the head of customhouse serves a written notice with respect to the collection of a shortage of customs duties paid or customs duties payable in accordance with Article 118 (1).

#### ■ Article 43 (Field Receipt of Customs Duties)

(1) Any customs officer who inspects goods falling under each of the following subparagraphs may receive customs duties levied on such goods at a place where such inspection is carried out:

1. Hand baggages carried by travelers; and
2. Goods loaded on a wrecked ship, which are stored in a place other than a bonded area.

(2) Any customs officer who inspects goods under paragraph (1) shall receive customs duties levied on such goods in the presence of other colleagues unless unavoidable grounds exist that make it impossible for him to do so.

(3) If any customs officer who is not a public official in charge of receipt and disbursement receives customs duties, such customs officer shall promptly turn such customs duties to the public official in charge of receipt and disbursement.

(4) If any customs officer who is not a public official in charge of receipt and disbursement loses customs duties he receives in accordance with paragraph (1) for his failure to act with the care of a good manager, he shall compensate for such lost customs duties.

#### Sub-Section 2 Write-Off

#### ■ Article 44 (Write-Off)

(1) The head of any customhouse may, when the grounds falling under each of the following subparagraphs occur to a person liable for duty payment, write off the relevant customs duties:

1. When the extinctive prescription of the authority to collect duties expires;
2. When a disposition taken for recovery of arrearages is terminated and the allocation amount appropriated to the arrearage falls short of such arrearage;
3. When the estimated value of total property, which is an object of a disposition taken for recovery of arrearages, is appropriated to the cost of taking such disposition, leaving no room for any balance; and
4. When the whereabouts of a delinquent duty payer is unknown and he is found to have no property, leaving no prospect of recovering his arrearage.

(2) The head of any customhouse shall, when he finds a seizable property after having taken a disposition for writing off the relevant customs duties under paragraph (1), promptly revoke such disposition and take a disposition for recovery of arrearages.

(3) The head of any customhouse may, when it is deemed necessary to collect customs duties or appropriate in the public interest, furnish material pertaining to dispositions taken for recovery of arrearages or dispositions taken for writing off customs duties by applying *mutatis mutandis* under Article 7-2 of the National Tax Collection Act upon a request from any credit information dealer and any credit information collection agency, etc. under Article 2 of the Use and Protection of Credit Information Act.

#### ■ Article 45 (Customs Duties Arrearages Adjustment Committee)

(1) The Korea Customs Service and every customhouse may each establish a customs duties arrearages adjustment committee mandated to deliberate on matters concerning the adjustment of arrearages (including the internal tax, etc. collected by the head of each customhouse).

(2) Necessary matters concerning the composition and operation of the customs duties arrearages adjustment committee established pursuant to paragraph (1) shall be determined by the Presidential Decree.

### Sub-Section 3 Refund of Customs Duties Overpaid by Mistake

#### ■ Article 46 (Refund of Customs Duties Overpaid by Mistake)

(1) The head of any customhouse shall, if any person liable for duty payment asks for the refund of customs duties, a surcharge, an additional duty or the cost of a disposition taken for recovery of arrearages which have been overpaid by mistake, promptly refund either of them under the conditions as prescribed by the Presidential Decree and also refund the amount confirmed by himself as having been overpaid by mistake even if there is no request to that effect from any person liable for duty payment.

(2) In the event that an amount overpaid by mistake are refunded in accordance with paragraph (1), if a person entitled for such refund is liable to pay any customs duties, any surcharge, any additional duty or any cost of a disposition taken for recovery of arrearages, the head of any customhouse may appropriate the refund to either of such payments.

(3) Any person liable for duty payment may transfer his right to an amount overpaid by mistake to a third person as prescribed by the Presidential Decree.

(4) The refund of an amount overpaid by mistake referred to in paragraph (1) shall be made to the Bank of Korea from the revenues under jurisdiction of the head of the relevant customhouse as prescribed by the Presidential Decree notwithstanding the provisions of Article 18 of the Budget and Account Act.

#### ■ Article 47 (Collection of Overly Refunded Customs Duties)

(1) The head of any customhouse may, when he finds that any customs duties, any surcharge, any additional duty or any cost of a disposition taken for recovery of arrearages, either of them overpaid by mistake, have been overly refunded under Article 46, collect back the overly refunded amounts from any person who has been paid the refund of such customs duties, surcharge, additional duty or the cost of a disposition taken for recovery of arrearages.

(2) The head of any customhouse shall, when he collects the overly refunded amount of customs duties, a surcharge, an additional duty or the cost of a disposition taken for recovery of arrearages under paragraph (1), add to such overly refunded amount an amount calculated according to the rate of interest, prescribed by the Presidential Decree, accruing for a period ranging from the day following the day on which the refund is overly made to the day on which the collection of the overly refunded amount is decided.

#### ■ Article 48 (Refund of Surcharge)

The head of any customhouse shall, when he refunds or appropriates customs duties, a surcharge, an additional duty or the cost of a disposition taken for recovery of arrearages, either of them paid by mistake, in accordance with the provisions of Article 46, add to such refunded amount an amount calculated according to the rate of interest, prescribed by the Presidential Decree, accruing for a period ranging from the day following the day on which the payment is made by mistake (when the payment is made in not less than two installments, the date means the last payment date and if the refund exceeds the amount paid last, it means each payment date of the refund calculated retroactively in order of payment date until it reaches the amount) to the date on which the refund or the appropriation is decided: *Provided*, That the same shall not apply to goods which are not subject to the application of Article 41 (1) through (3) in accordance with the provisions of paragraph (4) of the same Article.

### CHAPTER III TARIFF RATES

#### AND TARIFF CLASSIFICATION

#### SECTION 1 Common Provisions

#### ■ Article 49 (Tariff Rates)

The rates of customs duties levied on imported goods in accordance with the provisions of Article 14 shall be as follows:

1. The basic tariff rate;
2. The provisional tariff rates; and
3. Other tariff rate prescribed by the Presidential Decree or the Ordinance of the Ministry of Finance and Economy in accordance with the provisions of Articles 51 through 77.

## ■ Article 50 (Priority Order of Tariff Rate Application)

(1) The basic tariff rate and the provisional tariff rates shall be governed by the attached Schedules of Tariff Rates and the provisional tariff rates shall have priority over the basic tariff rate in application.

(2) The tariff rate referred to in subparagraph 3 of Article 49 shall be preferentially applied over the tariff rates as shown in the attached Schedules of Tariff Rates according to the order falling under each of the following subparagraphs:

1. Tariff rates under Articles 51, 57, 63, 65, 67-2 and 68;
2. Tariff rates under Articles 73 and 74;
3. Tariff rates under Articles 69, 71 and 72; and
4. Tariff rates under Article 76.

(3) Notwithstanding paragraph (2), the tariff rates of paragraph (2) 2 shall be preferentially applied only if such tariff rates are lower than the basic tariff rate, the provisional tariff rates and the tariff rates of paragraph (2) 3 and 4, and the tariff rates described in Article 71 from among the tariff rates of paragraph (2) 3 shall be preferentially applied only if such tariff rates are lower than the tariff rates of paragraph (2) 4: *Provided*, That the rates of a tariff concession made at a rate equivalent to the difference between domestic and foreign prices in tariff negotiations with an international organization under Article 73 and the rates of a tariff concession (including the rates of a tariff concession made to the market access quota) made to goods prescribed by the Presidential Decree from among agricultural, forest and livestock products to which a tariff concession was made at a rate higher than the basic tariff rate in the process of opening up the domestic market shall have priority to the basic tariff rate and the provisional tariff rates in application.

(4) With respect to goods subject to the application of the provisional tariff rates in the attached Schedules of Tariff Rates, the application of the provisional tariff rates to such goods may be suspended, in whole or in part, as prescribed by the Presidential Decree or the provisional tariff rates may be raised or lowered to adjust the rate differential with the basic tariff rate.

(5) In applying the tariff rates described in subparagraph 3 of Article 49, in case of specific customs duties in the attached Schedules of Tariff Rates, an amount equivalent to the relevant tariff rate shall be applied.

## SECTION 2 Adjustment of Tariff Rates

### Sub-Section 1 Anti-dumping Duties

## ■ Article 51 (Subject of Imposition of Anti-Dumping Duties)

If foreign goods are imported at a price below the normal price prescribed by the Presidential Decree (hereinafter referred to as "dumping") and such foreign goods are confirmed to fall under each of the following subparagraphs as a result of an investigation (hereafter in this Subsection referred to as "material injury") and it is recognized that the relevant domestic industry needs to be protected, upon a request from any person interested in the domestic industry and prescribed by the Presidential Decree, or the minister of the competent ministry, such foreign goods, their supplier or their exporting country may be designated and customs duties (hereinafter referred to as "anti-dumping duties") not exceeding an amount equivalent to a difference between the normal price and the dumping price (hereinafter referred to as "dumping margin") may be imposed on such foreign goods in addition to customs duties in accordance with the Ordinance of the Ministry of Finance and Economy:

1. Where the domestic industry is materially injured or is threatened with material injury; and
2. Where the development of domestic industry is materially retarded.

#### ■ Article 52 (Investigation of Dumping and Material Injury)

(1) The investigation of the fact of dumping and material injury thereby, etc. under Article 51 shall be governed by the Presidential Decree.

(2) In imposing any anti-dumping duties, the Minister of Finance and Economy may, if it is necessary to give consideration to bolstering the competitiveness of the relevant industry, stabilizing prices and promoting trade cooperation with trading partners, etc. investigate such matters and reflect the findings as a result of such investigation.

#### ■ Article 53 (Provisional Measure Prior to Imposing Anti-Dumping Duties)

(1) In the event that an investigation is made to determine whether to levy anti-dumping duties and the case falling under each of the following subparagraphs occurs, the Minister of Finance and Economy may, in order to prevent any injury possibly done during the investigation period, designate relevant goods, their supplier or their exporting country and, order the additional imposition of provisional anti-dumping duties not exceeding an amount equivalent to a provisionally estimated dumping margin for a fixed period or take a measure to order security offered (hereafter in this Subsection referred to as "provisional measure") as prescribed by the Presidential Decree even before such investigation is completed:

1. Where there is sufficient evidence presuming the existence of the fact of dumping and the fact of material injury caused thereby, etc. with respect to the relevant goods; and
2. Where there exists the best information available even though the promise described in Article 54 is broken, or a request for the provision of materials with respect to carrying out such promise and a request for permitting the verification of furnished data are not complied with.

(2) In the case falling under each of the following subparagraphs, anti-dumping duties paid shall be refunded or security put up shall be rescinded as prescribed by the Presidential Decree:

1. Where an investigation comes to an end after a request filed for the imposition of anti-dumping duties on goods, against which the provisional measure has been taken, has been withdrawn;
2. Where a decision is made on whether to levy anti-dumping duties on goods against which the provisional measure has been taken; and
3. Where the promise described in Article 54 is accepted.

(3) Notwithstanding the provisions of paragraph (2), in the case falling under each of the following subparagraphs, if the amount of anti-dumping duties exceeds the amount of provisional anti-dumping duties, the difference therefrom shall not be collected and if the amount of anti-dumping duties falls short of the amount of provisional anti-dumping duties, the difference therefrom shall be refunded:

1. Where the promise described in Article 54 is accepted after the existence of the fact of dumping and the fact of material injury caused thereby, etc. are made definite as a result of an investigation conducted on such dumping of the relevant goods and industrial damage caused thereby; and
2. Where anti-dumping duties are levied retroactively in accordance with the proviso of Article 55.

#### ■ Article 54 (Proposal of Promise in Connection with Anti-Dumping Duties)

(1) If the dumping of the relevant goods and the existence of material injury, etc. caused thereby are confirmed as a result of a preliminary investigation conducted to determine whether to levy anti-dumping duties, the exporter of the relevant goods or the Minister of Finance and Economy may propose any promise that he will adjust the price of the relevant goods to the extent that the adjusted price eliminates such material injury caused by the dumping of the relevant goods or halt his dumping export in accordance with the Presidential Decree.

(2) If the proposed promise referred to in paragraph (1) is accepted, the Minister of Finance and Economy shall have the investigation halted or terminated without taking a provisional measure or levying anti-dumping duties: *Provided*, That if the Minister of Finance and Economy deems it necessary or the exporter of the relevant goods asks for continuing the investigation, such investigation may continue.

#### ■ Article 55 (Time for Levying Anti-Dumping Duties)

The imposition of anti-dumping duties and the provisional measure shall apply to goods imported after the day on which such anti-dumping duties are levied and such measure is taken, respectively: *Provided*, That if international conventions prescribe otherwise and the Presidential

Decree prescribes with respect to goods subject to the application of the provisional measure, anti-dumping duties may also be levied on such goods.

#### ■ Article 56 (Review of Anti-Dumping Duties)

(1) The Minister of Finance and Economy may, when he deems it necessary, review the imposition of anti-dumping duties and the promise described in Article 54 under the conditions as prescribed by the Presidential Decree, and take necessary measures to impose any anti-dumping duties, modify contents of the promise and refund, etc. according to findings obtained as a result of the review.

(2) The imposition of anti-dumping duties and the promise accepted under Article 54 shall, save a case where a deadline for their application is fixed otherwise by the Ordinance of the Ministry of Finance and Economy, become invalid after the elapse of five years from the day on which the relevant anti-dumping duties were levied and the promise was kept. If contents of the imposition of such anti-dumping duties and the promise are modified according to findings obtained as a result of the review of the dumping and industrial damage caused thereby under paragraph (1), save a case where a deadline for their application is fixed otherwise by the Ordinance of the Ministry of Finance and Economy, the modified contents shall become invalid after the elapse of five years from the day on which such modified contents are carried out.

(3) Necessary matters concerning the imposition of anti-dumping duties and its enforcement, etc. under paragraphs (1) and (2), and Articles 51 through 55 shall be prescribed by the Presidential Decree.

### Sub-Section 2 Countervailing Duties

#### ■ Article 57 (Subject of Imposition of Countervailing Duty)

In the event that the import of foreign goods, which are confirmed to have been subsidized and financially supported (hereinafter referred to as "subsidies, etc."), directly and indirectly, in the course of manufacturing, producing and exporting them, causes the case falling under each of the following subparagraphs (hereafter in this Subsection referred to as "material injury") as a result of an investigation, and it is deemed necessary to protect the relevant domestic industry, upon a request from a person interested in the domestic industry and prescribed by the Presidential Decree or the minister of the competent ministry, the relevant goods, an exporter or an exporting nation of the relevant goods may be designated and customs duties (hereinafter referred to as "countervailing duty") not exceeding the amount of the subsidies, etc. may be levied on the relevant goods in addition to customs duties as prescribed by the Ordinance of the Ministry of Finance and Economy:

1. Where the domestic industry is materially injured or is threatened with material injury; and
2. Where the development of domestic industry is materially retarded.

■ **Article 58 (Investigation of Payment of Subsidies, etc. and Material Injury)**

(1) The investigation of the payment of subsidies, etc. and material injury caused thereby shall be conducted according to the Presidential Decree.

(2) In imposing any countervailing duty, the Minister of Finance and Economy may, when he deems it necessary to give consideration to bolstering the competitiveness of the relevant domestic industry, stabilizing prices and promoting trade cooperation, etc. with trading partners, investigate such matters and reflect findings obtained as a result of such investigation.

■ **Article 59 (Provisional Measure Prior to Imposition of Counter- vailing Duty)**

(1) In the event that any imported goods, into which an investigation is launched to determine whether to levy a countervailing duty thereon, are deemed to have been manufactured using the subsidies, etc. and the case falling under each of the following subparagraphs, the Minister of Finance and Economy may designate the exporter and exporting nation of such goods and a period, and order the imposition of a provisional countervailing duty not exceeding the amount equivalent to the estimated amount of the subsidies, etc. or take a measure to order security offered (hereafter in this Subsection referred to as "provisional measure") in order to protect the relevant domestic industry as prescribed by the Presidential Decree even before such investigation is completed:

1. Where it is confirmed that sufficient evidence exists that presumes the fact that the imported goods cause a material injury to the domestic industry; and
2. Where there exists the best information available even though the promise described in Article 60 is withdrawn or broken and data pertaining to the implementation of such promise are not furnished.

(2) In the event that an investigation terminates after a request filed for imposing a countervailing duty on goods, against which a provisional measure is taken, is withdrawn or a decision on whether to levy a countervailing duty is made, or the promise described in Article 60 is accepted, any provisional countervailing duty paid shall be refunded and the security put up shall be rescinded as prescribed by the Presidential Decree: *Provided*, That in the case falling under each of the following subparagraphs, if the amount of a countervailing duty exceeds the amount of a provisional countervailing duty, the difference therefrom shall not be collected and if the amount of a countervailing duty falls short of the amount of provisional countervailing duty, the difference therefrom shall be refunded:

1. Where the promise described in Article 60 is accepted after the payment of the subsidies, etc. and material injury, etc. caused thereby is made definite as a result of an investigation conducted to find the payment of such subsidies, etc. and industrial damage caused thereby; and
2. Where a countervailing duty is levied retroactively in accordance with the proviso of Article 61.

#### ■ Article 60 (Proposal of Promise Relating to Countervailing Duty)

(1) In the event that the fact of the payment of the subsidies, etc. and material injury, etc. caused thereby is made definite as a result of a preliminary investigation conducted to determine whether to levy a countervailing duty under Article 57, the government of an exporting nation of the relevant goods or the Minister of Finance and Economy may propose to promise proper measures to abolish or cut the subsidies, etc. paid for producing the relevant goods or to eliminate the effect of damaging the domestic industry by the subsidies, etc. and the exporter of the relevant goods promise, with the consent of the government of the exporting nation, the adjustment of the price of the relevant goods to the extent that the effect of damaging the domestic industry by such subsidies, etc. is eliminated, as prescribed by the Presidential Decree.

(2) If the promise referred to in paragraph (1) is accepted, the Minister of Finance and Economy shall have any investigation suspended or terminated without taking a provisional measure or levying a countervailing duty: *Provided*, That if the Minister of Finance and Economy deems it necessary to continue the investigation of damage or the government of such exporting nation makes a request to that effect, such investigation may be continued.

#### ■ Article 61 (Time for Levying Countervailing Duty)

The imposition of a countervailing duty and a provisional measure shall apply to goods imported after the day on which such measures are each taken: *Provided*, That if international conventions prescribe otherwise and the Presidential Decree prescribes with respect to goods subject to the application of a provisional measure, a countervailing duty may also be levied on such goods.

#### ■ Article 62 (Review of Countervailing Duty, etc.)

(1) The Minister of Finance and Economy may, when it is deemed necessary, review the imposition of a countervailing duty and the promise described in Article 60 as prescribed by the Presidential Decree and take necessary measures to levy a countervailing duty, modify contents of the promise and refund, etc. according to findings obtained as a result of the review.

(2) The imposition of any countervailing duty and the promise accepted under Article 60, except a case where their application deadline is prescribed otherwise by the Ordinance of the Ministry of Finance and Economy, shall lose their effects after the elapse of five years from the day on which such countervailing duty was levied and the promise was kept. If the payment of subsidies, etc. and the industrial damage caused thereby are reviewed in accordance with paragraph (1) and their contents are modified according to findings obtained as a result of such review, such modified contents shall lose their effect after the elapse of five years from the day on which such modified contents are carried out, except a case where their application deadline is fixed otherwise by the Ordinance of the Ministry of Finance and Economy.

(3) Necessary matters concerning the imposition of a countervailing duty and its enforcement, etc. under the provisions of paragraphs (1) and (2), and Articles 57 through 61 shall be determined by the Presidential Decree.

### **Sub-Section 3 Retaliatory Duties**

#### **■ Article 63 (Subject of Imposition of Retaliatory Duties)**

(1) If any of trading partners infringes on the Korea's trade interests by performing the act falling under each of the following subparagraphs against goods, etc. exported by Korea, Korea may levy customs duties (hereinafter referred to as "retaliatory duties"), within the limit of an amount equivalent to the amount of damage caused thereby, on goods imported from such trading partner:

1. The act of denying or limiting Korea's rights and interests prescribed in the General Agreement on Tariffs and Trade or bilateral treaties, etc.; and
2. The act of taking unfair and discriminatory measures against Korea.

(2) Necessary matters concerning countries against which retaliatory duties are imposed, goods, quantity, tariff rates and application deadline and other matters shall be prescribed by the Presidential Decree.

#### **■ Article 64 (Consultations about Imposition of Retaliatory Duties)**

The Minister of Finance and Economy shall, when he deems it necessary to levy retaliatory duties, consult in advance with the relevant international organizations and the country concerned.

### **Sub-Section 4 Emergency Tariff**

#### **■ Article 65 (Subject of Imposition of Emergency Tariff)**

(1) If the outcome of a survey confirms that a surge in the import of specific goods causes material injury or is feared to cause material injury (hereafter in this Article referred to as "material injury") on the domestic industry that produces the same goods or directly competitive goods (hereafter in this Article referred to as "domestic industry") and it is deemed necessary to protect the domestic industry, a tariff (hereinafter referred to as "emergency tariff") may be additionally levied on the relevant imported goods to the extent as may be necessary to prevent, remedy and adjust the material injury (hereinafter referred to as "the relief of injury, etc.").

(2) A decision on whether to levy an emergency tariff and its substances shall be made after examining the protection of the relevant domestic industry, international trade relations and compensation levels following such emergency tariff and the resulting impact on the national economy as a whole.

(3) The Minister of Finance and Economy may, when he imposes an emergency tariff, consult with the country concerned about ways of proper trade compensation for negative effects resulting from such emergency tariff.

(4) The imposition of an emergency tariff and a provisional emergency tariff under the provisions of Article 66 (1) shall apply only to goods imported after a decision on the measures to impose them is executed.

(5) The imposition period of an emergency tariff shall not exceed four years and the imposition period of a provisional emergency tariff under the provisions of Article 66 (1) shall not exceed 200 days: *Provided*, That if the imposition periods are extended according to findings obtained as a result of the review conducted in accordance with the provisions of Article 67, the imposition period of a provisional emergency tariff, the imposition period of an emergency tariff, the application period of import quantity limit under Article 28 (1) of the Foreign Trade Act (hereafter in this Article and Article 66 referred to as "import quantity limit, etc.") and any extended period shall not exceed eight years in all.

(6) Goods subject to the application of an emergency tariff or a provisional emergency tariff under Article 66 (1), tariff rate, application period, quantity, import control ways and other necessary matters shall be prescribed by the Ordinance of the Ministry of Finance and Economy.

(7) The Minister of Finance and Economy may, when he deems it necessary to decide on whether to impose an emergency tariff or a provisional emergency tariff under Article 66 (1), ask the heads of administrative agencies concerned and interested persons, etc. to furnish related data and provide necessary cooperation.

#### ■ Article 66 (Imposition of Provisional Emergency Tariff, etc.)

(1) With respect to goods into which an investigation is launched to determine whether to levy an emergency tariff thereon or goods against which a provisional measure under Article 29 (1) of the Foreign Trade Act is recommended, when it is judged that if it fails to prevent material injury during the investigation period, unrecoverable damage ensues or is feared to ensue, a provisional emergency tariff may be levied to the extent as may be necessary for the relief of injury before such investigation terminates.

(2) When a decision is made on whether to impose an emergency tariff or on whether to take a measure such as the import quantity limit, etc. the imposition of a provisional emergency tariff of paragraph (1) shall be suspended.

(3) If it is judged that a surge in the import of goods does not cause material injury to the domestic industry or is not feared to cause such material injury as a result of an investigation launched to determine whether to levy an emergency tariff or to take a measure such as import quantity limit, etc. a provisional emergency tariff paid under paragraph (1) shall be refunded.

#### ■ Article 67 (Review of Emergency Tariff, etc.)

The Minister of Finance and Economy may, when it is deemed necessary, review a decision made to levy an emergency tariff and modify contents of such emergency tariff according to the results of such review. In this case, the modified contents shall not be tougher than the original ones.

■ **Article 67-2 (Imposition of Emergency Tariff on Goods from Particular Country)**

(1) If it is confirmed that any goods the origin of which is a foreign country as prescribed by the Presidential Decree (hereafter referred to as "goods of particular country" in this Article) fall under any of the following subparagraphs as a result of investigation, emergency tariffs (hereinafter referred to as "emergency tariffs on the goods of particular country") may be additionally imposed thereon to relieve or prevent damages therefrom to such an extent as is permitted by international treaties or general international law:

1. Where the increased import of the relevant goods causes disruption to the domestic market or is feared to cause disruption to the domestic market; and
2. Where the relevant goods are imported to Korea or are feared to be imported to Korea following a serious trade turnaround that is triggered by measures taken by member nations of the World Trade Organization to relieve or prevent their damages caused by an increase in the import of the relevant goods.

(2) The term "disruption of the domestic market" or "fear of the disruption of the domestic market" in paragraph (1) means a case where an increase in the import of the relevant goods inflicts or is feared to inflict damage to the same kind of domestic goods or the domestic industry that manufactures the goods in direct competition with the former.

(3) Necessary matters concerning goods subject to the imposition of the emergency tariffs or the provisional emergency tariffs on the goods of particular country referred to in paragraph (5), tariff rates, application term, quantity and import-control ways, etc. shall be prescribed by the Ordinance of the Ministry of Finance and Economy.

(4) The Minister of Finance and Economy may, when he intends to levy the emergency tariffs on the goods of particular country, hold negotiations with the particular country to find ways to resolve the impending trade dispute.

(5) In the event that it is judged that unless measures are taken to prevent disruption to the domestic market while an investigation is in progress to determine whether to levy the emergency tariffs on the goods of particular country under paragraph (1) 1, unrecoverable damage is inflicted or is feared to be inflicted on the domestic market, the provisional emergency tariffs may be levied on the goods of particular country (hereinafter referred to as the "provisional emergency tariffs on the goods of particular country") within the necessary scope and within the period of 200 days to prevent or relieve damage prior to the completion of the investigation.

(6) In the event that the goods of particular country are judged not to disrupt the domestic market as a result of the investigation launched to determine whether to impose the emergency tariffs on the goods of particular country, the provisional emergency tariffs on the goods of particular country that are paid in accordance with paragraph (5) shall be refunded.

(7) In the event that member nations of the World Trade Organization discontinue taking measures against the goods of particular country that cause Korea to move to impose the emergency tariffs on the goods of particular country under paragraph (1) 2, the imposition of the emergency tariffs on the goods of particular country shall be scrapped within 30 days from the date of discontinuation.

(8) The provisions of Article 65 (2), (4) and (7), 66 (2) and 67 shall apply *mutatis mutandis* to the imposition of the emergency tariffs on the goods of particular country or the provisional emergency tariffs on the goods of particular country.

*[This Article Newly Inserted by Act No. 6777, Dec. 18, 2002]*

#### **Sub-Section 5 Special Emergency Tariff on**

#### **Agricultural, Forest and Livestock Products**

#### **■ Article 68 (Special Emergency Tariff on Agricultural, Forest and Livestock Products)**

(1) In the event that the import quantity of agricultural, forest and livestock products, to which a tariff concession was made at a rate equivalent to the difference between domestic and foreign prices under Article 73, sharply rises or their import prices fall, a tariff (hereinafter referred to as "special emergency tariff") may be levied in excess of the rate of such tariff concession as prescribed by the Presidential Decree.

(2) Goods subject to the imposition of the special emergency tariff, rate, application deadline and quantity, etc. shall be determined by the Ordinance of the Ministry of Finance and Economy.

#### **Sub-Section 6 Adjusted Duties**

#### **■ Article 69 (Subject of Imposition of Adjusted Duties)**

In the case falling under each of the following subparagraphs, customs duties may be levied within the limit of the rate calculated by adding the rate obtained by deducing the basic tariff rate of the relevant goods from 100/100 to the basic tariff rate: *Provided*, That if the difference between domestic and foreign prices of agricultural, forest, livestock and marine products or other goods manufactured using such products as raw materials exceeds the dutiable value of the relevant goods, customs duties may be levied within the limit of the rate equivalent to the difference between such domestic and foreign prices:

1. Where it is necessary to adjust widely unbalanced tariff rates among goods following changes, etc. in the industrial structure;
2. Where it is necessary for the public health, the conservation of environment and the protection of consumers, etc.:
3. Where it is necessary to protect domestically-developed goods for any prescribed period; and

4. Where it is necessary to take corrective and preventive measures following a surge in the import of goods, including agricultural, forest, livestock and marine products, etc. whose domestic competitiveness is weak, which is feared to disrupt the domestic market or collapse the domestic industrial foundation.

#### ■ Article 70 (Application Rate of Adjusted Duties)

(1) With respect to the customs duties under Article 69 (hereinafter referred to as "adjusted duties"), a decision shall be made on whether to levy such adjusted duties and their contents shall be determined after examining the protection of the domestic industry, international trade relations and their impact on the national economy, etc. as a whole.

(2) Goods subject to the imposition of the adjusted duties, tariff rates and application deadline, etc. shall be determined by the Ordinance of the Ministry of Finance and Economy.

### Sub-Section 7 Quota Tariff

#### ■ Article 71 (Quota Tariff)

(1) In the case falling under each of the following subparagraphs, customs duties may be levied at a rate obtained by deducting a rate within the limit of 40/100 from the basic tariff rate. In this case, when it is deemed necessary, the quantity may be limited:

1. Where it is necessary to facilitate the import of specific goods with the aim of ensuring the smooth supply and demand of goods or bolstering the industrial competitiveness;
2. Where it is necessary to stabilize the domestic prices of goods and other goods manufactured using the former, whose import prices sharply rise; and
3. Where it is necessary to correct widely unbalanced tariff rates among similar goods.

(2) If it is necessary to curb the import of specific goods, customs duties may be levied on such specific goods imported exceeding any limited quantity by adding a rate within the limit of 40/100 to the basic tariff rate: *Provided*, That with respect to agricultural, forest, livestock and marine products, customs duties may be levied thereon within the limit of the rate added with a rate equivalent to the difference between domestic and foreign prices of the same, similar or alternative products to the basic tariff rate.

(3) Goods subject to the imposition of the customs duties described in paragraphs (1) and (2), quantity, tariff rates and application period, etc. shall be determined by the Presidential Decree.

### Sub-Section 8 Seasonal Duties

#### ■ Article 72 (Seasonal Duties)

(1) If the import of goods, similar goods or alternative goods whose prices seasonally fluctuate, is feared to disrupt the domestic market and to collapse the production foundation, customs duties may be levied at a rate higher than the basic tariff rate within the limit of a rate equivalent to the difference between domestic and foreign prices of the relevant goods or at a rate obtained by deducting a rate within the limit of 40/100 from the basic tariff rate, according to season classification.

(2) Goods subject to the imposition of the customs duties referred to in paragraph (1), tariff rates and application period thereof, etc. shall be determined by the Ordinance of the Ministry of Finance and Economy.

#### **Sub-Section 9 International Cooperation Tariff**

##### **■ Article 73 (International Cooperation Tariff)**

(1) The Government may, when it is deemed necessary to facilitate Korea's external trade, hold tariff negotiations with any specific nation or any specific international organization.

(2) The Government may, when deemed necessary to hold tariff negotiations referred to in paragraph (1), make any tariff concession: *Provided*, That the Government, while holding tariff negotiations with any specific nation, shall not make any tariff concession in excess of the limit of 50/100 of the basic tariff rate.

(3) Goods subject to the imposition of the tariff referred to in paragraph (2), tariff rates and application period, etc. shall be prescribed by the Presidential Decree.

#### **Sub-Section 10 Beneficial Tariff**

##### **■ Article 74 (Standards for Applying Beneficial Tariff, etc.)**

(1) With respect to goods imported to Korea and produced in any nation that does not enjoy benefits granted under any tariff treaty, benefits (hereinafter referred to as "beneficial tariff") within the limit of the tariff benefits granted under any treaty may be granted to such goods.

(2) Goods subject to the imposition of beneficial tariff, the application of tariff rates, application method and other necessary matters shall be prescribed by the Presidential Decree.

##### **■ Article 75 (Suspension of Application of Beneficial Tariff, etc.)**

In the case falling under each of the following subparagraphs, the Minister of Finance and Economy may designate any nation, goods and period and suspend the application of beneficial tariff thereto:

1. Where the application of beneficial tariff brings or is feared to bring a serious impact to the national economy; and

2. Other emergency situation occurs that requires suspending the application of beneficial tariff.

### **Sub-Section 11 General Preferential Tariff**

#### **■ Article 76 (Standards for Applying General Preferential Tariff)**

(1) With respect to goods prescribed by the Presidential Decree (hereafter in this Article referred to as "goods subject to preferential tariff") from among goods originally manufactured in developing countries prescribed by the Presidential Decree (hereafter in this Article referred to as "countries subject to preferential tariff"), customs duties may be levied on such goods at a rate lower than the basic tariff rate (hereafter in this Sub-section referred to as "general preferential tariff").

(2) In the imposition of a general preferential tariff, the tariff rate applied to goods subject to preferential tariff may be differentiated or the quantity of such goods may be limited in consideration of the impact of the import of such goods on the domestic industry, etc.

(3) With respect to goods originally manufactured in such developing countries as prescribed by the Presidential Decree from among developing countries designated as the poorest developing countries in accordance with a resolution of the UN General Assembly, priority may be given to the poorest developing countries over other developing countries subject to preferential tariff in granting the general preferential tariff.

(4) Tariff rate, period and other necessary matters which apply to goods subject to preferential tariff shall be prescribed by the Presidential Decree.

#### **■ Article 77 (Suspension of Application of General Preferential Tariff)**

(1) In the event that specific goods subject to preferential tariff are imported in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry that produces the same kind of goods or directly competitive goods, and the imposition of a general preferential tariff on such imported goods is deemed inappropriate, the Minister of Finance and Economy may designate the imported goods and their country of origin, and suspend the application of a general preferential tariff to such imported goods under the conditions as prescribed by the Presidential Decree.

(2) The Minister of Finance and Economy may, when he judges that the imposition of a general preferential tariff is inappropriate taking into account the income level of a specific country subject to preferential tariff, the weight of the amount of goods imported from the country subject to preferential tariff in the total amount of goods imported by Korea and the extent of the international competitiveness of specific goods subject to preferential tariff exported by the specific country subject to preferential tariff and other circumstances, designate either the relevant country or the relevant country and goods, and exclude them from the application of a general preferential tariff under the conditions as prescribed by the Presidential Decree.

## Sub-Section 12 Measures on Tariff Concession, etc.

### ■ Article 78 (Withdrawal and Modification of Tariff Concession)

(1) If, as a result of unforeseen change in circumstances such as price fall abroad or the effect of fulfillment of obligations stipulated in a treaty, specific goods are imported in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry which produces the same kind of goods or directly competitive goods, the Government may take measures falling under each of the following subparagraphs:

1. If a tariff concession is made to specific goods in accordance with a treaty, a measure to levy customs duties at the tariff rate under this Act or at the modified tariff rate through the withdrawal or modification of such tariff concession made to such specific goods in accordance with such treaty; and

2. If the measure of paragraph (1) is about to be taken or such measure is already taken, a measure to apply tariff rates after making a new tariff concession, making a modification or making a tariff concession through the modification of the tariff rates of goods to which a tariff concession was made, other than the specific goods, and the addition of tariff concession items according to consultations held under the relevant treaty.

(2) The measure of paragraph (1) 2 shall be taken only within the necessary scope of supplementing the measure of subparagraph 1 of the same paragraph.

(3) Time for taking the measures of paragraph (1), their substances and other necessary matters shall be prescribed by the Presidential Decree.

### ■ Article 79 (Countermeasures)

(1) If any foreign nation intends to take or has taken measures to withdraw or modify a tariff concession made on specific goods or other measure, the Government may, when it deems that it can take any countermeasures in accordance with a relevant treaty, take the countermeasures falling under each of the following subparagraphs:

1. A countermeasure to levy customs duties on specific goods within the limit of an amount equivalent to the dutiable value of the specific goods in addition to customs duties imposed on such goods under this Act; and

2. In the event that a tariff concession is made to the specific goods, a countermeasure to suspend the application of such tariff concession to them and levy customs duties within the limit of tariff rates fixed in this Act.

(2) The countermeasures of paragraph (1) against measures taken by a foreign nation shall be limited to the necessary scope.

(3) Nations subject to the countermeasures of paragraph (1), time, contents and other necessary matters shall be prescribed by the Presidential Decree.

#### ■ Article 80 (Tariff Concession and Effect of Withdrawal)

(1) If Korea withdraws a tariff concession made to items in accordance with a treaty, tariff rates under this Act shall apply to such items beginning the day on which such withdrawal takes effect.

(2) If Korea grants a new tariff concession made to items in compensation for the tariff concession withdrawn under paragraph (1), the tariff rates under this Act shall not apply beginning the day on which the new tariff concession takes effect.

### SECTION 3 Application of Tariff Rates, etc.

#### ■ Article 81 (Application of Simplified Tariff Rates)

(1) Notwithstanding the provisions of other Acts and subordinate statutes, the simplified tariff rates shall apply to goods prescribed by the Presidential Decree from among goods falling under each of the following subparagraphs:

1. Goods imported by travelers or crew of transportation means sailing or flying abroad as their personal effects;
2. Postal materials: *Provided*, That postal materials which are required to file any import declaration shall be excluded;
3. Goods used to repair or replace part of any vessel and aircraft abroad; and
4. Consignments or unaccompanied goods.

(2) The dutiable value of goods referred to in paragraph (1) 3 shall be the foreign currency price paid for repair or replacement.

(3) The simplified tariff rates shall be determined by the Presidential Decree on the basis of the rates of customs duties, the provisional import surtax and the internal tax of imported goods (referring to the relevant vessel or the relevant aircraft in case of paragraph (1) 3).

(4) With respect to goods which fall under paragraph (1) 1 and whose total amount runs below the amount prescribed by the Presidential Decree, the tariff rates referred to in paragraph (3) may be made into a single tariff rate applicable to such goods taking into account the tariff rates, the provisional import surtax and the internal tax of goods imported generally as personal effects.

#### ■ Article 82 (Application of Tariff Rates under Agreement)

(1) In the event that goods, on which an import declaration is filed en block, are different from each other in tariff rate by item, upon a request from a person who files such import declaration, the highest tariff rate may be levied.

(2) If the provisions of paragraph (1) is applied, the provisions of the Section 2 of the Chapter V (Articles 119 through 132) shall not be applied.

#### ■ Article 83 (Application of Usage Tariff Rates)

(1) With respect to goods whose tariff rates are set differently by the Presidential Decree or the Ordinance of the Ministry of Finance and Economy according to their purpose of use in accordance with the attached Schedules of Tariff Rates and Articles 50 (4), 65, 67-2, 68, 70 through 73 and 76, any person who intends to use such goods for the purpose of a lower tariff rate shall obtain approval from the head of customhouse as prescribed by the Presidential Decree: *Provided*, That the same shall not apply to a case where the nature and form of such goods make it impossible to use them for other purpose.

(2) The goods to which a lower tariff rate (hereinafter referred to as "usage tariff rate") is applied in accordance with paragraph (1) shall not be used for any purpose other than the relevant purpose or be transferred to other persons for a period fixed by the Commissioner of the Korea Customs Service according to the standards set by the Presidential Decree within the limit of three years from the day on which the import declaration thereon was accepted: *Provided*, That the same shall not apply to the case falling under each of the following subparagraphs:

1. Where prior approval is obtained from the head of a customhouse as prescribed by the Presidential Decree; and
2. Where the goods fall under the proviso of paragraph (1).

(3) In the event that the goods are used for other purpose than the relevant purpose or the goods are transferred to any person who intends to use such goods for other purpose than the relevant purpose within a period fixed in paragraph (2), a duty amount equivalent to a difference between a duty amount calculated based on a tariff rate that does not require the relevant goods to be used for the specific purpose and a duty amount calculated based on the relevant usage tariff rate shall be promptly collected from the person who uses the relevant goods for other purpose than the specific purpose or a transferor. If it is impossible to collect the relevant duty amount from a transferor, such duty amount shall be collected from a transferee: *Provided*, That the same shall not apply to a case where the goods are destroyed or lost due to a natural calamity or *force majeure*, or disposed of upon prior approval obtained from the head of any customhouse.

### SECTION 4 Tariff Classification

#### ■ Article 84 (Modification of Tariff Classification System)

In the event that the need for modifying the tariff classification prescribed by the Presidential Decree in accordance with the attached Schedules of Tariff Rates or Article 73 or 76 arises from a recommendation or a decision made by the Customs Cooperation Council under the International Convention on the Harmonized Commodity Description and Coding System, or the development of new commodities, etc. and the tariff rates thereon are not reset, the Minister of Finance and Economy may make a new tariff classification or classify again tariffs as prescribed by the Presidential Decree.

■ **Article 85 (Standards for Applying Tariff Classification)**

(1) The Commissioner of the Korea Customs Service may set standards necessary for applying the tariff classification as prescribed by the Presidential Decree.

(2) The Korea Customs Service shall establish a Tariff Classification Committee (hereinafter referred to as the "Committee") mandated to deliberate on matters falling under each of the following subparagraphs:

1. Standards for applying the tariff classification referred to in paragraph (1);
2. Prior examination of a tariff classification applied to specific goods under Article 86;
3. Modification of a tariff classification applied to specific goods under Article 87; and
4. Other matters brought up by the Commissioner of the Korea Customs Service with respect to the tariff classification.

(3) The Commissioner of the Korea Customs Service may create working-level committees in the Committee to efficiently operate the Committee.

(4) Necessary matters concerning the composition, function and operation, etc. of the Committee and the working-level committees established pursuant to paragraph (3) shall be determined by the Presidential Decree.

■ **Article 86 (Prior Examination of Tariff Classification Applied to Specific Goods)**

(1) Any person who intends to import or export goods, or any licensed customs broker, any corporate customs broker, or any customs clearance broker corporation under the Licensed Customs Broker Act (hereinafter referred to as "licensed customs broker, etc.") may file a request, appended with documents prescribed by the Presidential Decree, to the Commissioner of the Korea Customs Service for a prior examination of the tariff classification on the attached Schedules of Tariff Rates to be applied to the relevant goods prior to filing an export or import declaration under Article 241 (1).

(2) The Commissioner of the Korea Customs Service shall, upon receiving the request referred to in paragraph (1), examine the tariff classification to be applied to the relevant goods and notify the applicant of the results thereof: *Provided*, That if it is difficult to investigate such tariff

classification due to the insufficiency, etc. of documents submitted, a notice thereof shall be served on the applicant.

(3) With respect to goods for which an examination of the tariff classification is made under paragraph (2), the Commissioner of the Korea Customs Service shall publish the tariff classification to be applied to the relevant goods, the name of such goods, the purpose of use, standard and other necessary matters: *Provided*, That if the publication of any tariff classification to be applied to any goods is deemed inappropriate, such tariff classification shall not be published.

(4) The head of any custom-house shall, when any goods on which an import or export declaration is filed under Article 241 (1) are identical to the goods in relation to which a notice referred to in paragraph (2) is served, apply a tariff classification according to the contents of such notice to the former.

(5) The Commissioner of the Korea Customs Service may, if it is necessary to analyze physically and chemically component materials of the relevant goods to examine a tariff classification under paragraph (2), require any person who files an examination request to pay fees fixed by the Ordinance of the Ministry of Finance and Economy.

■ **Article 87 (Modification of Tariff Classification Applied to Specific Goods)**

(1) The Commissioner of the Korea Customs Service may, when it is necessary to modify a tariff classification examined under Article 86 and unavoidable grounds arise for him to modify a tariff classification *ex officio*, modify such tariff classification to be applied to the relevant goods.

(2) The Commissioner of the Korea Customs Service shall, when he modifies any tariff classification under paragraph (1), publish contents thereof and serve a notice of modified contents on the applicant who was notified under Article 86 (2).

(3) The Commissioner of the Korea Customs Service may, when he modifies a tariff classification under paragraph (2) and the application of a pre-modification tariff classification to goods loaded for their export to Korea prior to the expiration of 30 days from the day on which such tariff classification is modified is advantageous to a person who files an import declaration thereon, apply such pre-modification tariff classification to such goods.

**CHAPTER IV DUTY REDUCTION**

**OR EXEMPTION, REFUND**

**AND INSTALLMENT PAYMENT**

**SECTION 1 Reduction or Exemption of Customs Duties**

■ **Article 88 (Exemption from Customs Duties for Goods Used by Diplomats)**

(1) The import of goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Goods used by foreign embassies, legations and other institutions corresponding to them for their official business in Korea;
2. Goods used by foreign ambassadors, ministers, other diplomats corresponding to them and their families in Korea;
3. Goods used by foreign consulates and other institutions corresponding to them for their official business in Korea;
4. Goods used by staffs and their families prescribed by the Presidential Decree from among staffs of foreign embassies, legations, consulates and staffs of other institutions corresponding to them and their families in Korea;
5. Goods imported by any foreign contractor under the terms of any contract entered into between such foreign contractor and the Government to undertake any project; and
6. Goods used by any adviser and technician sent by any international organization and any foreign government to the Government and other persons prescribed by the Ordinance of the Ministry of Finance and Economy.

(2) No one shall obtain by transfer goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods whose customs duties are exempted in accordance with paragraph (1) to use them for other purpose than the purpose described in paragraph (1) for a period fixed by the Commissioner of the Korea Customs Service according to the standard set by the Presidential Decree within the limit of 3 years from the day on which an import declaration thereon was accepted: *Provided*, That the same shall not apply to a case where prior approval therefor is obtained from the head of any customhouse as prescribed by the Presidential Decree.

(3) In the event that goods prescribed by the Ordinance of the Ministry of Finance and Economy under paragraph (2) are transferred for using them for other purpose than the purpose described in paragraph (1) within the period described in paragraph (2), customs duties exempted therefrom shall be promptly collected from a transferee.

**■ Article 89 (Reduction or Exemption of Customs Duties for Correction of Unbalanced Tariff Rates)**

(1) Customs duties may be reduced or exempted on goods prescribed by the Ordinance of the Ministry of Finance and Economy from among parts and raw materials (including the portion of parts and raw materials imported after having been exported to be repaired and processed abroad) used to manufacture or repair goods falling under each of the following subparagraphs at any factory designated by the head of any customhouse under the conditions as prescribed by the Presidential Decree in order to correct unbalanced tariff rates:

1. Aircraft (including parts); and

2. Equipment used to manufacture semiconductors (including accessory machinery thereof).

(2) In the event that customs duties are reduced or exempted under paragraph (1), their rate shall be determined by the Ordinance of the Ministry of Finance and Economy.

(3) The designation period of any factory referred to in paragraph (1) shall be fixed within three years and such period may be extended upon a request from the designated.

(4) The provisions of Articles 180 (2), 182 and 187 shall apply *mutatis mutandis* to any factory designated under paragraph (1).

■ **Article 90 (Reduction or Exemption of Customs Duties for Goods Used for Scientific Research)**

(1) Customs duties may be reduced or exempted on imported goods falling under each of the following subparagraphs:

1. Goods which are prescribed by the Ordinance of the Ministry of Finance and Economy and used by State organs, local governments and other institutions prescribed by the Ordinance of the Ministry of Finance and Economy for the purpose of scientific research, education, experiments and practices;

2. Samples, reference materials, books, records, recorded tapes, recorded slides, exposed films, reagents and other goods and materials similar to them used by schools, public medical institutions, public vocational training institutions, museums and other institutions corresponding to them, which are prescribed by the Ordinance of the Ministry of Finance and Economy;

3. Goods which are prescribed by the Ordinance of the Ministry of Finance and Economy from among goods used by the institutions described in subparagraph 2 for the purpose of scientific research, education, training, experiments and practices, and scientific and technological research;

4. Goods which are donated by foreign nations to be used by the institutions described in paragraph 2 for the purpose of scientific research, education, training, experiments and practices, and scientific and technological research: *Provided*, That any goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded; and

5. Goods which are prescribed by the Ordinance of Finance and Economy and imported by any person prescribed by the Ordinance of the Ministry of Finance and Economy for the purpose of the research and development of industrial technology.

(2) If customs duties are reduced or exempted in accordance with paragraph (1), the reduction and exemption rate thereof shall be determined by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 91 (Exemption from Customs Duties for Goods for Religion, Charity and Disabled)

The imported goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Goods donated by foreign nations to churches, temples and religious organizations for their services: *Provided*, That any goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded;
2. Goods donated for the purpose of charity and relief, and goods donated to charity and relief establishments or social welfare establishments prescribed by the Ordinance of the Ministry of Finance and Economy, which are used directly for their purposes : *Provided*, That any goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded;
3. Goods donated by the International Foundation of the Red Cross, foreign Red Cross associations and international organizations prescribed by the Ordinance of the Ministry of Finance and Economy for the purpose of international peace service activities or international amity activities;
4. Goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods specially made or manufactured for use by the disabled in eyesight, hearing and speech, the physically disabled and chronic renal failure patients, etc.; and
5. Medical appliances used by welfare establishments for the disabled under Article 48 of the Welfare of Disabled Persons Act and rehabilitation and medical institutions run by the State, local governments or social welfare corporations for the purpose of medical examination and treatment of the disabled.

#### ■ Article 92 (Exemption from Customs Duties for Goods Used by Government)

The imported goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Goods donated to the State organs or local governments for official use: *Provided*, That any goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded;
2. Military goods imported by the Government (including a case where any person other than the Government imports such military goods on commission of the Government) and goods used for the security service for the head of state: *Provided*, That any goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded;
3. Goods returned by military forces stationed abroad and overseas diplomatic missions, which were used for official business;

4. Goods imported for the purpose of emergency communications and radio wave control upon the recognition of the Minister of Information and Communication that such goods are critically necessary for the national security;
5. Publications, records, recorded tapes, recorded slides, exposed films and other similar goods and materials imported directly by the Government;
6. Goods prescribed by the Ordinance of the Ministry of Finance and Economy from among machinery and appliances, etc. imported by the State or local governments (including corporations established, invested or contributed by the State or local governments) to measure or analyze environmental pollution (including noise and vibration);
7. Goods which are prescribed by the Ordinance of the Ministry of Finance and Economy and imported by the State and local governments (including corporations established, invested or contributed by the State or local governments) to measure, conserve or improve the quality of drinking water; and
8. Goods imported by the head of the National Intelligence Service or any person entrusted by the head of the National Intelligence Service judged as critically necessary for the national security.

■ **Article 93 (Exemption from Customs Duties for Specific Goods)**

The imported goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods to be used for breeding animals and plants and improving seeds;
2. Goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods imported by participants for their display in expositions, international sports events and other similar events prescribed by the Ordinance of the Ministry of Finance and Economy;
3. Goods prescribed by the Ordinance of the Ministry of Finance and Economy as being difficult to be manufactured in Korea from among machinery, equipment and components needed to ensure the safe takeoff, landing and flight of airplanes as well as the safety of passengers, machinery and equipment required for ground repair services and equipment needed to train crews;
4. Goods which are donated by foreign nations and prescribed by the Ordinance of the Ministry of Finance and Economy for the purpose of restoration and rescue in case of a nuclear accident or a radioactive emergency;
5. Fish and marine life (including fishery products processed or manufactured using such fish and marine life in Korean fishing boats; hereafter in this Article the same shall apply) collected or caught by Korean fishing boats in the territorial waters of any foreign nation upon a fishing permit granted by the government of such foreign nation;

6. Fish and marine life collected or caught by any Korean fishing boat in cooperation with any foreign fishing boat, on the recommendation of the Minister of Maritime Affairs and Fisheries, in a manner prescribed by the Ordinance of the Ministry of Finance and Economy;
7. Fish and marine life which are recommended by the Minister of Maritime Affairs and Fisheries after consulting with the Minister of Finance and Economy from among fish and marine life that any person collects or catches through a joint venture with any foreigner, upon a fishing permit of the Minister of Maritime Affairs and Fisheries, in a manner in conformity with the requirements prescribed by the Ordinance of the Ministry of Finance and Economy;
8. Goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods that are impossible to be recycled and used to pack fish and marine life collected or caught by Korean fishing boats, etc. and other fish and marine life referred to in subparagraphs 6 and 7;
9. Goods which are in conformity with the requirements prescribed by the Ordinance of the Ministry of Finance and Economy to be used as raw materials for a pilot production designed to determine whether machinery and appliances manufactured by any domestic small and medium enterprise under Article 2 of the Framework Act on Small and Medium Enterprises, upon an order from a foreign buyer, are in conformity with specifications and functions required by such foreign buyer;
10. Goods of any visiting foreign head of state, his family and entourage members;
11. Parts and equipment used to dismantle any Korean ship or transportation means which is wrecked;
12. Goods required to construct, lay or repair bridges, communications facilities and undersea tunnels and other facilities corresponding to them linking Korea with foreign nations;
13. Goods prescribed by the Ordinance of the Ministry of Finance and Economy as labels used to put on export goods, indicating that such export goods are in conformity with conditions such as quality, standard and safety, etc. required by the competent agency of any importing nation;
14. Goods imported as parts used to restore damage caused by an accident to any Korean ship or aircraft abroad at the expense of any foreign insurance company or any foreign offender;
15. Goods imported as parts used to repair the breakdown of any Korean ship or aircraft, which is caused by an accident abroad during a defect repair period specified in a sales contract at the expense of any foreign seller; and
16. Goods which are prescribed by the Ordinance of the Ministry of Finance and Economy and imported as sporting goods (including their components) for the Olympics Games and the Asian Games.

17. Materials needed to construct, maintain and ornament national cemeteries and funeral goods used to make coffins of those who are buried in national cemeteries and the boxes of remains; and

18. Personal belongings of any predecessor that are inherited to any person residing in Korea following the death of such predecessor.

■ **Article 94 (Exemption from Customs Duties for Small-Sum Goods)**

The imported goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Decorations, badges or citations corresponding to them and medals awarded to residents in Korea;
2. Records and other documents;
3. Goods prescribed by the Ordinance of the Ministry of Finance and Economy as commercial samples or advertising materials; and
4. Goods prescribed by the Ordinance of the Ministry of Finance and Economy as small-sum goods received by residents in Korea.

■ **Article 95 (Reduction or Exemption of Customs Duties for Goods Used to Prevent Environmental Pollution)**

(1) Customs duties may be reduced or exempted on imported goods falling under each of the following subparagraphs, which are difficult to be manufactured in Korea:

1. Machinery, appliances, facilities and equipment prescribed by the Ordinance of the Ministry of Finance and Economy as goods used to prevent emission of pollutants or treat pollutants (including noise and vibration);
2. Machinery and appliances prescribed by the Ordinance of the Ministry of Finance and Economy as goods used to treat wastes (including the case of recycling);
3. Machinery and appliances prescribed by the Ordinance of the Ministry of Finance and Economy as goods used to prevent any industrial disaster or any occupational disease;
4. Factory automation machines, facilities and equipment (including its component appliances) and their key parts prescribed by the Ordinance of the Ministry of Finance and Economy which are operated by electronic machinery technology, electronic technology, and data-processing technology; and
5. Goods falling under each of the following subparagraphs, which are required by the defense industry:

- (a) Facilities, machinery and basic installations required by the defense industry;
  - (b) Components and raw materials used to manufacture, process, repair or upgrade goods (including any police patrol boat and goods installed therein) required by the defense industry; and
  - (c) Goods and samples used to test and analyze for the purpose of research and development of goods (including any police patrol boat and goods installed therein) required by the defense industry.
- (2) If customs duties are reduced or exempted in accordance with paragraph (1), a period and rate for such duty reduction and exemption shall be fixed by the Ordinance of the Ministry of Finance and Economy.

■ **Article 96 (Exemption from Customs Duties for Travelers' Personal Effects, etc.)**

The imported goods falling under each of the following subparagraphs shall be exempt from customs duties:

1. Goods carried by hand or sent separately by any traveler, which the head of any customhouse deems appropriate taking into account his entry purpose, stay period and occupation and other circumstances according to the standards prescribed by the Ordinance of the Ministry of Finance and Economy;
2. Household goods imported by any person who enters into Korea for the purpose of moving his residence to the country, which the head of any customhouse deems appropriate taking into account the reason for shifting his residence, his residential period, occupation, family members and other circumstances according to standards prescribed by the Ordinance of the Ministry of Finance and Economy; and
3. Goods carried by hand by crew of any foreign trade ship and trade aircraft unto Korea, which the head of any customhouse deems appropriate taking into account the number of navigation days, their stay period and other circumstances: *Provided*, That goods prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded.

■ **Article 97 (Exemption from Customs Duties for Reexport)**

(1) With respect to goods which are reexported within the period falling under each of the following subparagraphs from the day on which an import declaration thereon was accepted, customs duties thereon may be exempted;

1. Goods prescribed by the Ordinance of the Ministry of Finance and Economy: A period fixed by the head of any customhouse according to the criteria set by the Presidential Decree within the limit of one year: *Provided*, That the head of such customhouse may, when unavoidable grounds are deemed in existence, extend such period within the limit of one year; and

2. Goods prescribed by the Ordinance of the Ministry of Finance and Economy as goods that have to be reexported after the expiration of one year for unavoidable grounds: A period fixed by the head of any customhouse.

(2) Goods whose customs duties are exempted in accordance with paragraph (1) shall not be used for other purpose than the purpose prescribed in the same paragraph or transferred within a period fixed in the same paragraph: *Provided*, That the same shall not apply to a case where approval therefor is obtained in advance from the head of any customhouse as prescribed by the Presidential Decree.

(3) In the case falling under each of the following subparagraphs, exempted customs duties shall be promptly collected from any person who has failed to reexport such goods, used such goods for other purpose or transferred such goods. If it is impossible to collect such exempted customs duties from a transferor, the exempted customs duties in question shall be collected from a transferee: *Provided*, That the same shall not apply to a case where the goods in question are destroyed or lost due to a natural calamity or *force majeure*, or disposed of upon prior approval of the head of any customhouse:

1. Where the goods whose customs duties are exempted in accordance with paragraph (1) are not reexported within the period fixed in the same paragraph; and

2. Where the goods are used for other purpose than the purpose prescribed in paragraph (1) or are transferred to any person who intends to use them for other purpose.

(4) If goods prescribed by the Ordinance of the Ministry of Finance and Economy from among the goods whose customs duties are exempted in accordance with paragraph (1) are not reexported within the period fixed in the same paragraph, the head of any customhouse may collect an amount set by the Presidential Decree taking into account the kind and dutiable value of the goods as an additional duty within the limit of not exceeding five million won.

#### ■ Article 98 (Reduction or Exemption of Customs Duties for Reexport)

(1) If goods prescribed by the Ordinance of the Ministry of Finance and Economy from among goods which are usable for a long period of time and were imported for temporal use in Korea under a lease contract or in connection with the effectuation of a work contract are reexported within two years (referring to a period fixed by the head of any custom-house according to the standards prescribed by the Presidential Decree within the limit of four years, with respect to goods, from among goods set by the Ordinance of the Ministry of Finance and Economy, which need to be used for a long period of time and for which approval therefor is obtained from the head of any customhouse before they were imported) from the day on which an import declaration thereon was accepted, customs duties may be reduced on such goods as prescribed by the Presidential Decree: *Provided*, That customs duties shall be exempted on goods imported according to mutual terms and conditions stipulated in a treaty or a convention, etc.

(2) The provisions of Article 97 (2) through (4) shall apply *mutatis mutandis* to any goods whose customs duties are reduced or exempted in accordance with paragraph (1).

#### ■ Article 99 (Exemption from Customs Duties for Reimport)

If goods falling under each of the following subparagraphs are imported, customs duties thereon may be exempted as prescribed by the Presidential Decree:

1. Goods exported by Korea (including the bonded processing exports) which are reimported within two years from the day on which an export declaration was accepted: *Provided*, That the same shall not apply to a case falling under each of the following items:

(a) Where customs duties are reduced or exempted on the relevant goods or raw materials;

(b) Where a refund is given under this Act or the Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Export; and

(c) Where no customs duties are levied as bonded processing goods or other goods whose storage period expires are sold on condition that they are reexported;

2. Containers of export goods which are reimported; and

3. Goods which are reimported after being exported for the purpose of overseas test and research.

#### ■ Article 100 (Reduction of Customs Duties for Damage)

(1) If goods are changed qualitatively or damaged before an import declaration thereon is accepted, customs duties thereon may be reduced as prescribed by the Presidential Decree.

(2) In the event that customs duties are additionally imposed on goods whose customs duties have been reduced or exempted in accordance with this Act, other Acts, a treaty or a convention, if such goods are changed qualitatively or damaged or their use depreciates their value, such additional customs duties may be reduced as prescribed by the Presidential Decree: *Provided*, That in case of Article 104 (6), such customs duties may be reduced only when the relevant goods are changed qualitatively or damaged by a calamity or *force majeure*.

#### ■ Article 101 (Reduction of Customs Duties for Overseas Wage- Processed Goods)

(1) Customs duties may be reduced on imported goods falling under each of the following subparagraphs as prescribed by the Presidential Decree:

1. Goods, prescribed by the Ordinance of the Ministry of Finance and Economy, which are manufactured or processed abroad using domestic raw materials and components exported for such purpose; and

2. Goods exported for the purpose of processing or repairing, which are in conformity with the standards prescribed by the Ordinance of the Ministry of Finance and Economy.

(2) In case of paragraph (1), if customs duties are reduced or exempted on the relevant goods or raw materials, any customs duties are refunded under this Act or the Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Export or no customs duties are levied on any bonded processing goods or other goods whose storage period expires as such goods are sold on condition that they are reexported, no customs duties thereon shall be reduced.

■ **Article 102 (Post Management of Goods Granted Reduction or Exemption of Customs Duties)**

(1) Any goods whose customs duties are reduced or exempted under Articles 89 through 91, 93 and 95 shall not be used or transferred (including any lease) for other purpose than the purpose for which such customs duties are reduced or exempted within a period fixed by the Commissioner of the Korea Customs Service according to the standards set by the Presidential Decree within the limit of three years from the day on which an import declaration was accepted: *Provided*, That the same shall not apply to any goods prescribed by the Ordinance of the Ministry of Finance and Economy and other goods for which prior approval is obtained from the head of any customhouse as prescribed by the Presidential Decree.

(2) In the case falling under each of the following subparagraphs, reduced or exempted customs duties shall be promptly collected from any person who uses the relevant goods for other purpose or a transferor (including any lessor; hereafter the same shall apply). If it is impossible to collect such reduced or exempted customs duties from such transferor, the reduced or exempted customs duties shall be collected from a transferee (including any lessee; hereafter the same shall apply): *Provided*, That the same shall not apply to a case where the relevant goods are destroyed or lost by a calamity or *force majeure*, or disposed of upon prior approval of the head of any customhouse:

1. Where the goods whose customs duties are reduced or exempted in accordance with paragraph (1) are used for other purpose within the period fixed in paragraph (1); and
2. Where the goods whose customs duties are reduced or exempted in accordance with paragraph (1) are transferred to a person who intends to use them for other purpose within the period fixed in paragraph (1).

■ **Article 103 (Use of Goods Granted Reduction or Exemption of Customs Duties for Other Purpose)**

(1) In the event that any goods whose customs duties are reduced or exempted in accordance with Acts and subordinate statutes, a treaty or a convention, etc. are used for other purpose than the purpose for which such customs duties are reduced or exempted or such goods are transferred to any person who intends to use them for other purpose than the purpose for which such customs duties are reduced or exempted (limited to a case where any person who uses the relevant goods

for other purpose or any other person acquires by transfer the relevant goods to use them for other purpose imports such goods to use them for other purpose, and customs duties are reduced or exempted on the goods in accordance with Acts and subordinate statutes, a treaty or a convention, etc.), the customs duties which have to be collected in accordance with the provisions of Article 83 (3), 88 (3), 97 (3), 98 (2), 102 (2), 104 (6) or 109 (2) may be reduced or exempted as prescribed by the Presidential Decree: *Provided*, That the same shall not apply to a case where any reduced or exempted duty is collected in accordance with other Acts and subordinate statutes than this Act, a treaty or a convention, etc.

(2) Notwithstanding the provisions of Articles 98 (2) and 102 (1), any goods whose customs duties are reduced or exempted in accordance with Article 90, 93, 95 or 98 may be transferred to any company affiliated with a major business group under subparagraph 3 of Article 2 of the Act on the Protection of the Business Sphere of Small and Medium Enterprises and Promotion of Their Cooperation. In this case, the customs duties that have to be collected in accordance with Articles 98 (2) and 102 (2) may be reduced or exempted: *Provided*, That the same shall not apply to a case where any reduced or exempted customs duties are collected in accordance with other Acts and subordinate statutes than this Act, a treaty and a convention, etc.

(3) In the event that the customs duties are reduced or exempted in accordance with paragraphs (1) and (2), the post management period for any goods whose customs duties are reduced or exempted shall be computed beginning the day on which an initial import declaration thereon is accepted.

#### ■ Article 104 (Reduction or Exemption and Refund of Customs Duties for Raw Materials Used for Export Goods)

(1) Customs duties on any goods falling under each of the following subparagraphs may be exempted on condition that such goods are exported, sold or used for any construction work within a period fixed in paragraph (3) from the day on which an import declaration thereon is accepted as prescribed by the Presidential Decree: *Provided*, That customs duties levied on the goods prescribed by the Presidential Decree may be refunded or reduced:

1. Raw materials used to manufacture and process export goods;
2. Goods sold in foreign currency in Korea or raw materials used to manufacture or process such goods as prescribed by the Ordinance of the Ministry of Finance and Economy; and
3. Goods used for any construction work, the cost of which is paid in foreign currency.

(2) In the event that goods whose customs duties are paid at the time of their import are used for the purpose described in paragraph (1) (including a case where goods are reexported abroad after going through bonded processing), such customs duties shall be refunded within the limit of the amount of the customs duties paid as prescribed by the Presidential Decree.

(3) Any goods whose customs duties are reduced or exempted in accordance with paragraph (1) shall be exported, sold or the construction work using such goods shall be completed within one year from the day on which an import declaration thereon was accepted: *Provided*, That in the event that it is unable to reexport or sell the goods or complete the construction work using such goods within one year due to a cause for which an exporter, an importer or a contractor is not responsible, the period may be extended as prescribed by the Presidential Decree. In the event that the manufacturing or processing of the goods or the construction work using such goods requires a longer period of time, such period may be prescribed separately by the Presidential Decree.

(4) The provisions of Articles 46 through 48 shall apply *mutatis mutandis* to any refund of customs duties under paragraphs (1) and (2).

(5) Goods whose customs duties are reduced or exempted in accordance with paragraph (1) and other goods manufactured or processed using such goods shall not be used for other purpose than the purpose described in paragraph (1) or transferred within a period fixed in paragraph (3) from the day on which an import declaration thereon is accepted: *Provided*, That the same shall not apply to a case where approval therefor is obtained in advance from the head of any customhouse as prescribed by the Presidential Decree.

(6) If the goods whose customs duties are reduced or exempted in accordance with paragraph (1), or other goods manufactured or processed using such goods are not used for the relevant purpose or transferred to any person who intends to use them for other purpose than the relevant purpose within a period fixed in paragraph (3), the reduced or exempted customs duties shall be promptly collected: *Provided*, That the same shall not apply to a case where the goods are destroyed or lost by a calamity or *force majeure* or disposed of upon prior approval therefor of the head of any customhouse.

#### ■ Article 105 (Reduction or Exemption of Customs Duties for Facility Lease Operator)

(1) In the event that any facility lease operator under the Specialized Credit Financial Business Act imports goods whose customs duties are reduced or exempted, or paid in installments under the provisions of this Act, notwithstanding the provisions of Article 19, a user of the leased facility may be made a person liable for duty payment and allowed to file an import declaration. In this case, the person liable for duty payment shall be the user of the leased facility.

(2) In the event that customs duties are imposed on the goods whose customs duties are reduced or exempted, or approval is granted for paying such customs duties in installments in accordance with paragraph (1), and such customs duties can not be collected from the user of the leased facility who is a person liable for duty payment, the customs duties in question shall be collected from the facility lease operator.

## SECTION 2 Refund and Customs

### Duties Payment in Installments

#### ■ Article 106 (Refund of Customs Duties for Goods, etc. Different from Contract Contents)

(1) In the event that imported goods whose import declaration is accepted are different from contents of a contract and their nature and form remain unchanged from the time that an import declaration thereon is filed, and such goods are shipped into a bonded area (including any place for which approval is obtained from the head of any customhouse by applying *mutatis mutandis* the provisions of Article 156 (1); hereafter the same shall apply in this Article) for their export within one year from the day on which an import declaration thereon was accepted, customs duties collected thereon shall be refunded when they are exported.

(2) In the event that the head of any customhouse recognizes no problem with calculating a refund amount of customs duties imposed on the imported goods referred to in paragraphs (1) and grants approval for such amount of duty refund, such amount may be refunded in accordance with paragraph (1) even when part of such goods is exported.

(3) In the event that the disposal of the imported goods referred to in paragraphs (1) and (2) is deemed inevitable instead of exporting them and such imported goods are shipped into a bonded area within one year from the day on which an import declaration thereon was accepted and then disposed of upon prior approval of the head of any customhouse, customs duties thereon shall be refunded.

(4) In the event that goods whose import declaration is accepted are destroyed or lost by a calamity, changed qualitatively or damaged bringing down their value, while being kept stored in a designated bonded area after such import declaration was accepted, customs duties thereon may be refunded, in whole or in part, as prescribed by the Presidential Decree.

(5) In applying paragraphs (1) through (4), if customs duties are not imposed on the relevant goods on the grounds that such goods are in a collection deferment period or in an installment payment period, the head of any customhouse may cancel the imposition of customs duties.

(6) The provisions of Articles 46 through 48 shall apply *mutatis mutandis* to the refund of any customs duties described in paragraphs (1) through (4).

#### ■ Article 107 (Payment of Customs Duties in Installments)

(1) The head of any customhouse may, when any declaration, any application, any request, the submission of documents, any notice, any payment or any collection, all prescribed in this Act, are deemed impossible to make within a fixed time limit due to a natural disaster, a calamity or other grounds prescribed by the Presidential Decree, allow the payment of any customs duties in installments as prescribed by the Presidential Decree within a period of not more than one year.

(2) The head of any customhouse may, when goods falling under each of the following subparagraphs are imported, allow the payment of their customs duties in installments within a fixed period of not more than five years as prescribed by the Presidential Decree:

1. Goods, published by the Minister of Finance and Economy, which include facilities and machinery, etc. basic installations, construction raw materials, structures and equipment used for construction work: *Provided*, That goods required by business types prescribed by the Ordinance of the Ministry of Finance and Economy shall be excluded;

2. Goods, prescribed by the Ordinance of the Ministry of Finance and Economy, which are imported by the Government or local governments;

3. Goods, prescribed by the Ordinance of the Ministry of Finance and Economy, which are imported by schools and occupational training institutions, and are imported by nonprofit corporations for public-interest projects;

4. Goods, published by the Minister of Finance and Economy, which are imported by medical institutions, social welfare institutions and establishments prescribed by the Ordinance of the Ministry of Finance and Economy;

5. Goods, published by the Minister of Finance and Economy, which are imported by research institutes attached to companies, industrial technology research associations, nonprofit research institutions and similar research institutions prescribed by the Ordinance of the Ministry of Finance and Economy for the research and development of technology and for the experiments and practices;

6. Goods, prescribed by the Ordinance of the Ministry of Finance and Economy, which are imported by small manufacturing firms for their direct use: *Provided*, That such goods shall be in conformity with the standards prescribed by the Ordinance of the Ministry of Finance and Economy; and

7. Goods, published by the Minister of Finance and Economy, from among goods imported by occupational training institutes attached to companies prescribed by the Ordinance of the Ministry of Finance and Economy, which are difficult to be manufactured in Korea, for their direct use of occupational training, education, experiments and practices.

(3) If any person who has been granted approval for payment of his customs duties in installments under paragraph (2) intends to modify the purpose of use of the relevant goods or to transfer them, he shall obtain approval therefor from the head of any customhouse beforehand.

(4) In the event that any corporation, which has been granted approval for payment of its customs duties in installments, is merged, divided, merged after dividing itself, dissolved or declared bankrupt, or any person, who is granted approval for payment of his customs duties in installments, is declared bankrupt, any person liable for duty payment under paragraphs (6) through (8) shall promptly file a report with the head of any customhouse with respect to the reasons therefor.

(5) In the event that goods on which approval has been granted for payment of customs duties in installments are transferred to any person who intends to use them for the same purpose, a

transferee of such goods shall pay such customs duties. If such goods are transferred to any person who intends to use them for other purpose, a transferor of such goods shall pay such customs duties. In this case, if it is unable to collect such customs duties from the transferor, the customs duties in question shall be collected from the transferee.

(6) If a corporation that has been granted approval for payment of customs duties in installments is merged, divided or merged after dividing itself, any corporation that survives after a merger, a division or a merger after division or any other corporation that is incorporated by a merger, a division or a merger after division shall jointly pay such customs duties.

(7) In the event that any person who has been granted approval for payment of customs duties in installments is declared bankrupt, a bankruptcy trustee thereof shall pay such customs duties.

(8) If any corporation that has been granted approval for payment of customs duties in installments is dissolved, a liquidator thereof shall pay such customs duties.

(9) In the case falling under each of the following subparagraphs, the whole amount of unpaid customs duties shall be promptly collected:

1. Where goods on which approval has been granted for payment of customs duties in installments are used for other purpose than the relevant purpose within a period fixed in paragraph (2) or transferred to any person who intends to use them for other purpose than the relevant purpose;

2. Where any customs duties are not paid by a given time limit: *Provided*, That the same shall not apply to a case where the Commissioner of the Korea Customs Service recognizes the existence of unavoidable grounds therefor;

3. Where a bankruptcy is declared; and

4. Where any corporation is dissolved.

#### ■ Article 108 (Pledging of Security and Post Management)

(1) With respect to goods whose customs duties have been reduced or exempted, or allowed to be paid in installments in accordance with this Act, other Acts and subordinate statutes, a treaty or a convention, etc. as prescribed by the Commissioner of the Korea Customs Service within the limit prescribed by the Presidential Decree, the head of any custom-house may, when it is deemed necessary, require security equivalent to the amount of such customs duties reduced or exempted or the amount of such customs duties paid in installments at the time of import of such goods.

(2) Any person who has been granted approval for the application of usage tariff rates, the reduction or exemption of customs duties or the payment of customs duties in installments in accordance with this Act, other Acts and subordinate statutes, a treaty or a convention, etc. shall furnish documents necessary to confirm the execution of the relevant terms to the head of any customhouse under the conditions as prescribed by the Presidential Decree.

(3) The Commissioner of the Korea Customs Service may, when it is deemed necessary to confirm the execution of the terms referred to in paragraph (2), entrust matters concerning the post management of the relevant goods to the minister of the competent ministry under the conditions as prescribed by the Presidential Decree.

(4) In the application of this Act, when any goods whose usage tariff rates have been applied or customs duties have been reduced or exempted are exported upon approval of the head of any customhouse, such goods shall not be deemed used for other purpose and their post management shall be terminated: *Provided*, That if goods which are given the application of usage tariff rates and the reduction or exemption of customs duties are reimported after having been exported for the purpose of processing or repairing them or other goods whose customs duties are reduced or exempted under subparagraph 3 of Article 99 or Article 101 (1) 2 when they are reimported after having been exported for the purpose of overseas tests and research, the post management thereof shall continue.

#### ■ Article 109 (Collection of Customs Duties Reduced or Exempted under Other Acts and Subordinate Statutes)

(1) In the event that any person intends to use goods whose customs duties have been reduced or exempted under Acts and subordinate statutes, a treaty or a convention, etc. other than this Act for other purpose than the purpose prescribed by the relevant Acts and subordinate statutes, a treaty or a convention, or intends to transfer them to other person who intends to use them for other purpose than the relevant purpose within five years from the day on which an import declaration thereon was accepted, he shall obtain the confirmation thereof from the head of any customhouse: *Provided*, That the same shall not apply to a case where the relevant Acts and subordinate statutes, a treaty and a convention, etc. have the provisions requiring the exemption of collecting the relevant customs duties when the goods are used for other purpose or transferred to any person who intends to use them for other purpose.

(2) With respect to goods that require a confirmation of the head of any customhouse under paragraph (1), reduced or exempted customs duties thereon shall be collected from a person who has used the relevant goods for other purpose than the relevant purpose or a person who has transferred such goods. If it is unable to collect such customs duties from a transferor, the customs duties in question shall be promptly collected from a transferee: *Provided*, That the same shall not apply to a case where the goods are destroyed or lost due to a calamity or *force majeure*, or disposed of upon prior approval of the head of any custom-house.

### CHAPTER V RIGHT OF DUTY PAYER

#### AND PROCEDURES FOR FILING OBJECTION

##### SECTION 1 Right of Duty Payer

#### ■ Article 110 (Formulation of Duty Payer Right Charter and Delivery)

(1) The Commissioner of the Korea Customs Service shall formulate and publish a duty payer right charter covering matters prescribed in Articles 111 through 117 and other matters relating to the protection of the rights of duty payers.

(2) In the case falling under each of the following paragraphs, any customs officer shall hand any duty payer a document carrying the duty payer right charter:

1. Where an investigation is launched into an offence case involving an evasion of customs duties, an illegal reduction or exemption of customs duties or an illegal refund of customs duties (including any illegal refund of customs duties under Article 23 (1) of the Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Export) in accordance with Article 270;

2. Where any customs officer visits any duty payer to take a disposition for levying customs duties, including an investigation necessary to determine or correct customs duties (hereafter in this Section referred to as "customs duty examination"); and

3. Where the Presidential Decree prescribes.

(3) Any customs officer, when it is necessary to urgently arrest any duty payer, seize or search goods, or it is deemed unable to achieve his investigation objective unless a flagrant offender is arrested, may decide not to hand such payer or offender the duty payer right charter.

#### ■ Article 111 (Prohibition on Repetitious Investigation)

Any customs officer shall be prohibited from reinvestigating the same person who has been investigated in connection with the relevant case except the case falling under each of the following subparagraphs:

1. Where there is hard evidence corroborating the suspect of duty evasion, etc.;

2. Where it is necessary to investigate a trading partner; and

3. Where the Presidential Decree prescribes.

#### ■ Article 112 (Right to Get Assistance in Investigation)

If any duty payer is under an investigation by any customs officer for his falling under each subparagraph of Article 110 (2), he may ask any attorney, any licensed customs broker or any other person with professional knowledge on customs who is prescribed by the Presidential Decree to be present and state his views on such investigation.

#### ■ Article 113 (Assumption of Duty Payer's Sincerity, etc.)

(1) The head of any customhouse shall assume that any duty payer is sincere and the duty return, etc. filed by him is true, except a case where such duty payer fails to fulfill his liability, including

his duty return by this Act, or he is definitely suspected of evading his customs duties and other cases provided for in the Presidential Decree.

(2) The provisions of paragraph (1) shall not limit the act prescribed by the Presidential Decree, including questioning any duty payer about contents of his duty return, etc. and confirming goods on which a duty return is filed.

#### ■ Article 114 (Prior Notice on Customs Investigation and Application for Postponement thereof)

(1) In the event that any customs officer intends to check books, documents, data-processing equipment and other goods, etc. in order to conduct the investigation falling under each subparagraph of Article 110 (2), he shall notify a person subject to such investigation (including his agent; hereafter the same in this Article shall apply) of matters subject to the investigation, reasons for the investigation and other matters prescribed by the Presidential Decree seven days before the investigation commences: *Provided*, That the same shall not apply to the case falling under each of the following subparagraphs:

1. Where an investigation is conducted on an offence case; and
2. Where a prior notice is feared to destroy evidence, etc. leaving any customs officer unable to attain his investigation objective.

(2) Any duty payer who has received a notice referred to in paragraph (1) may, when he is difficult to comply with an investigation due to a natural disaster or on the grounds prescribed by the Presidential Decree, apply to the head of any customhouse for postponing such investigation as prescribed by the Presidential Decree.

#### ■ Article 115 (Notice on Outcome of Customs Investigation)

Any customs officer shall, when he completes an investigation falling under each subparagraph of Article 110 (2), notify in writing a duty payer of the results thereof: *Provided*, That the same shall not apply to the case, including a business discontinuation, as prescribed by the Presidential Decree.

#### ■ Article 116 (Keeping Secrets)

(1) Every customs officer shall be prohibited from providing other persons with or disclosing data that any duty payer furnish him to fulfill the duty liability prescribed by this Act or other data, etc. (hereinafter referred to as "duty imposition information") that he obtains for the purpose of levying and collecting any customs duties or making customs clearance while performing official business, or from using them for other purpose than the purpose of carrying out his official business: *Provided*, That in the case falling under each of the following subparagraphs, any customs officer may provide the duty imposition information within the scope in conformity with the purpose of using them:

1. Where a State organ requests the duty imposition information for the purpose of dealing with a dispute over customs duties or prosecuting any customs offender;
2. Where the duty imposition information is requested by a submission order issued by the court or a process issued by a judge;
3. Where the duty imposition information is requested by other customs officers for the purpose of levying or collecting customs duties, making customs clearances, asking questions and conducting inspections; and
4. Where the duty imposition information is requested in accordance with other Acts.

(2) Any person who intends to ask for the duty imposition information under paragraph (1) 1 and 4 shall file a request therefor in writing with the head of the competent customhouse.

(3) In the event that a request is made for the duty imposition information in contravention of paragraphs (1) and (2), every customs officer shall reject such request.

(4) Any person who has learned the duty imposition information provided under paragraph (1) shall be prohibited from providing any other person with or disclosing such duty imposition information to any other person or from using it for other purpose.

(5) Any person, who is not a public official, from among persons who have learned or been provided with the duty imposition information under the provisions of this Article, in the application of the penal provisions of the Criminal Act and other Acts, shall be deemed a public official.

#### ■ Article 117 (Provision of Information)

If any duty payer requests information necessary to exercise his right as a duty payer, any customs officer shall provide such information to him. In this case, such customs officer shall also provide other information that such duty payer ought to know in connection with the requested information as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 118 (Examination of Legality Prior to Duty Imposition)

(1) The head of any customhouse shall, when he intends to collect a shortage of customs duties paid or customs duties payable under Article 38 (5) or 39 (2), serve a written notice thereof on a person liable for duty payment beforehand: *Provided*, That the same shall not apply to the case falling under each of the following subparagraphs:

1. Where a limitation period for imposing customs duties under Article 21 expires within three months from the day on which it is intended to serve a notice;
2. Where a person liable for duty payment files a final dutiable value return in accordance with Article 28 (2);

3. Where a shortage is collected as a result of examining the amount of customs duties before an import declaration is accepted in accordance with the proviso of Article 38 (2);

4. Where reduced or exempted customs duties are collected in accordance with Article 97 (3) or 102 (2);

5. Where the amount of customs duties evaded is collected after an accusation is filed against a duty evasion offense in accordance with Article 270; and

6. Where the collection of customs duties becomes difficult and a prior notice is inappropriate, which are prescribed by the Presidential Decree.

(2) Any person liable for duty payment may, upon receiving a notice described in paragraph (1), apply to the head of a customhouse prescribed by the Ordinance of the Ministry of Finance and Economy for examining the legality of contents of such notice (hereafter in this Article referred to as the "examination of legality prior to duty imposition") within 20 days from the day on which he receives the notice: *Provided*, That if it is necessary to modify the authoritative interpretation made by the Commissioner of the Korea Customs Service or make a new authoritative interpretation with respect to Acts and subordinate statutes and the Presidential Decree prescribes so, a request to that effect may be filed with the Commissioner of the Korea Customs Service.

(3) The head of any customhouse or the Commissioner of the Korea Customs Service shall, upon receiving an application for the examination of legality prior to duty imposition referred to in paragraph (2), make a decision after going through the examination of the Examination of Legality Prior to Duty Imposition Committee established pursuant to the Presidential Decree within 30 days from the day on which such application was received and serve a notice thereof on the applicant.

(4) Any decision with respect to any application for the examination of legality prior to duty imposition under paragraph (3) shall be made according to each of the following subparagraphs:

1. Where an application is deemed groundless: A decision not to accept the application;

2. Where an application is deemed reasonable: A decision to accept the application: *Provided*, That if part of such application is deemed reasonable, a decision to accept part of such application; and

3. Where a period for making supplement and correction expires or no supplement and correction are made within such period: a decision not to examine.

(5) The provisions of Articles 122 (2), 123, 126 and 130 shall apply *mutatis mutandis* to the examination of legality prior to duty imposition.

(6) Method of the examination of legality prior to duty imposition and other necessary matters shall be prescribed by the Presidential Decree.

## SECTION 2 Examination and Adjudication

### ■ Article 119 (Appeal of Dissatisfaction)

(1) Any person who is subjected to an illegal and unfair disposition taken in accordance with this Act, other tariff-related Acts or a convention, or whose right or interest is infringed on by the lack of a necessary disposition, may file an examination request thereof or an adjudication request thereon under the provisions of this Section to cancel or modify such disposition, or for a necessary disposition : *Provided*, That such person may raise an objection in accordance with the provisions of this Section before he files an examination request or an adjudication request, except a case where such disposition is investigated, determined or dealt with, or has to be dealt with by the Commissioner of the Korea Customs Service.

(2) The disposition falling under each of the following subparagraphs shall not be included in the disposition of paragraph (1):

1. A disposition taken with respect to any objection raised, any examination requested or any adjudication requested in accordance with the provisions of this Section: *Provided*, That if a request is filed for an examination or an adjudication with respect to a disposition taken on an objection raised, such case shall be excluded;
2. A disposition taken to serve notice in accordance with the provisions of this Act; and
3. A disposition taken to file an examination request in accordance with the provisions of the Board of Audit and Inspection Act or a disposition taken on such examination request.

(3) The examination request under paragraph (2) 3 shall be filed within 90 days from the day (referring to the day on which a disposition notice is received) on which an applicant learned the relevant disposition.

(4) Any administrative litigation against a disposition that has gone through an examination requested under paragraph (2) 3 shall be instituted against an administrative agency that has taken such disposition as a party within 90 days from the day on which a notice with respect to a decision on such examination request was received notwithstanding the provisions of Articles 18 (2) and (3) and 20 of the Administrative Litigation Act.

(5) The period of paragraphs (3) and (4) shall be a peremptory period.

(6) Any person who is dissatisfied with a disposition taken by the head of any customhouse to levy, collect, reduce or exempt, or refund the internal tax, etc. that is imposed on imported goods may raise an objection, apply for an examination and request an adjudication under this Section.

(7) Any interested person prescribed by the Presidential Decree, including any secondary person liable for duty payment, etc. may, if his right or interest is infringed on by a disposition taken in accordance with this Act, other tariff-related Acts or a convention, demand the revocation or modification of such disposition or a necessary disposition by requesting an examination or an adjudication in accordance with the provisions of this Section. In this case, the provisions of the proviso of paragraph (1) and paragraphs (2) and (6) shall be applied *mutatis mutandis*.

(8) Any examination request or any adjudication request shall not be filed in overlap with respect to the same disposition.

#### ■ Article 120 (Relation with Administrative Litigation Act, etc.)

(1) The provisions of the Administrative Appeals Act shall not apply to any disposition prescribed in Article 119: *Provided*, That the provisions of Articles 11, 16, 20 and 26 of the same Act shall apply *mutatis mutandis* to any adjudication request. In this case, the Committee shall be deemed the "Meeting of National Tax Tribunal Examiners" or the "Joint Meeting of National Tax Tribunal Examiners".

(2) Notwithstanding the provisions of Article 18 (1) (main sentence), (2) and (3) of the Administrative Litigation Act, any administrative litigation against any illegal disposition as prescribed in Article 119 may not be instituted without going through an examination request or an adjudication request and a decision thereon under this Act.

(3) Notwithstanding the provisions of Article 20 of the Administrative Litigation Act, any administrative litigation under paragraph (2) shall be instituted within 90 days from the day on which the notice of a decision made in response to an examination request or an adjudication request was received: *Provided*, That if no notice of decision is received within a decision-making period as prescribed in the main sentence of Article 128 (2) or Article 131, an administrative litigation may, notwithstanding the provisions of paragraph (2), be instituted beginning the day on which such period expires, even prior to the receipt of the notice of decision.

(4) In the event that any person goes through an examination request as prescribed in Article 119 (2) 3, such person shall be deemed to go through any examination request or any adjudication request under this Act and the provisions of paragraph (2) shall be applied *mutatis mutandis*.

(5) The period of paragraph (3) shall be a peremptory period.

#### ■ Article 121 (Period for Filing Request)

(1) Any person shall file an examination request within 90 days from the day (referring to the day on which a disposition notice is received) on which he learned the relevant disposition.

(2) If any person intends to file an examination request after raising an objection, he shall file such request within 90 days from the day on which he was notified of a decision thereon: *Provided*, That if such person is not notified of such decision within a decision-making period described in

the proviso of Article 132 (2), he may file an examination request from the day on which such decision-making period expires even before he is notified of the decision.

(3) If an examination request filed by mail within the time limit described in paragraphs (1) and the main sentence of (2) (the day prescribed in Article 5-2 of the Framework Act on National Taxes shall be based) arrives after the expiration of the period set for filing such request, such request shall be deemed filed legally on the expiration day of such period.

(4) If a person who intends to file an examination request is unable to do so within the time limit fixed in paragraph (1) due to the reason described in Article 10 (limited to the reason for extending the time limit with respect to return, application, request, the submission of documents and notice), he may file such request within fourteen days from the day on which such reason is extinguished. In this case, the person who files the examination request shall furnish a document describing the reason he was unable to file an examination request within such period, the date on which such reason occurred and the date on which such reason was extinguished and other necessary matters.

#### ■ Article 122 (Procedures for Filing Request)

(1) An examination request, appended by a document describing the reason for being dissatisfied with a disposition, shall be filed with the Commissioner of the Korea Customs Service through the head of any customhouse who has taken or should have taken such disposition as prescribed by the Presidential Decree.

(2) In the computation of the period for filing an examination request in accordance with Article 121, an examination request shall be deemed to be filed at the time that such examination request is submitted to the head of any customhouse under paragraph (1). The same shall apply to a case where the relevant request is filed with the Commissioner of the Korea Customs Service or other head of a customhouse than the head of a customhouse described in paragraph (1).

(3) The head of any customhouse shall, upon receiving the relevant written request referred to in paragraph (1), forward such written request, appended by his written opinion, to the Commissioner of the Korea Customs Service within seven days from the date of receipt thereof.

#### ■ Article 123 (Supplement or Correction of Written Request)

(1) The Commissioner of the Korea Customs Service may, when he deems that contents and procedures of such written request, though not in conformity with the provisions of this Section, can be supplemented or corrected, request that the written request be supplemented or corrected within a fixed period of not more than 20 days: *Provided*, That, if matters to be supplemented or corrected are insignificant, he may *ex officio* supplement or correct them.

(2) The period for making supplement or correction referred to in paragraph (1) shall not be included in the period for filing an examination request under Article 121.

■ **Article 124 (Tariff Examination Committee)**

(1) The Tariff Examination Committee shall be established under the Korea Customs Service with the mandate to deliberate on any examination request filed with the Commissioner of the Korea Customs Service under Article 122.

(2) Matters necessary for the composition and operation of the Tariff Examination Committee shall be determined by the Presidential Decree.

■ **Article 125 (Effect of Examination Request on Execution)**

Any objection raised, any examination requested or any adjudication requested shall not affect the execution of the relevant disposition, except as especially provided for in Acts and subordinate statutes: *Provided*, That when the pertinent ruling agency deems it necessary, it may cause the suspension of the execution thereof or suspend the execution thereof.

■ **Article 126 (Attorney)**

(1) Any person who raises an objection, any person who files an examination request or any person who files an adjudication request may each designate a lawyer or a licensed customs broker as his attorney.

(2) The authority of such attorney shall be established in writing.

(3) The attorney may, upon a request from his client, perform every act relating to such request for such client: *Provided*, That such request shall be withdrawn only when he is specially authorized to do so.

(4) When a requester dismisses his attorney, he shall file a written notice thereof with the ruling agency.

■ **Article 127 (Procedures for Decision)**

(1) The Commissioner of the Korea Customs Service shall, upon receiving any examination request filed under Article 122, decide thereon after going through deliberation of the Tariff Examination Committee: *Provided*, That the same shall not apply to a case where an examination request is filed after the expiration of the examination request period and the case falling under the cause prescribed by the Presidential Decree.

(2) Any meeting of the Tariff Examination Committee shall not be open to the public: *Provided*, That such meeting may be made open to the public when the chairman of the Tariff Examination Committee deems it necessary to do so.

■ **Article 128 (Decision)**

(1) Any decision on an examination request shall be made according to the following subparagraphs:

1. When an examination request is filed after the expiration of the period described in Article 121 or necessary supplement or correction is not made within the period for making supplement or correction as prescribed in Article 123 after such examination request is filed: A decision to dismiss such request;

2. When an examination request is deemed groundless: A decision to reject such request; and

3. When an examination request is deemed reasonable: A decision to revoke or correct a disposition subject to such request, or take a necessary disposition.

(2) The decision referred to in paragraph (1) shall be made within 60 days from the day on which the examination request was received: *Provided*, That the same shall not apply to a case where unavoidable grounds exist.

(3) When a decision is made in accordance with paragraph (1), a written decision describing the reasons thereof shall be delivered to a person who has filed an examination request within the period fixed in paragraph (2).

(4) The period for supplement or correction described in Article 123 shall not be included in the period for decision described in paragraph (2).

#### ■ Article 129 (Notice of Method of Appealing Dissatisfaction)

(1) The ruling agency having the authority to decide on any objection raised, any examination requested or any adjudication requested shall enter matters falling under each of the following subparagraphs in a written decision:

1. The effect that, in case of an objection, an examination request or an adjudication request may be filed within 90 days from the day on which a written decision thereon was received; and

2. The effect that, in case of an examination request or an adjudication request, an administrative litigation may be instituted within 90 days from the day on which a written decision thereon was received.

(2) The ruling agency having the authority to decide on any objection raised, any examination requested or any adjudication requested shall, when it is unable to make a decision thereon until the expiration of the period for deciding on either of such requests, notify without any delay any applicant or any requester in writing of matters falling under each of the following subparagraphs:

1. The effect that, in case of an objection, an examination request or an adjudication request may be filed from the day on which the decision period expires even before a decision notice is received; and

2. The effect that, in case of an examination request or an adjudication request, an administrative litigation may be instituted from the day on which the decision period expires even before a decision notice is received.

#### ■ Article 130 (Perusal of Documents and Statement of Opinion)

Any person who raises an objection or files an examination request or an adjudication request may peruse documents pertaining to such request and state his opinion to the ruling agency under the conditions as prescribed by the Presidential Decree.

#### ■ Article 131 (Request for Adjudication)

The provisions of Section 3 of Chapter VII of the Framework Act on National Taxes shall apply *mutatis mutandis* to any adjudication request under Article 119 (1). In this case, the term the "head of a tax office" and the "Administrator of the National Tax Service" in the same Act shall be read the "head of a customhouse" and the "Commissioner of the Korea Customs Service", respectively.

#### ■ Article 132 (Objection)

(1) Any objection shall be raised to the head of any customhouse that has taken or should have taken the relevant disposition, citing the reasons for the dissatisfaction thereof under the conditions as prescribed by Presidential Decree.

(2) The provisions of Articles 121, 122 (2), 123 and 128 shall apply *mutatis mutandis* to raising any objection: *Provided*, That the term "60 days" in Article 128 (2) shall be read "30 days".

## CHAPTER VI TRANSPORTATION MEANS

### SECTION 1 Open Ports

#### ■ Article 133 (Designation of Open Ports)

Open ports shall be designated by the Presidential Decree.

#### ■ Article 134 (Entry into and Departure from Open Port)

(1) Every foreign trade vessel and foreign trade aircraft shall enter into and depart from only every open port: *Provided*, That the same shall not apply to a case where any foreign trade vessel or any foreign trade aircraft is granted permission for entering into and departing from an area which is not an open port as prescribed by the Presidential Decree.

(2) The captain of any foreign trade vessel or the captain of any foreign trade aircraft shall, when he intends to obtain permission referred to in the proviso of paragraph (1), pay permission fees as prescribed by the Ordinance of the Ministry of Finance and Economy.

## SECTION 2 Vessels and Aircraft

### Sub-Section 1 Procedures for Entry and Departure

#### ■ Article 135 (Procedures for Entry into Open Ports)

(1) The captain of any foreign trade vessel or the captain of any foreign trade aircraft shall, when his vessel or his aircraft enters into an open port (including any area into which the entry of any foreign trade vessel or any foreign trade aircraft is permitted under the provisions of Article 134 (1) (hereinafter the same shall apply), file without any delay with the head of any customhouse a port entry report, appended by a list of supplies that carries matters prescribed by the Presidential Decree, a list of passengers, a list of crews, a list of crews' personal effects and a cargo manifest. In case of any foreign trade vessel, the vessel's certificate of nationality, a clearance permit from the immediately departing port or documents substituting them shall be also furnished to the head of the customhouse: *Provided*, That if it is not deemed an impediment to supervision and control, the head of any customhouse may exempt the captain from appending the list of supplies and the list of crews' personal effects.

(2) The head of any customhouse may, if it is necessary to speedily effect procedures for entry and customs clearance and to efficiently conduct supervision and control, have the relevant shipping company or the relevant airline (including any agent acting for such shipping company or such airline) to which the foreign vessel or the foreign aircraft entering into the open port belongs submit a list of passengers and a cargo manifest, etc. referred to in paragraph (1) before such foreign vessel or foreign aircraft enters the open port as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 136 (Procedures for Departing from Open Port)

(1) When any foreign trade vessel or any foreign trade aircraft is intended to depart from any open port, the captain of such foreign trade vessel or the captain of such foreign trade aircraft shall obtain a departure permit from the head of any customhouse prior to departure.

(2) The captain of any foreign trade vessel or the captain of any foreign trade aircraft shall, when he intends to obtain a departure permit under paragraph (1), submit a list of goods loaded at the open port: *Provided*, That if the head of any customhouse fixes a period for submitting the list of goods within the limit of seven days from the day on which the departure is permitted out of the need to speed up departure procedures, such list may be submitted within the relevant period.

#### ■ Article 137 (Simplified Procedures for Entry into and Departure from Open Port)

(1) In the event that any foreign trade vessel or any foreign trade aircraft enters into an open port and departs therefrom within 24 hours without loading or unloading any goods (including the supplies of vessel or aircraft and the personal effects of their crew), the head of any customhouse may exempt the captain of such vessel or such aircraft from submitting a cargo manifest, the list

of supplies, the list of passengers, the list of crew, and the list of crew's personal effects, prescribed by Article 135, and the list of loaded goods required by Article 136.

(2) In the event that any foreign trade vessel or any foreign trade aircraft enters into an open port and after completing the procedures described in Article 135, reenters into another open port in Korea, the head of any customhouse may have such vessel or such aircraft enter or depart through simplified procedures, including omitting the submission of the documents, etc. applying *mutatis mutandis* the provisions of paragraph (1).

### **Sub-Section 2 Exemption from Obligation**

#### **due to Calamity and *force majeure***

##### **■ Article 138 (Exemption from Obligation due to Calamity or *force majeure*)**

(1) The provisions of Articles 134 through 137 and 140 through 143 shall not apply to the case of a calamity or *force majeure*.

(2) In case of paragraph (1), the captain of any foreign trade vessel or the captain of any foreign trade aircraft shall promptly make a report thereon to customs officers or police officers (limited to a case where no customs officers are accessible).

(3) Any police officer shall, upon receiving the report referred to in paragraph (2), notify without delay any customs officer of a summary of such report.

(4) The captain of any foreign trade vessel or the captain of any foreign trade aircraft shall, when such calamity or such *force majeure* terminates, make without delay a full report thereon to the head of any customhouse.

##### **■ Article 139 (Report on Entry into Foreign Open Port)**

When any domestic vessel or any domestic aircraft enters into any foreign open port and returns to Korea thereafter on the grounds of a calamity or *force majeure*, the captain of such vessel or such aircraft shall promptly report the fact to the head of any customhouse and if any goods are loaded into or unloaded from such vessel or such aircraft abroad, a list thereof shall be submitted to the head of the customhouse.

### **Sub-Section 3 Loading and Unloading of Goods**

##### **■ Article 140 (Loading and Unloading of Goods)**

(1) Any foreign trade vessel or any foreign trade aircraft shall be prohibited from loading, unloading or transshipping goods unless the procedures for port entry described in Article 135 are completed: *Provided*, That the same shall not apply to a case where permission therefor is obtained from the head of any customhouse.

(2) When goods are to be loaded onto, unloaded from or transshipped into any foreign trade vessel or any foreign trade aircraft, the captain of such foreign trade vessel or such aircraft shall file a report thereon with the head of any customhouse and obtain a confirmation thereof from any customs officer on the spot: *Provided*, That the same shall not apply to a case where such customs officer deems such confirmation unnecessary.

(3) The head of any customhouse may, when he deems it necessary to supervise, control and restrict the place and the passage where goods are loaded or unloaded (hereinafter referred to as "loading and unloading passage") and the period of loading and unloading goods under paragraph (2).

(4) Domestic goods may not be loaded onto any foreign trade vessel or any foreign trade aircraft, and foreign goods may not be loaded onto any domestic vessel or any domestic aircraft: *Provided*, That the same shall not apply to a case where permission therefor is obtained from the head of any customhouse.

#### ■ Article 141 (Temporary Landing of Foreign Goods)

In the case falling under any of the following subparagraphs, a report thereon shall be filed with the head of any customhouse and a confirmation thereof shall be obtained from any customs officer on the spot: *Provided*, That in the event that the Commissioner of the Customs Service prescribes otherwise after judging that surveillance and crackdown are not impeded, such report and confirmation may be filed or obtained in a simple manner or omitted:

1. Where foreign goods are temporally landed from the transportation means onto the land;
2. Where any person other than passengers, crew or operators is aboard the relevant transportation means; and
3. Where goods loaded in the transportation means are transshipped onto another transportation means or people are transferred from one transportation means to another one.

#### ■ Article 142 (Loading and Unloading of Goods Outside Open Port)

(1) In the event that any foreign trade vessel intends to load, unload or transship goods at a place outside an open port, the captain of such vessel shall obtain permission therefor from the head of any customhouse.

(2) The captain of such vessel shall, if he intends to obtain permission in accordance with paragraph (1), pay permission fees as prescribed by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 143 (Loading and Unloading of Vessel and Aircraft Supplies)

(1) When goods falling under each of the following subparagraphs are to be loaded onto, unloaded from, or transshipped into any foreign trade vessel or any foreign trade aircraft, the captain of such vessel or such aircraft shall obtain permission therefor from the head of any custom-house:

1. Supplies used for the relevant vessel or aircraft; and
2. Goods sold in the relevant foreign vessel or foreign aircraft.

(2) In the event that the goods falling under each subparagraph of paragraph (1) are foreign goods arriving in Korea from any foreign nation, such goods may be loaded onto any foreign trade vessel or any foreign trade aircraft in the same state only within a bonded area.

(3) Kinds and quantity of the goods described in each subparagraph of paragraph (1) shall be limited to the scope deemed as appropriate by the head of any customhouse taking into account the type, tonnage, weight, navigation and the number of navigation days and the number of passengers and crew, etc. of the relevant foreign vessel or the relevant foreign aircraft.

(4) In the event that vessel supplies or aircraft supplies that are foreign goods described in paragraph (2) and goods sold in any foreign trade vessel or any foreign trade aircraft are not loaded onto the transportation means as prescribed by the permission of paragraph (1), customs duties shall be promptly collected from a person who has obtained such permission: *Provided*, That the same shall not apply to the case falling under each of the following subparagraphs:

1. Where the goods are shipped again into a bonded area within a period fixed by the head of any customhouse;
2. Where the goods are destroyed or lost due to a calamity or *force majeure*; and
3. Where the goods are disposed of upon prior approval of the head of any customhouse.

(5) Necessary matters concerning kinds and quantity of goods whose loading, unloading or transshipment requires permission referred to in paragraph (1) shall be published by the Commissioner of the Korea Customs Service.

#### **Sub-Section 4 Conversion of Foreign Trade Vessel**

##### **into Domestic Vessel, Etc.**

#### **■ Article 144 (Conversion of Foreign Trade Vessel into Domestic Vessel, Etc.)**

When it is intended to convert any foreign trade vessel or any foreign trade aircraft into a domestic vessel or a domestic aircraft, or to convert any domestic vessel or any domestic aircraft to a foreign trade vessel or a foreign trade aircraft, the captain of such vessel or aircraft shall obtain approval therefor from the head of any customhouse.

#### **■ Article 145 (Person Acting for Captain)**

The regulations applied to the captain of vessel or the captain of aircraft shall apply to any person acting for the captain of vessel or the captain of aircraft in performing either of the latter's duties.

■ **Article 146 (Other Vessel and Aircraft)**

The regulations governing any foreign trade vessel or any foreign trade aircraft shall apply *mutatis mutandis* to any non-foreign vessel sailing abroad and any non-foreign aircraft flying abroad: *Provided*, That the same shall not apply to any vessel and any aircraft prescribed by the Presidential Decree.

■ **Article 147 (Vessel Sailing Border River)**

The regulations governing foreign trade vessels shall not apply to domestic vessels only sailing the border river.

### SECTION 3 Vehicles

■ **Article 148 (Customs Route)**

(1) Every vehicle driving across the national border (hereinafter referred to as "vehicles driving across the national border") shall pass through any customs route and stop at any customs clearance station or any customs clearance point.

(2) The customs route referred to in paragraph (1) shall be designated by the head of any customhouse from among railways linking land borders with customs clearance stations, and roads or waterways linking land borders with customs clearance points.

(3) Customs clearance stations shall be designated by the Commissioner of the Korea Customs Service from among railway stations linking themselves with foreign nations and railway stations adjacent to the national border.

(4) Customs clearance points shall be designated by the head of any customhouse from among places linking themselves to customs routes.

■ **Article 149 (Procedures for Arrival of Vehicles Running Across National Border)**

(1) When any vehicle driving across the national border arrives at any customs clearance station or any customs clearance point, the head of such customs clearance station or the driver of such vehicle shall promptly file an arrival report, appended by a list of vehicle supplies, a list of passengers, a list of crew, a list of crew's personal effects and a cargo manifest prescribed by the Commissioner of the Korea Customs Service, and submit a departure permit obtained from its immediately departing place or a document substituting such permit with and to the head of any customhouse: *Provided*, That the head of the customhouse may, when he does not deem it an impediment to supervision and control, exempt them from appending the list of vehicle supplies or the list of crew's personal effects.

(2) The head of any customhouse may, when he deems it necessary to speed up the procedures for entry and customs clearance and ensure efficient supervision and control, have a company (including any person acting for it in doing the business; hereafter the same shall apply) to which the relevant vehicle belongs submit a list of passengers and a cargo manifest required by paragraph (1) before such vehicle arrives at any customs clearance station or point as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 150 (Procedures for Departure of Vehicle Driving Across National Border)

(1) When any vehicle driving across the national border is to depart from any customs clearance station or any customs clearance point, the head of such customs clearance station and the driver of such vehicle shall file a departure report with the head of any customhouse and obtain a departure permit from the head of the customhouse.

(2) The head of such customs clearance station or the driver of such vehicle shall, when they intend to obtain a departure permit required by paragraph (1), submit a list of goods loaded at the customs clearance station or the customs clearance point.

#### ■ Article 151 (Loading and Unloading of Goods)

(1) Any person who intends to load or unload foreign goods onto or from a vehicle at any customs clearance station or at any customs clearance point shall file a report thereon with the head of any customhouse and obtain a confirmation from any customs officer on the spot: *Provided*, That the same shall not apply to a case where such customs officer deems it unnecessary to give such confirmation.

(2) The provisions of Article 143 shall apply *mutatis mutandis* to a case where vehicle supplies and goods sold in a vehicle driving across the national border are loaded or transshipped onto the relevant vehicle.

#### ■ Article 152 (Vehicle Other Than Railway Vehicle)

(1) Any vehicle other than any railway vehicle running across the national border shall obtain a document attesting its qualification from the head of any customhouse and produce such document to any customs officer to obtain a visa whenever it crosses the national border.

(2) Any person who intends to obtain a visa required by paragraph (2) shall pay fees prescribed by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 153 (Other Transportation Means)

In the application of Article 152, any transportation means other than vessel, vehicle or aircraft shall be deemed the vehicle other than railway vehicle.

### CHAPTER VII BONDED AREA

## SECTION 1 Common Provisions

### ■ Article 154 (Kinds of Bonded Area)

Bonded areas shall be categorized into the designated bonded area, the licensed bonded area and the general bonded area, and the designated bonded area is further categorized into the designated storage place and the customs inspection place, while the licensed bonded area is categorized into the bonded warehouse, the bonded factory, the bonded exhibition, the bonded construction work site and the bonded store.

### ■ Article 155 (Storage of Goods)

(1) Foreign goods and domestic goods on which a report on their domestic transportation is about to be filed under Article 221 (1) shall be prohibited from being stored in a place other than a bonded area: *Provided*, That the same shall not apply to goods falling under each of the following subparagraphs:

1. Goods on which an export declaration under Article 241 (1) is accepted;
2. Goods which are difficult or inappropriate to be stored in a bonded area due to their size and weight, etc.;
3. Goods temporarily stored due to a calamity or other unavoidable grounds;
4. Goods subject to quarantine;
5. Goods in seizure; and
6. Postal items.

(2) The provisions of Articles 157 through 161, 163, 172, 177, 208 through 212 and 321 shall apply *mutatis mutandis* to goods falling under paragraph (1) 1 through 4.

### ■ Article 156 (Permission for Storage of Goods outside Bonded Area)

(1) Any person who intends to store goods falling under Article 155 (1) 2 in a place other than a bonded area shall obtain permission from the head of any customhouse.

(2) The head of any customhouse may, when he intends to grant permission referred to in paragraph (1) with respect to foreign goods, order security equivalent to the amount of customs duties of the relevant goods offered and necessary facilities installed.

(3) Any person who intends to obtain permission required by paragraph (1) shall pay fees according to the amount and method prescribed by the Ordinance of the Ministry of Finance and Economy.

■ **Article 157 (Shipment of Goods into and out of Bonded Area)**

(1) Any person who intends to ship goods into or out of a bonded area shall file a report thereon with the head of any customhouse as prescribed by the Presidential Decree.

(2) When any person intends to ship goods into or out of a bonded area under paragraph (1), the head of any customhouse may have any customs officer monitor such shipment and such customs officer may inspect the relevant goods.

(3) The head of any customhouse may place restrictions on the kinds of goods that may be shipped into any bonded area.

■ **Article 158 (Maintenance and Supplementary Work)**

(1) Maintenance and supplementary work may be carried out to keep the conditions of goods stored in a bonded area as they are and similar maintenance and supplementary work may be done to repack, resort and combine without changing their nature. In this case, when the head of a customhouse deems it difficult to carry out any maintenance and supplementary work in any bonded area, such work may be done in a designated place outside any bonded area for a designated period.

(2) Any person who intends to do any maintenance and supplementary work under paragraph (1) shall obtain approval from the head of a customhouse.

(3) Any domestic goods belonging to any foreign goods through the maintenance and supplementary work done in accordance with paragraph (1) shall be deemed foreign goods.

(4) Any foreign goods shall not be used as raw materials for any maintenance and supplementary work done for goods to be imported.

(5) In the event that any maintenance and supplementary work is done in accordance with the latter part of paragraph (1), the provisions of Article 187 (2) through (4) and (6) shall apply *mutatis mutandis* to the pledging of security for the relevant goods and the inspection of such goods when they are shipped out of a bonded area.

■ **Article 159 (Work of Dismantling and Cutting Goods)**

(1) Any work may be done to alter the original form of goods stored in any bonded area, dismantle or cut them.

(2) Any person who intends to do the work referred to in paragraph (1) shall obtain permission from the head of any customhouse.

(3) Kinds of goods for which the work referred to in paragraph (1) may be carried out shall be designated by the Commissioner of the Korea Customs Service.

(4) The head of any customhouse may, when it is deemed necessary with respect to goods on which an import declaration is filed, order the owner of such goods or any person entrusted by such owner to do the work referred to in paragraph (1).

#### ■ Article 160 (Disposal of Stored Goods)

(1) Any person who intends to dispose of goods stored in a bonded area due to decomposition, damage and other reasons shall obtain approval from the head of a customhouse.

(2) When foreign goods stored in a bonded area are destroyed or lost, or disposed of, customs duties thereon shall be collected from their operator or custodian: *Provided*, That the same shall not apply to a case where such foreign goods are destroyed or lost due to a calamity and other unavoidable grounds, or disposed of upon prior approval of the head of a customhouse.

(3) If there is any remainder of foreign goods which are disposed of upon approval obtained in accordance with paragraph (1), customs duties shall be levied on such remainder according to the quality and quantity of the remainder.

(4) With respect to goods falling under each of the following subparagraphs from among goods stored in any bonded area, notwithstanding the provisions of paragraph (1), the head of any customhouse may order an owner, a shipper, a person entrusted by the owner or shipper or a secondary person liable for duty payment under Articles 38 through 41 of the Framework Act on National Taxes (hereinafter referred to as the "owner of goods, etc.") to return or dispose of such goods, or may dispose of such goods himself after serving a notice thereof on the owner of goods, etc.: *Provided*, That when there is no room for serving such notice because of emergency, a notice shall be served immediately after the goods are disposed of:

1. Goods feared to injure human life or damage property;
2. Goods that are decomposed or qualitatively changed;
3. Goods whose marketable period has expired;
4. Goods that have lost their commercial value; and
5. Goods which are corresponding to goods falling under subparagraphs 1 through 4 and prescribed by the Commissioner of the Korea Customs Service.

(5) In the event that it is impossible to serve a notice referred to in paragraph (4) due to the failure to identify the domicile and residence of the owner of goods, etc. and other reasons, such notice shall be published instead.

(6) In the event that the head of any customhouse disposes of goods or the owner of goods, etc., disposes of or returns goods in accordance with paragraphs (1) and (4), the cost incurring therefrom shall be defrayed by the owner of goods, etc.

#### ■ Article 161 (Shipment of Goods out of Bonded Area as Samples)

(1) Any person who intends to ship goods out, in whole or in part, of a bonded area to use them as samples shall obtain permission therefor from the head of a customhouse.

(2) Any customs officer may, when he deems it necessary to inspect goods shipped into a bonded area, take part of such goods for use as samples.

(3) When part of goods taken for use as samples under paragraph (2) are used or consumed, they shall be deemed goods on which an import declaration is filed and then customs duties thereon are paid.

#### ■ Article 162 (Control of Goods Handlers)

Any person falling under each of the following subparagraphs shall comply with any order given by the head of a customhouse with respect to the supervision of goods and a bonded area and be put under command of any customs officer:

1. A person who handles goods described in each subparagraph of Article 155 (1); and
2. A person who is granted access to a bonded area.

#### ■ Article 163 (Dispatch of Customs Officers)

The head of any customhouse may dispatch any customs officer to a bonded area to perform official business therein.

#### ■ Article 164 (Self-Managed Bonded Area)

(1) With respect to goods stored in a bonded area (hereinafter referred to as a "self-managed bonded area) designated by the head of customhouse, from among bonded areas, according to what the Commissioner of the Customs Service prescribes, after he does not deem such designation an impediment to customs supervision and the control of such goods, the participation of any customs officer as prescribed in Article 157 and the procedures prescribed by the Commissioner of the Customs Service from among the procedures as prescribed in this Act shall be omitted.

(2) The manager or operator of goods in a bonded area shall, when he intends to get such bonded area designated as a self-managed bonded area, file an application for designation thereof with the head of a customhouse.

(3) Any person who intends to file an application for designating a self-managed bonded area in accordance with paragraph (2) shall employ a person in charge of managing goods stored in the relevant bonded area (hereinafter referred to as "licensed manager of bonded goods").

(4) The head of a customhouse may, upon receiving an application for designation referred to in paragraph (2), designate a self-managed bonded area when he deems it suitable for a self-managed bonded area referred to in paragraph (1) after confirming the location and facilities of the relevant bonded area.

(5) Any person who has gotten his bonded area designated as a self-managed bonded area under paragraph (4) shall enter goods shipped in and out of such self-managed bonded area in books and make a periodical report thereon to the head of a customhouse.

(6) The head of any customhouse may, when a person who has gotten his bonded area designated as a self-managed bonded area fails to fulfill his obligations prescribed in this Act or there occurs any cause deemed an impediment to customs monitoring, revoke the designation referred to in paragraph (4).

#### ■ Article 165 (Qualifications for Licensed Manager of Bonded Goods)

(1) Any licensed manager of bonded goods shall be a person who does not fall under each of subparagraphs 1 through 7 of Article 175, but falls under each of the following subparagraphs:

1. A person who has served not less than five years as a general public official in charge of customs administration affairs; and
2. A person who has served not less than three years in the field of management of bonded goods and has passed a test in the management of bonded goods after getting such a training as prescribed by the Commissioner of the Korea Customs Service.

(2) Any person meeting the qualifications of paragraph (1) shall, when he intends to work as a licensed manager of bonded goods, file registration with the head of any customhouse having jurisdiction over of the relevant bonded area.

(3) The head of any customhouse shall, when a person who has registered himself with the head of a customhouse in accordance with paragraph (2) is found to fall under any of the following subparagraphs, revoke his registration, suspend his business and take other necessary measures against him: *Provided*, That if he falls under subparagraphs 1 and 2, his registration shall be revoked:

1. When he falls under any of subparagraphs 1 through 7 of Article 175;
2. When he dies; and
3. When he violates this Act or the orders under this Act.

(4) Duties of the licensed manager of bonded goods, procedures for registration and other necessary matters shall be prescribed by the Presidential Decree.

### SECTION 2 Designated Bonded Area

## Sub-Section 1 Common Provisions

### ■ Article 166 (Designated Bonded Area)

(1) The head of any customhouse may designate any land, any building and any other facilities (hereafter in this Subsection referred to as "land, etc.") owned or managed by any person falling under each of the following subparagraphs as a designated bonded area:

1. The State;
2. Local governments; and
3. Corporations in charge of administering airport facilities or harbor facilities.

(2) The head of a customhouse shall, when he intends to designate the land, etc. not managed by him as a designated bonded area, shall obtain the consent of an owner or a manager of such land, etc. In this case, the head of the customhouse may pay rent, etc. thereon to such owner or manager.

### ■ Article 167 (Cancellation of Designation of Designated Bonded Area)

The head of any customhouse shall, when he deems it unnecessary to keep a bonded area, in whole or in part, as a designated bonded area due to a fall in the quantity of export and import goods using such designated bonded area or other reasons, cancel its designation.

### ■ Article 168 (Disposal of Designated Bonded Area)

(1) The owner or the manager of the land, etc, designated as a designated bonded area shall, when he intends to perform the act falling under each of the following subparagraphs, consult in advance with the head of any customhouse: *Provided*, That the same shall not apply to a case where such act does not cause any impediment to the utilization of the designated bonded area or the owner of the land, etc. designated as a designated bonded area is the State or a local government:

1. The transfer, swap, rent, disposal or the alteration of the purpose of use of the relevant land, etc.;
2. The construction work for the relevant land, etc. or the construction or installation of buildings and facilities on the relevant land, etc.; and
3. The renovation, relocation or removal of the relevant buildings and facilities and other construction work.

(2) The head of any customhouse shall not reject consultations required by paragraph (1) without any justifiable reasons.

## Sub-Section 2 Designated Storage Area

### ■ Article 169 (Designated Storage Area)

Any designated storage area that is a place used to temporarily store goods for the purpose of customs clearance shall be located in a zone designated by the head of any customhouse.

### ■ Article 170 (Storage Period)

The storage period for goods stored in any designated storage area shall be fixed by the Commissioner of the Korea Customs Service within the limit of six months.; *Provided*, That the head of customhouse may extend such period within the limit of 3 months in accordance with the standards set by the Commissioner of the Customs Service.

### ■ Article 171 (Shipment of Import-Declared Goods out of Designated Storage Area)

The owner or the shipper of goods shipped into a designated storage area designated by the Ordinance of the Ministry of Finance and Economy after an import declaration thereon is accepted shall ship the relevant goods out of the designated storage area within fifteen days from the day on which such import declaration was accepted: *Provided*, That the same shall not apply to a case where the storage of the relevant goods in the designated storage area is not deemed an impediment to storing foreign goods and approval for extending the period for shipping the relevant goods out of the designated storage area is obtained from the head of any customhouse.

### ■ Article 172 (Responsibility for Keeping Goods in Custody)

(1) With respect to goods shipped into a designated storage area, the owner or the shipper of such goods shall bear the responsibility for keeping the goods in custody.

(2) The head of any customhouse shall, when he deems it necessary to maintain order in any designated storage area and manage goods in a safe manner, may designate a cargo manager responsible for keeping goods in custody in lieu of the owner as prescribed by the Presidential Decree: *Provided*, That in the event that such designated storage area is not an establishment managed by the head of the customhouse, the head of such customhouse shall designate a cargo manager after consulting with the owner or the manager of such establishment.

(3) Any cargo manager of a designated storage area may collect costs (including fees for the use of any customhouse facilities under Article 323) necessary to manage goods from any owner: *Provided*, That approval shall be obtained from the head of any customhouse for their rates.

(4) Any cargo manager of a designated storage area shall pay an amount equivalent to the amount of fees paid for the use of customhouse facilities from among costs collected in accordance with paragraph (3) to the head of any customhouse.

(5) The head of any customhouse himself may, when he is unable to designate a cargo manager due to unavoidable grounds, manage goods in lieu of the owner of goods act as a cargo manager.

In this case, the costs necessary to manage goods under paragraph (3) may be collected from such owner.

### **Sub-Section 3 Customs Inspection Place**

#### **■ Article 173 (Customs Inspection Place)**

(1) The customs inspection place shall be designated by the head of any customhouse to inspect the goods subject to customs clearance.

(2) The head of any customhouse may ship goods subject to customs inspection, in whole or in part, into a customs inspection place for inspection as prescribed by the Commissioner of the Korea Customs Service.

(3) Costs involved in the collection and transportation, etc. of goods shipped into a customs inspection place under paragraph (2) shall be borne by their owners.

### **SECTION 3 Licensed Bonded Area**

#### **Sub-Section 1 Common Provisions**

#### **■ Article 174 (License for Establishment and Operation of Licensed Bonded Area)**

(1) Any person who intends to establish and operate a licensed bonded area shall obtain a license from the head of any customhouse. The same shall apply to a case where it is intended to renew the existing license.

(2) Any person who intends to obtain a license for establishing and operating a licensed bonded area, any person who establishes and operates a licensed bonded area or any other person who intends to renew his license shall pay fees fixed by the Ordinance of the Ministry of Finance and Economy.

(3) The requirements for obtaining a license under paragraph (1) shall be set by the Commissioner of the Korea Customs Service according to kinds of bonded areas prescribed by the Presidential Decree.

#### **■ Article 175 (Disqualifications for Operator of Licensed Bonded Area)**

Any person falling under any of the following subparagraphs shall be disqualified from becoming the operator of a licensed bonded area:

1. A minor;
2. An incompetent and quasi-incompetent;
3. A person who has yet to be reinstated after having been declared bankrupt;

4. A person who has been sentenced to imprisonment with prison labor for violating this Act and for whom two years have yet to expire from the day on which the execution of such sentence was terminated or exempted;

5. A person who is in a stay period after having been sentenced to a stay of the execution of the imprisonment with prison labor for violating this Act;

6. A person for whom two years have yet to expire after his license for establishing and operating a licensed bonded area was revoked under this Act;

7. A person who has been sentenced to a fine or subjected to a notice disposition under Article 269 through 271 or 274 and for whom two years have yet to expire from the day on which he was sentenced to such fine and subjected to such notice disposition: *Provided*, That the principal or a corporation punished under Article 279 or 280 shall be excluded; and

8. A corporation that employs a person falling under subparagraphs 2 through 7 as an officer (limited to an officer in charge of business operation or supervising such business operation of the relevant bonded area).

#### ■ Article 176 (License Period)

(1) The license period for any licensed bonded area shall be not more than ten years.

(2) Notwithstanding paragraph (1), the license period for any bonded exhibition and any bonded construction work site shall be as follows: *Provided*, That the head of any customhouse may, if there are reasons deemed inevitable for attaining the objective of such bonded exhibition and the progress of a construction work, extend such period:

1. Bonded exhibition: A period fixed by the head of the customhouse taking into account the period of such exhibition; and

2. Bonded construction work site: A period fixed by the head of the customhouse taking into account the period of such construction work.

#### ■ Article 177 (Storage Period)

(1) The period for storing goods in any licensed bonded area shall be as follows:

1. Bonded warehouse: A period fixed under each of the following items:

(a) Foreign goods (excluding goods falling under item (c)): A period fixed by the Commissioner of the Korea Customs Service within the limit of one year: *Provided*, That in the event that the head of customhouse deems it necessary to extend such period, the period may be extended within the limit of one year;

(b) Domestic goods (excluding goods falling under item (c)): One year (with respect to goods on which an import declaration is accepted under the proviso of Article 183 (2), six months from the day on which such import declaration was accepted); and

(c) Goods stockpiled by the Government, goods stockpiled for use by the defense industry to effectuate any contract with the Government, raw materials used to manufacture export goods and goods used to repair export goods, which are recognized by the head of any customhouse: A period necessary for their stockpiles; and

2. Other licensed bonded area: A licensed period for the relevant licensed bonded area.

(2) The head of any customhouse may, when he deems it necessary to manage goods, order any operator to ship goods out of any licensed bonded area even within the period of paragraph (1) 1.

#### **■ Article 178 (Suspension of Shipment of Goods into Licensed Bonded Area and Cancellation of License)**

(1) The head of any customhouse may, when the operator of a licensed bonded area falls under any of the following subparagraphs, suspend him from shipping goods into such licensed bonded area for a fixed period or also suspend any bonded construction work, any bonded sale and any bonded exhibition, etc.as prescribed by the Commissioner of the Korea Customs Service:

1. Where he is deemed financially incapable of paying customs duties on stored goods;
2. Where he or his employee violates this Act or any order issued under this Act; and
3. Where it is deemed that insufficiency of the relevant facilities, etc. makes it difficult to attain the objective of setting up such licensed bonded area.

(2) The head of any customhouse may, when the operator of a licensed bonded area falls under any of the following subparagraphs, cancel his license:

1. Where he falls under each subparagraph of Article 175;
2. Where he is subjected to a disposition taken to suspend him from shipping goods into his licensed bonded area not less than three times within one year; and
3. Where the head of a customhouse deems it difficult to attain the objective of setting up his licensed bonded area because of his failure to ship goods into his licensed bonded area for not less than one year.

#### **■ Article 179 (Losing of Effect and Succession of License)**

(1) The license for setting up and operating a licensed bonded area shall lose its effect when it falls under any of the following subparagraphs:

1. When the operator fails to operate his licensed bonded area;
2. When the operator is dissolved or dead;
3. When the license term expires; and
4. When the license is cancelled.

(2) In case of paragraph (1) 1 and 2, the operator, his successor, a juristic person for the purpose of liquidation, or a corporation that survives after a merger, a division, a merger after division or is incorporated after a merger, a division or a merger after (hereinafter referred to as "succession corporation") shall promptly report the fact to the head of any customhouse.

(3) In the event that any person who has obtained a license for establishing and operating a licensed bonded area dies or is dissolved, and his successor or the succession corporation intends to continuously operate such licensed bonded area, such successor and such succession corporation shall file a report, appended by a document attesting the fulfillment of the requirements as prescribed in Article 174 (3), with the head of any customhouse as prescribed by the Presidential Decree within 30 days from the day on which the succeeded or the succeeded corporation is dead or dissolved.

(4) If the successor or the succession corporation files a report required by paragraph (3), the license of the succeeded or the succeeded corporation for establishing and operating the licensed bonded area shall be deemed the license of the successor or the succession corporation for a period ranging from the day on which the succeeded or the succeeded corporation dies or is dissolved to the day on which the successor or the succession corporation files the report.

(5) Any person falling under each subparagraph of Article 175 shall be prohibited from filing a report under paragraph (3).

#### ■ Article 180 (Supervision of Establishment and Operation of Licensed Bonded Area)

- (1) The head of any customhouse shall supervise the operator of any licensed bonded area.
- (2) The head of any customhouse may order the operator of any licensed bonded area to brief on the establishment and operation of such licensed bonded area or have his customs officers inspect the current operation of such licensed bonded area.
- (3) The head of any customhouse may order facilities, machinery and appliances installed, which are necessary for operating any licensed bonded area.
- (4) In the event that goods shipped into a licensed bonded area under Article 157 are not in conformity with the objective of establishing such licensed bonded area, the head of any customhouse may order such goods shipped into another bonded area.

#### ■ Article 181 (Security of Licensed Bonded Area)

In the event that the operator stores goods in a bonded area, a bonded exhibition, a bonded construction work site or a bonded store, the head of any customhouse may require the operator to offer security equivalent to customs duties on such stored goods as prescribed by the Commissioner of the Korea Customs Service within the limit as prescribed by the Presidential Decree.

■ **Article 182 (Measure on Loss of License's Effect)**

(1) In the event that the effect of a license for setting up and operating a licensed bonded area is lost, the operator or the successor shall promptly ship foreign goods stored in the relevant licensed bonded area to another bonded area.

(2) In the event that the effect of a license for establishing and operating a licensed bonded area is lost, the relevant licensed bonded area shall be deemed a licensed bonded area for a period fixed by the head of any customhouse within the limit of six months taking into account the kinds and quantity of foreign goods stored therein, and the operator or the successor shall be deemed to hold a license for establishing and operating the relevant licensed bonded area with respect to goods stored therein.

**Sub-Section 2 Bonded Warehouse**

■ **Article 183 (Bonded Warehouse)**

(1) Any bonded warehouse shall store foreign goods or other goods intended for customs clearance.

(2) The operator may store domestic goods in his bonded warehouse within the scope of not impeding the storage of goods referred to in paragraph (1) after filing a report thereon with the head of any customhouse: *Provided*, That goods on which an import declaration is accepted shall be kept stored in the same bonded warehouse without filing any report thereon.

(3) The operator shall, when he intends to keep domestic goods described in paragraph (2) stored in a bonded warehouse for not less than one year (for six months for the goods described in the proviso of paragraph (2)), obtain approval therefor from the head of any customhouse.

(4) The provisions of Articles 161 and 177 shall not apply to a period for which only domestic goods are stored in a bonded warehouse for which the approval of paragraph (3) is granted.

■ **Article 184 (Expiration of Storage Period for Domestic Goods)**

(1) With respect to domestic goods whose storage period as prescribed in Article 183 (2) expires, the operator shall ship such domestic goods out of his bonded warehouse on his responsibility within ten days from the day on which such storage period expires.

(2) Paragraph (1) shall apply to a case where the period, extended by approval granted under Article 183 (3), for the storage of domestic goods expires.

### **Sub-Section 3 Bonded Factory**

#### **■ Article 185 (Bonded Factory)**

(1) In any bonded factory, manufacturing, processing or similar work may be performed using foreign goods as raw materials or materials, or using foreign goods and domestic goods as raw materials or materials.

(2) No manufacturing, processing and similar work shall be performed using only domestic goods as raw materials or materials in any bonded factory without obtaining approval therefor from the head of any customhouse.

(3) The business type of a bonded factory established for the purpose of manufacturing and processing imported goods, from among bonded factories, may be limited as prescribed by the Ordinance of the Ministry of Finance and Economy.

(4) With respect to goods to be used by any bonded factory after going through customs clearance, the head of any customhouse may allow an import declaration thereon to be filed after such goods are shipped into such bonded factory. In this case, the provisions of Article 241 (3) shall apply *mutatis mutandis* thereto.

#### **■ Article 186 (Use Report, etc.)**

(1) With respect to goods shipped into a bonded factory, the operator shall file a use report with the head of any customhouse before such goods are used. In this case, any customs officer may inspect such goods.

(2) When foreign goods on which a use report is filed in accordance with paragraph (1) are subject to permission, approval, labels and other requirements under Article 226, the fulfillment of such requirements shall be certified.

#### **■ Article 187 (Permission for Work Outside Bonded Factory)**

(1) The head of any customhouse may, when it is deemed necessary to develop the processing trade or the domestic industry, permit the work described in Article 185 (1) to be done outside the relevant bonded factory by fixing a period, a place and goods, etc. as prescribed by the Presidential Decree.

(2) In the event that the head of any customhouse allows the work to be done outside the relevant bonded factory in accordance with paragraph (1), he may, when it is deemed necessary, require the operator to offer security equivalent to the amount of customs duties on the relevant goods.

(3) In the event that the permission referred to in paragraph (1) is granted, any customs officer may inspect the relevant goods when they are shipped out of the bonded factory.

(4) Foreign goods shipped into a designated place (hereinafter referred to as "workplace other than a bonded factory") upon permission granted under paragraph (1) shall be deemed to exist in a bonded factory until a designated period expires.

(5) With respect to goods to be used for the bonded work, for which permission is granted under paragraph (1), the head of any custom-house may allow the shipment of such goods directly to a workplace other than a bonded factory as prescribed by the Commissioner of the Korea Customs Service.

(6) In the event that foreign goods or other goods manufactured using such foreign goods remain at the workplace other than a bonded factory after the designated period of paragraph (1) expires, customs duties on such goods shall be promptly collected from the operator of the relevant bonded factory, who has been granted permission with respect to the relevant goods.

#### ■ Article 188 (Imposition of Customs Duties on Manufactured Goods)

In the event that the work is done using foreign goods or foreign goods and domestic goods as raw materials or materials, any goods therefrom shall be deemed goods that arrive in Korea from a foreign nation: *Provided*, That in the event that foreign goods and domestic goods are altogether used as raw materials or materials to manufacture new goods upon approval of the head of any customhouse as prescribed by the Presidential Decree, any goods corresponding to the quantity and price of foreign goods from among the goods therefrom shall be deemed goods that arrive in Korea from a foreign nation.

#### ■ Article 189 (Imposition of Customs Duties on Raw Materials)

In importing goods manufactured in a bonded factory, with respect to foreign goods that are used as raw materials to manufacture the relevant goods, for which a prior application is filed at the time that such foreign goods are shipped into such bonded factory, customs duties thereon shall be levied according to the nature and quantity of raw materials at the time that such foreign goods are shipped into the bonded factory, notwithstanding the provisions of Article 16. In this case, any customs officer may inspect the goods for which a prior application is filed.

### Sub-Section 4 Bonded Exhibition

#### ■ Article 190 (Bonded Exhibition)

Foreign goods may be stored, displayed and used in any bonded exhibition for an exposition, a fair or a sample exhibition.

### Sub-Section 5 Bonded Construction Work Site

#### ■ Article 191 (Bonded Construction Work Site)

In a bonded construction work site, any construction work may be done using foreign-made machinery, installations, equipment, all required for the installation of industrial facilities.

■ **Article 192 (Import Declaration Prior to Use)**

The operator shall, when he ships foreign goods into a bonded construction work site, file an import declaration thereon before such foreign goods are used and go through customs officers' inspection: *Provided*, That in the event that any customs officer deems it unnecessary to inspect such goods, the inspection may be omitted.

■ **Article 193 (Storage Limit for Foreign Goods Shipped into Bonded Construction Work Site)**

With respect to foreign goods shipped into a bonded construction work site, the head of any customhouse may, when it is deemed necessary, limit a place where such foreign goods are stored in such bonded construction work site or require the operator to report the actual use of the foreign goods.

■ **Article 194 (Restriction on Operation of Facilities)**

The operator shall be prohibited from putting into operation facilities installed in a bonded construction work site before an import declaration thereon filed under Article 248 is accepted.

■ **Article 195 (Work Permit Outside Bonded Construction Work Site)**

(1) The head of any customhouse may, when he deems it necessary to carry out the bonded work, permit the implementation of any bonded work outside a bonded construction work site by fixing a period, a place and goods, etc. as prescribed by the Presidential Decree.

(2) The provisions of Article 187 (2) through (6) shall apply *mutatis mutandis* to the case of paragraph (1).

**Sub-Section 6 Bonded Store**

■ **Article 196 (Bonded Store)**

(1) Foreign goods may be sold in any bonded store on condition that goods sold therein are shipped abroad or used by any person eligible for duty exemption under Article 88 (1) 1 through 4.

(2) The head of any customhouse may limit the kind, quantity and storage place, etc. of goods that are permitted to be sold in any bonded store.

(3) Necessary matters concerning the shipment of goods into or out of any bonded store, delivery and management of such goods, which are sold in any bonded store, shall be prescribed by the Presidential Decree.

**SECTION 4 General Bonded Area**

■ **Article 197 (Designation of General Bonded Area, etc.)**

(1) The Commissioner of the Korea Customs Service may, *ex officio* or upon a request from the head of a relevant central administrative agency or the head of a relevant local government, designate a certain area as a general bonded area taking into account the extent of contribution to the promotion of trade and the quantity of goods shipped into and out of such general bonded area, etc.

(2) In any general bonded area, not less than two functions(hereinafter referred to as "general bonded function"), from among the functions of bonded warehouse, bonded factory, bonded exhibition, bonded construction work site or bonded store, may be fulfilled.

(3) Necessary matters concerning requirements and procedures, etc. for designating any general bonded area shall be prescribed by the Presidential Decree.

#### ■ Article 198 (Report on Establishment and Operation of General Bonded Business Place)

(1) Any person who intends to perform a general bonded function in a general bonded area shall specify such function and file with the head of any customhouse a report on the establishment and operation of a general bonded business place.

(2) Any person falling under each subparagraph of Article 175 shall be prohibited from filing any report on the establishment and operation of any general bonded business place required by paragraph (1).

(3) The operator of any general bonded business place shall, when he intends to alter the general bonded function he fulfills, file a report thereon with the head of any customhouse.

(4) Necessary matters concerning procedures for the report referred to in paragraphs (1) and (3) shall be prescribed by the Presidential Decree.

#### ■ Article 199 (Shipment of Goods into and out of General Bonded Area, etc.)

(1) Any person who intends to ship goods into and out of any general bonded area shall file a report thereon with the head of any custom-house as prescribed by the Presidential Decree.

(2) In the event that goods shipped into or out of any general bonded area are domestic goods, the report required by paragraph (1) may be omitted or such goods may be shipped into or out of such general bonded area in a simplified way as prescribed by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 200 (Scope of Goods Shipped into and out of General Bonded Area)

(1) Goods, prescribed by the Ordinance of the Ministry of Finance and Economy, which are used or consumed in a general bonded area, shall be used or consumed therein after they are imported through customs clearance.

(2) No limit shall be placed on the storage period for goods shipped into any general bonded area.

(3) The head of any customhouse may, when goods shipped into or out of a general bonded area are deemed an impediment to the national security, the public order, the public health or environmental conservation, etc. or such goods are deemed not in conformity with the objective of designating such general bonded area, limit the shipment of the relevant goods into and out of such general bonded area.

#### ■ Article 201 (Management of Goods by Operator)

(1) The operator shall manage goods shipped into his general bonded area classifying such goods according to general bonded functions.

(2) The head of any customhouse may sell goods falling under the proviso of Article 208 (1), from among goods stored in any general bonded area, in accordance with the provisions of the same Article.

(3) The operator shall, when goods shipped into his general bonded area are relocated, used or disposed of in such general bonded area, keep records thereon making use of books or data-processing equipment. In this case, with respect to goods prescribed by the Ordinance of the Ministry of Finance and Economy, the operator shall file a report thereon with the head of a customhouse beforehand.

(4) Necessary matters concerning methods and procedures for keeping records required by paragraph (3) shall be prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 202 (Duty to Maintain Facilities and Equipment)

(1) The operator shall maintain facilities and equipment necessary to perform the general bonded function as prescribed by the Presidential Decree.

(2) Any person who intends to do the maintenance and supplementary work for goods stored in a general bonded area or to do such work outside such general bonded area shall file a report thereon with the head of any customhouse as prescribed by the Presidential Decree.

(3) The provisions of Article 187 shall apply *mutatis mutandis* to the pledging of security and the inspection of goods shipped out of a general bonded area in case that the maintenance and supplementary work is carried out under paragraph (2).

#### ■ Article 203 (Management of General Bonded Area by Custom- house)

(1) The head of any customhouse may control personnel and vehicles, etc. entering and departing from any general bonded area or inspect goods shipped or carried by hand into and out of such general bonded area in order to efficiently operate such general bonded area, including the security of duty claims, supervision and control of such general bonded area.

(2) The head of any customhouse may check or inspect books and records compiled using the data-processing equipment under Article 201 (3) or require the operator to report necessary

matters, including business records, in order to confirm goods shipped into or out of any general bonded area and their use or disposal, etc.

(3) The Commissioner of the Korea Customs Service may, when he deems it necessary to monitor and control foreign goods in a general bonded area, ask the head of any central administrative agency or the head of any local government, who has asked him to designate such general bonded area, to install facilities utilized to prevent illegal shipment of bonded goods out of such general bonded area, loss and theft of such bonded goods, etc. in such general bonded area. In this case, the head of the central administrative agency or the head of the local government shall comply with such request unless special reasons exist that make it impossible for him to do so.

#### ■ Article 204 (Cancellation of Designation of General Bonded Area)

(1) The Commissioner of the Korea Customs Service may, when he deems it unnecessary to keep a general bonded area operated due to a fall in the quantity of goods shipped into or out of such general bonded area and other grounds prescribed by the Presidential Decree, cancel the designation of such general bonded area.

(2) The head of any customhouse may, when the operator of a general bonded business place falls under any of the following subparagraphs, suspend him from performing his general bonded function:

1. Where he falls under each subparagraph of Article 175; and
2. Where there occur a decrease in the quantity of goods shipped into or out of a general bonded area in connection with the general bonded function that the operator performs and other grounds prescribed by the Presidential Decree.

#### ■ Article 205 (Applicable Provisions)

The provisions of Articles 178 (1), 180 (1), (3) and (4), 181, 182, 185 (2) through (4), 186, 188, 189, 192 through 194 shall apply *mutatis mutandis* to the case of any general bonded area.

### SECTION 5 Custody and Disposal

#### Sub-Section 1 Custody and Deposit

#### ■ Article 206 (Custody and Deposit)

(1) The head of any customhouse may keep in custody goods which fall under any of the following subparagraphs and lack necessary permission, approval, labels and other conditions required by Article 226:

1. Traveler's personal effects; and

2. Personal effects of crews of the transportation means flying or sailing between Korea and foreign nations.

(2) With respect to goods kept in custody in accordance with paragraph (1), such custody shall be rescinded only when the cause thereof is eliminated or such goods are returned.

(3) With respect to goods which fall under each subparagraph of paragraph (1) and no one wants to import, the head of any customhouse may temporally keep such goods in custody upon a report thereon.

#### ■ Article 207 (Goods in Custody and on Deposit)

(1) Any goods kept in custody or on deposit under Article 206 shall be kept in custody in a place administered by the head of any customhouse: *Provided*, That the same shall not apply to a case where the head of the customhouse deems it necessary to do so.

(2) The provisions of Articles 160 (4) through (6), 170, 208 through 212 shall apply *mutatis mutandis* to goods kept in custody or on deposit in accordance with Article 206.

(3) The head of any customhouse may, when he deems it necessary to ensure smooth customs clearance for goods kept in custody or on deposit, notwithstanding the provisions of Article 209 that are applied *mutatis mutandis* in accordance with paragraph (2), notify to the effect that goods kept in custody or on deposit shall be sold unless they are either exported, imported or returned within the custody and deposit period as prescribed by the Commissioner of the Korea Customs Service.

### Sub-Section 2 Sale of Goods Whose Storage Period Expires

#### ■ Article 208 (Goods Subject to Sale and Procedures for Sale)

(1) The head of any customhouse may, when the storage period of foreign goods shipped into a bonded area expires, sell the relevant goods after publishing the expiration of such period: *Provided*, That goods falling under any of the following subparagraphs may be sold after publishing their sale even prior to the expiration of their storage period:

1. Animals and plants alive;
2. Goods which are decomposed or feared to be decomposed;
3. Goods which are feared to damage any warehouse or foreign goods;
4. Goods which are no longer usable due to the expiration of any period or feared to suffer a sharp fall in their commercial value; and
5. Goods whose sale is requested by the owner thereof from among goods prescribed by the Commissioner of the Korea Customs Service.

(2) In the event that goods whose storage period expires fall under each subparagraph of paragraph (1) and the emergency of their sale leaves no time to publish, such publication may be made after their sale.

(3) The pledgee or lien holder of the sold goods shall turn the relevant goods over to a buyer notwithstanding the provisions of other Acts and subordinate statutes.

(4) In the case falling under each of the following subparagraphs, when goods are sold in accordance with paragraph (1), the head of any customhouse may ask an institution prescribed by the Presidential Decree (hereinafter referred to as "sale agent") to act on behalf of him in selling such goods:

1. Where it is intended to sell goods through a digitally recorded document in cybermall to ensure the speedy sale of such goods;
2. Where expert knowledge is required for the sale of goods; and
3. Where special circumstances make it inappropriate for any customhouse to sell the goods for itself.

(5) In the event that the sale agent acts on behalf of any customhouse in selling goods in accordance with paragraph (4) (including a case where the sale agent acts on behalf of any customhouse in dealing with the balance of proceeds from sale under Article 211 (6)), the head of the sale agent shall be deemed the head of the customhouse.

(6) The head of any customhouse may, in the event that any sale agent acts on behalf of the customhouse in selling goods, pay commission, etc. to such sale agent taking into account expenses involved in selling such goods as prescribed by the Ordinance of the Ministry of Finance and Economy.

(7) In the event that any sale agent acts on behalf of any customhouse in selling goods under paragraph (4), officers and employees of such sale agent shall be deemed customs officers in the application of the penal provisions under the Criminal Act or other Acts.

(8) Necessary matters concerning the sale of goods by the sale agent under paragraph (4) shall be prescribed by the Presidential Decree.

#### ■ Article 209 (Notice)

(1) The head of any customhouse shall, when he intends to sell goods whose storage period expires under Article 208 (1), serve a notice on the owner of goods, etc. that he is urged to either export, import or return the relevant goods within one month from the date of notice.

(2) In the event that it is unable to serve a notice on the owner of goods, etc. under paragraph (1) because of the failure to identify him or his whereabouts, such notice may be published instead.

### ■ Article 210 (Method of Sale)

(1) The sale of goods under Article 208 shall be effected according to either a general competitive bidding, a designated competitive bidding, a free contract, an auction or a consignment sale.

(2) In the event that the goods are not sold through the competitive bidding, such goods may be again put on such competitive bidding at an interval of not less than five days and the estimated sale price may be lowered by up to ten percent of the estimated sale price in every consecutive bidding. In this case, if there is a bidder willing to buy the goods at a price higher than the estimated sale price to be lowered, the goods may be sold to him through a free contract at that price.

(3) In the case falling under any of the following subparagraphs, the goods may be sold through an auction or a free contract:

1. Where the goods are not sold after they are put on not less than two consecutive competitive bidding in accordance with paragraph (2); and
2. Where the goods cannot be sold through the competitive bidding according to the nature, form and the purpose of use, etc. of such goods.

(4) Any goods which are not sold in accordance with paragraph (3) and other goods prescribed by the Presidential Decree may be sold through a consignment sale.

(5) A dutiable value for the goods sold in accordance with paragraphs (1) through (4) shall be calculated based on the first estimated sale price described in paragraph (2) notwithstanding the provisions of Articles 30 through 35.

(6) Matters concerning the method of calculating the estimated sale price of goods to be sold and consignment sale shall be prescribed by the Presidential Decree, and the National Tax Collection Act shall apply *mutatis mutandis* to auction procedures.

(7) The head of any customhouse shall, when he intends to sell goods in accordance with paragraph (1), publish the kind of goods to be sold, the quantity of such goods and an estimated sale price, etc. ten days before the sale commences.

### ■ Article 211 (Disposition of Balance)

(1) The head of any customhouse shall, if there is any balance after proceeds from the sale of goods in accordance with Article 20 are appropriated to expenses involved in such sale, customs duties and other taxes in order, pay such balance to the owner of such goods.

(2) The pledgee or lien holder of the goods sold in accordance with Article 208 shall furnish a document attesting his claim to the head of any customhouse within one month from the date of sale.

(3) The head of any customhouse shall, if there is any pledgee or lien holder of the goods sold in accordance with Article 208, pay an amount equivalent to the claim secured by the pledge or lien to such pledgee or lien holder before he pays any balance to the owner of the goods.

(4) In the event that any balance of proceeds from the public sale of goods is paid to a pledgee or a lien holder, such balance falls short of the amount of a claim secured by a pledge or a lien and there are not less than two claimants, the head of any customhouse shall pay such balance according to the order and amount of payment he sets in accordance with the Civil Act and other Acts and subordinate statutes.

(5) The payment of any balance under paragraph (1) may be temporally withheld under the conditions as prescribed by the Commissioner of the Korea Customs Service.

(6) In the event that a sale agent sells goods on behalf of any custom-house in accordance with Article 208 (4), such sale agent may act on behalf of the customhouse in handling any balance of proceeds from the sale under paragraphs (1) through (5).

#### ■ Article 212 (Reversion of Goods to National Treasury)

(1) With respect to any goods not sold under Article 210, the head of any customhouse shall serve a notice on the owner of such goods, etc. that such goods shall be immediately shipped out of a place where they are stored.

(2) In the event that the relevant goods are not shipped out of such place within one month from the date of notice referred to in paragraph (1), the ownership of such goods shall be deemed renounced and the goods in question shall revert to the National Treasury.

## CHAPTER VIII TRANSPORTATION

### SECTION 1 Bonded Transportation

#### ■ Article 213 (Report of Bonded Transportation)

(1) Foreign goods may be transported, as they are, only between places falling under each of the following subparagraphs: *Provided*, That goods on which an import declaration is accepted under Article 248 may be transported from a place where the relevant goods are stored to either of the following places:

1. Open port;
2. Bonded area;
3. Place permitted under Article 156;
4. Customs authority;

5. Customs clearance station;
6. Customs clearance point; and
7. Clearance post office.

(2) Any person who intends to run the bonded transportation referred to in paragraph (1) shall file a report thereon with the head of any customhouse as prescribed by the Commissioner of the Korea Customs Service: *Provided*, That if it is deemed necessary for monitoring goods and such necessity is prescribed by the Presidential Decree, he shall obtain approval therefor from the head of any customhouse.

(3) Any customs officer may, when he deems it necessary to monitor and control, inspect goods intended for the bonded transportation as prescribed by the Commissioner of the Korea Customs Service.

(4) With respect to goods on which an export declaration is accepted, procedures for their bonded transportation shall be omitted except as otherwise provided for by the Commissioner of the Korea Customs Service.

(5) The provisions of Articles 247 and 250 shall apply *mutatis mutandis* to any report, approval and inspection with respect to the bonded transportation under the provisions of paragraphs (2) and (3).

#### ■ Article 214 (Reporter of Bonded Transportation)

The report or the application for approval under Article 213 (2) shall be filed in the name of the person falling under any of the following subparagraphs:

1. The owner of goods;
2. The licensed customs broker, etc.; and
3. The person who runs the bonded transportation business (hereinafter referred to as "bonded transportation operator").

#### ■ Article 215 (Report of Bonded Transportation)

Any person who has filed a report or obtained approval with respect to his bonded transportation under Article 213 (2) shall, when the relevant goods arrive in their destination, file a report thereon with the head of a customhouse having jurisdiction over such destination as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 216 (Bonded Transportation Route)

(1) The head of any customhouse may, when he deems it necessary to monitor and control goods in the bonded transportation, restrict transportation routes as prescribed by the Commissioner of the Korea Customs Service.

(2) Any bonded transportation shall be completed within a period fixed by the Commissioner of the Korea Customs Service: *Provided*, That the head of any customhouse may, when it is deemed necessary to extend such period due to a calamity or unavoidable grounds, extend the period.

#### ■ Article 217 (Collection of Customs Duties Upon Expiration of Bonded Transportation Period)

In the event that the bonded transportation of foreign goods on which a report thereon is filed or for which approval is obtained under Article 213 (2) fails to arrive in a destination within a fixed period, customs duties thereon shall be collected without any delay: *Provided*, That this provision shall not apply to a case where the relevant goods are missing due to a calamity or unavoidable grounds or disposed of upon prior approval of the head of any customhouse.

#### ■ Article 218 (Security on Bonded Transportation)

The head of any customhouse may request the pledging of security against customs duties of goods for which the report or approval on the bonded transportation under article 213 is filed or obtained.

#### ■ Article 219 (Transportation of Goods in Wrecked Vessel or Aircraft)

(1) Any foreign goods unloaded from a vessel or an aircraft due to a calamity or unavoidable grounds may be transported from a place where such foreign goods are temporarily stored to the place of each subparagraph of Article 213 (1).

(2) Any person who intends to transport foreign goods under paragraph (1) shall obtain approval required by Article 213 (2): *Provided*, That in case of emergency, a report thereon shall be filed with any customs officer or police officer (limited to a case where no customs officer is accessible).

(3) Any police officer shall, upon receiving a report filed in accordance with paragraph (2), notify any customs officer of a summary of such report.

(4) The provisions of Articles 215 through 218 shall apply *mutatis mutandis* to the case of paragraph (1).

#### ■ Article 220 (Simplified Bonded Transportation)

The head of any customhouse may designate any bonded transportation operator or any goods to be transported in a bonded way taking into account the nature and form of goods subject to the bonded transportation and the credit rating of a bonded transportation operator as prescribed by the Commissioner of the Korea Customs Service, and take measures falling under each of the following subparagraphs:

1. The simplification of procedures for filing any report under Article 213 (2);
2. The omission of inspection under Article 213 (3); and
3. The exemption of offering security under Article 218.

## **SECTION 2 Domestic Transportation**

### **■ Article 221 (Report of Domestic Transportation)**

(1) In the event that domestic goods are intended to be transported by any foreign trade vessel or any foreign trade aircraft, a report thereon shall be filed with the head of any customhouse as prescribed by the Presidential Decree.

(2) The provisions of Articles 215, 216, 246, 247 and 250 shall apply *mutatis mutandis* to the domestic transportation.

## **SECTION 3 Bonded Transportation Operator, etc.**

### **■ Article 222 (Registration of Bonded Transportation Operator, etc.)**

(1) Any person falling under any of the following subparagraphs (hereinafter referred to as "bonded transportation operator, etc.") shall file registration with the Commissioner of the Korea Customs Service or the head of any customhouse as prescribed by the Presidential Decree:

1. The Bonded transportation operator;
2. The operator of the business of loading goods onto or unloading goods from any foreign trade vessel or any foreign trade aircraft;
3. A person who runs the business of providing any foreign vessel or any foreign aircraft with goods, etc. falling under any of the following items:
  - (a) Vessel supplies;
  - (b) Aircraft supplies;
  - (c) Goods sold inside ships and airplanes; and
  - (d) Services;
4. A person who runs the business of providing goods or services in any bonded area located inside any open port; and
5. A person who runs the business of delivering commercial documents and other samples using any foreign trade vessel or any foreign trade aircraft.

(2) Necessary matters concerning standards and procedures, etc. for registration under paragraph (1) shall be prescribed by the Presidential Decree.

(3) The Commissioner of the Korea Customs Service or the head of any customhouse may, when it is deemed necessary, require the person falling under each subparagraph of paragraph (1) to make a report on his business or order him to furnish books and other documents.

■ **Article 223 (Requirements for Registration of Bonded Transportation Operator, etc.)**

Every bonded transportation operator, etc. shall meet requirements falling under the following subparagraphs:

1. He is required not to fall under each subparagraph of Article 175;
2. He is required to obtain a license, permission and designation, etc. or to file registration in accordance with the Harbor Transport Business Act and other relevant Acts and subordinate statutes;
3. He is required not to have any customs duties and any national tax in arrears; and
4. He is required to be a person for whom two years expire after his registration as a bonded transportation operator, etc. was revoked.

■ **Article 224 (Administrative Sanctions against Bonded Transportation Operators, etc.)**

The head of any customhouse may, if any bonded transportation operator, etc. falls under any of the following subparagraphs, revoke his registration, suspend his business and take other necessary measures against him: *Provided*, That if he falls under subparagraph 1, his registration shall be revoked:

1. Where he falls under each subparagraph of Article 175;
2. Where he is subjected to the revocation of his license, permission, designation and registration, etc. or a disposition taken to suspend his business in accordance with the Harbor Transport Business Act and other relevant Acts and subordinate statutes; and
3. Where he (including any of his officer, staff, and employees) violates this Act of the orders under this Act, with regard to his work as bonded transportation operator, etc.

■ **Article 225 (Brokerage of Bonded Cargo Transportation)**

(1) If any person who runs the business of brokering the cargo transportation in accordance with other Acts and subordinate statutes (hereinafter referred to as "cargo transportation broker") intends to broker the transportation of bonded cargo, he shall file a report thereon with the head of any customhouse as prescribed by the Presidential Decree.

(2) The head of any customhouse may, when he deems it necessary to speed up customs clearance for bonded cargo and simplify the procedures for managing such bonded cargo, require any cargo transportation broker to report on his business as prescribed by the Presidential Decree.

(3) The provisions of paragraphs (1) and (2) shall apply *mutatis mutandis* to any shipping company or any airline dealing in bonded cargo.

## CHAPTER IX CUSTOMS CLEARANCE

### SECTION 1 Common Provisions

#### Sub-Section 1 Requirements for Customs Clearance

##### ■ Article 226 (Certification and Confirmation of Permission and Approval)

(1) With respect to goods which require permission, approval, labels and the satisfaction of other conditions for their export and import in accordance with Acts and subordinate statutes, the meeting of such requirements and such conditions shall be certified to the head of any customhouse.

(2) With respect to export and import goods which require a confirmation of the meeting of requirements and conditions referred to in paragraph (1) by the head of any customhouse in relation to customs clearance, such goods and the method of making such confirmation shall be published beforehand as prescribed by the Presidential Decree notwithstanding the provisions of other Acts and subordinate statutes.

(3) The provisions of Article 245 (2) shall apply *mutatis mutandis* to the confirmation referred to in paragraph (1).

##### ■ Article 227 (Request for Meeting Obligation)

(1) With respect to goods which are obliged to be used for specific purpose after their import in accordance with other Acts and subordinate statutes, the head of any customhouse may request in writing that such obligation be met.

(2) Any person shall, upon receiving a request for meeting the obligation referred to in paragraph (1), meet such obligation imposed on the relevant goods unless special grounds prescribed by the President Decree exist that exempt him from meeting such obligation.

##### ■ Article 228 (Customs Clearance Labels)

The head of any customhouse may, when he deems it necessary to secure customs duties, order customs clearance labels be put on imported goods as prescribed by the Presidential Decree.

#### Sub-Section 2 Confirmation of Country of Origin

#### ■ Article 229 (Standards for Confirming Country of Origin)

(1) When the country of origin is confirmed in order to levy and collect customs duties in accordance with this Act, treaties and conventions, etc. the nation falling under any of the following subparagraphs shall be the country of origin:

1. A nation in which the whole of the relevant goods are produced, processed or manufactured; and
2. In the event that the relevant goods are produced, processed or manufactured in not less than two countries, a nation in which the final process of producing, processing and manufacturing the relevant goods is practically undertaken to the extent that such goods are fully given their essential characteristics.

(2) Necessary matters concerning the scope of goods subject to the application of each subparagraph of paragraph (1) and specific standards, etc. for confirming the country of origin shall be prescribed by the Ordinance of the Ministry of Finance and Economy.

(3) Notwithstanding the provisions of paragraphs (1) and (2), when it is necessary to prescribe otherwise standards, etc. for confirming the country of origin to enforce treaties and conventions, etc. standards, etc. for confirming the country of origin shall be prescribed otherwise by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 230 (Limitations on Customs Clearance of Goods with False Country of Origin Labels)

The head of any customhouse shall, when any goods which are required to carry the country of origin labels in accordance with Acts and subordinate statutes fall under any of the following subparagraphs, not allow such goods to get through customs clearance: *Provided*, That the head of the customhouse may, if the matter of violation is insignificant, grant the goods customs clearance after having such insignificant violation supplemented or corrected:

1. Where the country of origin is labeled in a manner not in conformity with standards and methods prescribed by Acts and subordinate statutes;
2. Where the country of origin is falsely labeled in an illegal manner; and
3. Where no country of origin is labeled.

#### ■ Article 231 (Custody of Transshipped Goods, etc.)

(1) The head of any customhouse may keep in custody foreign goods whose country of origin is falsely labeled Korea from among foreign goods temporally unloaded onto land or transshipped to another vessel under Article 141.

(2) Foreign goods kept in custody in accordance with paragraph (1) shall be stored in a place administered by the head of the customhouse: *Provided*, That the same shall not apply to a case where the head of the customhouse deems it unnecessary to do so.

(3) The head of the customhouse shall, when he keeps any foreign goods in custody in accordance with paragraph (1), notify the owner of such foreign goods or a person entrusted by such owner of the fact.

(4) The head of the customhouse may, when he serves a notice referred to in paragraph (3), order the country of origin labels in question corrected and necessary measures taken within a fixed period. In this case, the head of the customhouse shall put the owner of the foreign goods or the person entrusted by such owner on notice that if his order is not carried out, the foreign goods in question shall be sold.

(5) The head of the customhouse shall, when the order described in the former part of paragraph (4) is carried out, lift the custody of the goods immediately.

(6) The head of the customhouse may, when the order described in the former part of paragraph (4) is not carried out, sell the goods in question. In this case, the provisions of Articles 160 (4) through (6) and 210 shall apply *mutatis mutandis* to methods and procedures for sale.

(7) The provisions of paragraphs (1) through (3) shall apply *mutatis mutandis* to goods that infringe on any trademark right registered under the Trademark Act or the copyright prescribed under the Copyright Act. In this case, the head of the customhouse shall lift the custody of the goods when any holder of such right does not bring an action for damages to the court within ten days from the day on which he was notified by the head of the customhouse of the fact of custody.

#### ■ Article 232 (Country of Origin Certificate, etc.)

(1) Any person who imports goods for which a confirmation of the country of origin is required in accordance with this Act, treaties and conventions, etc. shall submit a document attesting the country of origin of the relevant goods (hereinafter referred to as the "country of origin certificate"): *Provided*, That the same shall not apply to goods prescribed by the Presidential Decree.

(2) The head of any customhouse may, if the country of origin certificate referred to in paragraph (1) is not submitted, decide not to give tariff benefits granted under this Act, treaties, conventions, etc. such as the general preferential tariff, the international cooperation tariff or the beneficial tariff when he applies tariff rates.

(3) The head of any customhouse may require any person who imports goods for which a confirmation of the country of origin is required to furnish necessary materials to confirm contents of the country of origin certificate submitted under paragraph (1) (hereafter in this Article referred to as "country of origin confirmation data"). In this case, the head of any customhouse may, when any person who imports goods for which a confirmation of the country of

origin is required fails to furnish the country of origin confirmation data without any justifiable reason, refuse to recognize contents of the country of origin certificate submitted when an import declaration is filed.

(4) The head of any customhouse, when any person who furnishes the country of origin confirmation data under paragraph (3) asks him not to disclose such data, citing justifiable reasons, shall not make public such data without the explicit consent of the person.

#### ■ Article 233 (Request for Confirming Country of Origin Certificate)

The head of any customhouse may ask the customhouse of a foreign nation that has issued the country of origin certificate or any agency having the authority to issue such country of origin certificate to confirm the authenticity and correctness of such country of origin certificate and the country of origin confirmation data furnished in accordance with Article 232 (1) and (3). In this case, the head of any customhouse shall make a confirmation request after an import declaration on the relevant goods is accepted.

### Sub-Section 3 Restrictions on Customs Clearance

#### ■ Article 234 (Prohibition on Export and Import)

Goods falling under any of the following subparagraphs shall not be exported or imported:

1. Books, publications, drawings, records, films, videos, sculptures and other similar goods which disrupt the constitutional order, disturb the public safety and order or corrupt public morals;
2. Goods which reveal confidential matters of the Government or are used to carry out intelligence activities; and
3. Currencies, bonds and securities which are counterfeited, forged or copied.

#### ■ Article 235 (Protection of Intellectual Property Right)

(1) Any goods which infringe on any trademark right registered in accordance with the Trademark Act may not be exported or imported.

(2) The Commissioner of the Korea Customs Service may, when it is deemed necessary to efficiently crack down on goods which infringe on the trademark right, require any person who has registered the trademark right to report matters concerning such trademark right.

(3) The head of any customhouse shall, when goods whose export and import have been declared are deemed to have infringed on the trademark right reported under paragraph (2), notify a person who has reported such trademark right of the fact that the export and import declaration has been filed. In this case, the person who has reported the trademark right may, upon receiving the notification, offer security to the head of the customhouse and ask him to withhold customs clearance for the goods whose export and import declaration has been filed.

(4) Any person who intends to keep his trademark right protected may offer security to the head of any customhouse and ask him to withhold customs clearance for the relevant goods.

(5) The head of any customhouse shall, upon receiving a request filed in accordance with paragraphs (3) and (4), withhold customs clearance for the relevant goods unless special reasons exist that make it impossible for him to do so: *Provided*, That if any person who has filed an export and import declaration offers security and requests a customs clearance for the relevant goods, such customs clearance may be permitted.

(6) Necessary matters concerning the report on the trademark right, pledging of security, and withholding and permission, etc. of customs clearance under paragraphs (2) through (5) shall be prescribed by the Presidential Decree.

(7) The provisions of paragraphs (4) through (6) shall apply *mutatis mutandis* to any copyright prescribed by the Copyright Act.

#### ■ Article 236 (Restrictions on Customs Clearance)

The Commissioner of the Korea Customs Service or the head of any customhouse may, when he deems it necessary for monitoring, restrict goods which may go through customs clearance in any customs clearance station, any customs clearance point or any specific customhouse.

#### ■ Article 237 (Withholding of Customs Clearance)

In the case falling under any of the following subparagraphs, the head of any customhouse may withhold customs clearance for the relevant goods:

1. Where matters entered in a report filed with respect to export, import and return under Article 241 or 244 are required to be supplemented;
2. Where documents, etc. submitted under Article 245 are required to be supplemented after they are found imperfect;
3. Where matters of obligation under the provisions of this Act are violated or the public health, etc. is feared to be ruined; and
4. Where necessary matters under the provisions of this Act are deemed necessary to be confirmed as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 238 (Order Given to Ship Goods into Bonded Area)

(1) With respect to goods falling under any of the following subparagraphs, which are found to violate matters of obligation under the provisions of this Act and feared to ruin the public health, etc. the Commissioner of the Korea Customs Service or the head of any custom-house may order such goods shipped into a bonded area as prescribed by the Presidential Decree:

1. Goods which are due to be exported abroad after an export declaration thereon is accepted;  
and
  2. Goods which are shipped out of a bonded area after an import declaration thereon is accepted.
- (2) Any person who is under the order given under paragraph (1) shall ship the relevant goods into a designated bonded area.

#### **Sub-Section 4 Application of Exception in Customs Clearance**

##### **■ Article 239 (Consumption or Use of Goods not Deemed Imported)**

The consumption or use of foreign goods, when it falls under any of the following subparagraphs, shall not be deemed imported:

1. Where vessel supplies or aircraft supplies are consumed or used according to their respective purposes of use in the respective transportation means;
2. Where travelers consume or use their personal effects in any transportation means or any customs route; and
3. Where foreign goods are consumed or used according to what is recognized by the provisions of this Act.

##### **■ Article 240 (Legal Fiction of Export and Import)**

(1) Foreign goods falling under any of the following subparagraphs shall be deemed legally imported in accordance with the provisions of this Act, and customs duties, etc. thereon shall not be collected separately:

1. Postal materials delivered to any addressee by any postal service office;
2. Goods sold under this Act;
3. Goods confiscated under this Act;
4. Goods which fall under Articles 269, 272, 273, or 274 (1) 1 and their duties are paid upon a notice disposition taken in accordance with the provisions of this Act;
5. Goods which revert to the National Treasury in accordance with Acts and subordinate statutes;  
and
6. Goods whose customs duties are additionally collected in lieu of confiscation in accordance with Article 282 (3).

(2) Any postal materials mailed out to any foreign nation by the postal service office shall be deemed legally exported or returned in accordance with the provisions of this Act.

## **SECTION 2 Exportation, Importation and Return**

### **Sub-Section 1 Declaration**

#### **■ Article 241 (Declaration on Exportation, Importation and Return)**

(1) Any person who intends to export, import or return goods shall declare the item, standard, quantity and price of the relevant goods, and other matters prescribed by the Presidential Decree to the head of any customhouse.

(2) With respect to goods falling under any of the following subparagraphs, a declaration thereon required by paragraph (1) may be omitted or a declaration thereon may be filed in such a simplified manner as prescribed by the Commissioner of the Korea Customs Service:

1. Personal effects, consignments or unaccompanied goods;
2. Postal materials;
3. Goods exempted from customs duties in accordance with Articles 91 through 94, 96 and 97 (1); and
4. Containers used for international transportation (limited to those whose basic tariff rates are zero in accordance with the attached Schedules of Tariff Rates).

(3) Any person who has shipped goods intended for import or return into a designated storage place or a bonded warehouse, or stored such goods in a place other than a bonded area shall file a declaration thereon required by paragraph (1) within 30 days (within 30 days from the date on which he may file a return declaration as prescribed by the Commissioner of the Customs Service with respect to the goods falling under Article 243 (1)) from the date on which he shipped such goods into such place or stored them in such place.

(4) The head of any customhouse shall, when any person who imports or returns goods prescribed by the Presidential Decree fails to file a declaration thereon within the period described in paragraph (3), collect an amount prescribed by the Presidential Decree as an additional duty within the limit of an amount equivalent to 2/100 of the dutiable value of the goods.

(5) In the case falling under any of the following subparagraphs, the head of any customhouse shall collect an amount equivalent to 20/100 of a duty amount payable (including the duty and the internal tax) for the relevant goods as an additional duty:

1. Where a duty is levied on personal effects (excluding goods falling under subparagraph 1 of Article 96) falling under paragraph (2) 1 on which any traveler fails to file a declaration; and

2. Where a duty is levied on household goods (excluding goods falling under subparagraph 2 of Article 96) on which any person fails to file a declaration when he enters Korea to move his residence thereto.

#### ■ Article 242 (Declarer of Import, Export and Return)

The declaration described in the provisions of Article 241, 244 or 253 shall be filed in the name of the owner of goods or a licensed customs broker, etc.: *Provided*, That in case of the export declaration, such declaration may be filed in the name of a person who manufactured and supplied the relevant goods to the owner of the goods (hereinafter referred to as "supplier of manufactured goods").

#### ■ Article 243 (Requirements for Declaration)

(1) With respect to the goods prescribed by the Commissioner of the Customs Service from among the goods provided for in Article 206 (1) 1, restrictions may be imposed on their return methods as prescribed by the Commissioner of the Customs Service.

(2) The declaration of importation as prescribed in Article 241 (1) may be filed only after a vessel or an aircraft loaded with the relevant goods enters a port or an airport.

(3) The declaration of return as prescribed in Article 241 (1) may be filed only when the relevant goods are stored in a storage place prescribed by this Act.

#### ■ Article 244 (Import Declaration Prior to Port Entry)

(1) Notwithstanding the provisions of Article 243 (2), when the prompt clearance is required for the goods which any person intends to import, an import declaration thereon may be filed before a vessel or an aircraft loaded with the relevant goods enters a port or an airport as prescribed by the Presidential Decree. In this case, any goods on which an import declaration prior to port entry is filed shall be deemed to arrive in Korea.

(2) With respect to any goods on which an import declaration prior to port entry is filed, the head of any customhouse shall, when he decides to inspect the relevant goods in accordance with Article 246, serve a notice thereof on a person who has filed such import declaration.

(3) The goods which are made subject to an inspection under paragraph (2) shall be shipped into a bonded area (including any place where such goods are stored in case that the goods are not stored in a bonded area) under jurisdiction of the head of a customhouse with whom an import declaration has been filed: *Provided*, That if an inspection of goods in a vessel or an aircraft is deemed possible by the head of any custom-house, such inspection may be conducted in such vessel or such aircraft loaded with the relevant goods.

(4) With respect to any goods which are not made subject to the inspection referred to in paragraph (2), an import declaration thereon may be accepted before a vessel loaded with such goods enters a port.

(5) With respect to any goods on which an import declaration prior to port entry is accepted, but their shipment out of a bonded area, etc. has yet to be made, the provisions of Article 106 (4) shall apply *mutatis mutandis* to such goods regardless of whether or not the goods are stored in a designated bonded area.

(6) Necessary matters concerning procedures, etc. for the customs clearance of goods on which an import declaration prior to port entry is filed shall be prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 245 (Document to be Submitted at Time of Declaration)

(1) Any person who files a declaration in relation to exportation, importation or return in accordance with Article 241 or 244 shall furnish documents prescribed by the Presidential Decree in addition to duty data.

(2) In the event that a person liable to furnish documents under paragraph (1) submits the relevant documents to a licensed customs broker, etc. and such licensed customs broker, etc. files a declaration in relation to exportation, importation or return under Article 241 or 244 after confirming the documents, the submission of the documents may be omitted or such documents may be furnished after an import declaration is accepted.

(3) In the event that the submission of documents is omitted or such documents are submitted after an import declaration is accepted under paragraph (2), if the head of any customhouse requests a declarer to present books and furnish other related data prescribed by the Commissioner of the Korea Customs Service after concluding that the submission or presentation of such books and other related data is deemed necessary, the declarer shall comply with such request.

### Sub-Section 2 Inspection of Goods

#### ■ Article 246 (Inspection of Goods)

(1) Any customs officer may inspect any goods intended to be exported, imported or returned.

(2) The Commissioner of the Korea Customs Service may set necessary standards for goods subject to inspection, the scope of inspection and the method of inspection, etc. to ensure the efficiency thereof.

(3) The owner of goods may confirm such goods before he files an import declaration thereon as prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 247 (Inspection Place)

(1) The inspection under Article 186 (1) or 246 shall be performed in a place where goods can be stored under Article 155 (1): *Provided*, That the inspection of goods intended to be exported shall be made in a place where such goods are stored.

(2) Notwithstanding paragraph (1), the head of any customhouse may, when he deems it inevitable for efficient inspection, inspect the relevant goods after getting such goods shipped into a bonded area under the conditions as prescribed by the Commissioner of the Korea Customs Service.

(3) In the event that an inspection place under paragraph (1) is not a designated storage place or a customs inspection place, any declarer shall pay fees as prescribed by the Ordinance of the Ministry of Finance and Economy: *Provided*, That in case of a bonded warehouse, if a declarer is different from an operator, no fees shall be paid.

### **Sub-Section 3 Settlement of Declaration**

#### **■ Article 248 (Acceptance of Declaration)**

(1) The head of any customhouse shall, when any declaration described in Article 241 or 244 is filed in conformity with the provisions of this Act, accept without any delay such declaration and deliver a declaration completion certificate to the relevant declarer: *Provided*, That in the event any declaration is received using the electronic data-processing equipment under Article 327 (1), the relevant declarer may directly receive a declaration completion certificate using the electronic data-processing equipment as prescribed by the Commissioner of the Customs Service.

(2) The head of any customhouse shall, when he accepts an import declaration under Article 241 or 244, get any declarer to offer security equivalent to a duty to be levied on any dutiable goods according to the standards prescribed by the Presidential Decree: *Provided*, That the same shall not apply to the case falling under any of the following subparagraphs:

1. Where no security is offered when approval is granted for the reduction or exemption of customs duties, the extension of the collection period or the payment of customs duties in installments, etc. in accordance with this Act, other Acts, treaties and conventions;
2. Where approval is granted for carrying travelers' personal effects out of an inspection place at the time that a notice on the duty payment is served as prescribed by the Commissioner of the Korea Customs Service; and
3. Where any declarer is excluded from offering such security as prescribed by the Presidential Decree because it is deemed unnecessary for him to offer security for payment of customs duties.

(3) Goods on which an import declaration has been accepted shall not be shipped out of any transportation means, any customs route, any loading and unloading passage or a storage place prescribed by this Act before such declaration is accepted under paragraph (1).

#### ■ Article 249 (Supplement of Declared Matters)

In the case falling under each of the following subparagraphs, the head of any customhouse may get any declaration as prescribed in Article 241 or 244 supplemented before such declaration is accepted: *Provided*, That in the event that matters of imperfection are insignificant and that it is deemed possible to supplement such matters of imperfection after the declaration is accepted, such supplement may be made after the declaration is accepted under the conditions as prescribed by the Commissioner of the Korea Customs Service:

1. Where matters entered in the declaration in relation to exportation, importation and return under Article 241 or 244 are imperfect; and
2. Where documents submitted under Article 245 are imperfect.

#### ■ Article 250 (Withdrawal and Rejection of Declaration)

(1) Any declaration filed may be withdrawn upon approval of the head of any customhouse only if there are justifiable reasons therefor: *Provided*, That no declaration on import and return may be withdrawn after the relevant goods are shipped out of any transportation means, any customs route, any loading and unloading passage or any storage place prescribed by the provisions of this Act.

(2) When approval is granted for withdrawing a declaration on the export, import or return of any goods in accordance with paragraph (1) after such declaration has been accepted, the acceptance of the declaration shall become invalid.

(3) The head of any customhouse may, when any declaration required by Articles 241 and 244 with respect to the export, import or return of goods fails to meet the requirements or is filed in an illegal manner, reject such declaration.

#### ■ Article 251 (Loading of Goods on which Export Declaration is Accepted)

(1) Any goods on which an export declaration is accepted shall be loaded onto the transportation means within 30 days from the day on which such export declaration is accepted: *Provided*, That the same shall not apply to a case where approval is granted for extending the loading period within the limit of one year as prescribed by the Ordinance of the Ministry of Finance and Economy.

(2) With respect to any goods which are not loaded onto the transportation means within the loading period under paragraph (1), the head of any customhouse may revoke the acceptance of an export declaration thereon under the conditions as prescribed by the Presidential Decree.

### Sub-Section 4 Special Case for Procedures for Customs Clearance

#### ■ Article 252 (Shipment of Goods out of Storage Place Prior to Acceptance of Declaration)

Any person who intends to ship goods on which an import declaration has been filed out of a place where such goods are stored prior to the acceptance thereof by the head of any customhouse under Article 248 shall offer security equivalent to a duty payable thereon and obtain approval therefor from the head of the customhouse: *Provided*, That if the Government or a local government imports goods or in the case falling under Article 248 (2) 3, the pledging of security may be omitted.

■ **Article 253 (Shipment of Goods out of Storage Place Prior to Import Declaration)**

(1) Any person who intends to immediately ship goods he desires to import out of any transportation means, any customs route, any loading and unloading passage or any storage place prescribed by the provisions of this Act before their import declaration is filed shall file a immediate shipment report with the head of any customhouse as prescribed by the Presidential Decree. In this case, the head of the customhouse may require the person to offer security equivalent to a duty payable.

(2) Any person who is entitled to immediately ship goods out of any storage place or such goods under paragraph (1) shall be designated by the head of any customhouse under the conditions as prescribed by the Presidential Decree.

(3) Any person who ships goods out of any storage place after filing an immediate shipment report under paragraph (1) shall file an import declaration thereon within ten days from the day on which the immediate shipment report is filed.

(4) If the person who ships goods out of any storage place under paragraph (1) fails to file an import declaration within the period referred to in paragraph (3), the head of any customhouse shall levy and collect a duty thereon. In this case, an amount equivalent to 20/100 of the duty levied on the relevant goods may be collected as an additional duty and the designation under paragraph (2) may be revoked.

■ **Article 254 (Special Customs Clearance for E-Commerce Goods)**

With respect to export and import of goods traded through digital documents, the Commissioner of the Korea Customs Service may prescribe separately matters necessary for customs clearance for such goods, including the export and import declaration and the inspection of goods as prescribed by the Presidential Decree.

■ **Article 255 (Simplified Customs Clearance under Reciprocity)**

Simplified customs clearance may be applied to goods imported from any foreign nation which offers conveniences in the process of customs clearance to Korea in keeping with the principle of reciprocity in order to facilitate the international trade and exchanges and promote cooperation among nations under the conditions as prescribed by the Presidential Decree.

**SECTION 3 Postal Materials**

#### ■ Article 256 (Clearance Post Offices)

(1) Any postal materials (excluding letters; hereafter the same shall apply) intended to be exported, imported or returned shall go through clearance post offices.

(2) The Commissioner of the Korea Customs Service shall designate clearance post offices from among postal service offices.

#### ■ Article 257 (Inspection of Postal Materials)

The postmaster of any clearance post office shall, upon receiving postal materials referred to in paragraph (1), file a list of postal materials with the head of any customhouse to get such postal materials inspected: *Provided*, That such process may be omitted for any postal materials prescribed by the Commissioner of the Korea Customs Service.

#### ■ Article 258 (Decision on Customs Clearance of Postal Materials)

(1) The postmaster of any clearance post office, when the head of any customhouse decides that any postal materials may not be exported, imported or returned, shall not mail out such postal materials or deliver them to any addressee.

(2) In the event that any postal materials for which approval is granted for exportation and importation under Article 14 of the Foreign Trade Act and such postal materials are in conformity with the standards prescribed by the Presidential Decree, the mailer or addressee of the relevant goods shall file a declaration required by Article 241.

#### ■ Article 259 (Notice of Head of Customhouse)

(1) The head of any customhouse shall, when he makes a decision referred to in Article 258 or intends to collect a duty, notify the postmaster of any clearance post office of decided matters and the amount of such duty, respectively.

(2) The postmaster of the clearance post office shall, upon receiving the notice referred to in paragraph (1), notify the addressee or mailer of post materials of decided matters.

#### ■ Article 260 (Procedures for Duty Payment of Postal Materials)

(1) Any person who receives a notice on the duty payment under Article 259 (2) shall pay such duty in revenue stamps or money as prescribed by the Presidential Decree.

(2) Any postal service office shall not deliver any dutiable postal materials to their addressees before a duty thereon is collected.

#### ■ Article 261 (Return of Postal Materials)

The duty payment liability for postal materials shall be extinguished by the return of the relevant postal materials.

**CHAPTER X REQUEST FOR  
FURNISHING DATA BY CUSTOMS OFFICERS**

**SECTION 1 Request for Furnishing Data**

**by Head of Customhouse**

■ **Article 262 (Suspension of Departure of Transportation Means)**

The Commissioner of the Korea Customs Service or the head of any customhouse may, when he deems it necessary to execute any order given under or by this Act, suspend the departure of any transportation means or suspend the progress of such transportation means.

■ **Article 263 (Order Given to Furnish Document and Make Report, etc.)**

The Commissioner of the Korea Customs Service or the head of any customhouse may, when he deems it necessary to enforce this Act (including the Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Exports; hereafter the same in this Article shall apply) or execute any order given under this Act, order documents submitted, reports made and other necessary matters taken with respect to goods, transportation means and storage places, or have customs officers examine related data of exporters, importers, sellers and other relevant persons.

■ **Article 264 (Request for Related Data)**

(1) The Commissioner of the Korea Customs Service may ask State organs, local governments and related institutions for data or statistics pertaining to the imposition and collection of customs duties and customs clearance.

(2) The heads of institutions shall, upon receiving the request referred to in paragraph (1), cooperate with such request unless justifiable reasons exist that make them impossible to do so or other Acts and subordinate statutes limit such cooperation.

**SECTION 2 Inspection of Goods by Customs Officers**

■ **Article 265 (Inspection of Goods and Transportation Means, etc.)**

Any customs officer may, when he deems it necessary to prevent the acts against this Act, or the order by this Act examine goods, transportation means, storage places, and books and other related data or take necessary measures of blockade, etc.

■ **Article 266 (Submission of Books and Data, etc.)**

(1) Any customs officer may, when he deems it necessary to discharge his duties prescribed by this Act, check books and other related data of any importer, exporter, seller or other related business operator, or require them to present such books or furnish related data.

(2) Any person who runs a permanent business establishment to sell foreign goods and falls under the standards prescribed by the Ordinance of the Ministry of Finance and Economy shall compile a data attesting such tax invoice as prescribed by Article 16 of the Value-Added Tax Act or the fact of import, etc. and keep such data in his business establishment.

(3) The Commissioner of the Korea Customs Service or the head of any customhouse may, when he deems it necessary to enforce this Act or execute any order given under this Act, require the operator of the permanent business establishment referred to in paragraph (2) and other related person to make a business report as prescribed by the Presidential Decree.

#### ■ Article 267 (Carrying and Use of Weapons)

(1) The Commissioner of the Korea Customs Service or the head of any customhouse may, when it is deemed necessary for their customs officers to discharge their official duties, authorize them to carry weapons.

(2) Any customs officer may use his weapon in discharging his duties when he judges that there are justifiably reasons such as the protection of his life and body as well as others', the deterrence of any impediment and resistance and the need to cope with the situation.

#### ■ Article 268 (Request to Heads of Other Related Organs)

(1) Any customs officer may, when he deems it necessary to discharge his duties on the sea, request the cooperation of the person falling under each of the following subparagraphs:

1. The commanding officer of each unit of the Army, the Navy and the Air Force;
2. The head of any police station; and
3. The head of any maritime police station.

(2) Any person shall, upon receiving the request for cooperation under paragraph (1), conduct hot pursuit, observe a vessel suspected of smuggling or order such vessel to stop sailing, or inspect or search such vessel in cooperation with customs officers, and if the vessel fails to follow such order, stop forcibly, inspect or search it.

### CHAPTER XI PENAL PROVISIONS

#### ■ Article 268-2 (Offense of Falsifying and Altering E-Documents)

(1) Any person who has falsified or altered relevant information, including e-documents, which are stored in the electronic data-processing equipment of any e-document brokerage operator in

violation of Article 327-3 (1) or used falsified or altered information shall be punished by imprisonment with prison labor for not less than one year to not more than 10 years or by a fine not exceeding 100 million won.

(2) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than 5 years or by a fine not exceeding 50 million won:

1. Person who has run the e-document brokerage without getting himself designated by the Commissioner of the Customs Service in violation of Article 327-2 (1);
2. Person who has damaged relevant information, including e-documents, which are stored in the electronic data-processing equipment of any e-document brokerage operator or infringed on the secrets of such relevant information, including e-documents, in violation of Article 327-3 (2); and
3. Officer or employee or former officer or employee of any e-document brokerage operator, who has leaked or stolen the secrets of relevant information, including e-documents, which he has learned while performing his duties in violation of Article 327-3 (3).

*[This Article Newly Inserted by Act No. 6777, Dec. 18, 2002]*

#### ■ Article 269 (Offenses of Smuggling)

(1) Any person who has exported or imported goods falling under each subparagraph of Article 234 shall be punished by imprisonment with prison labor for not more than ten years or by a fine not exceeding twenty million won.

(2) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than five years or by a fine equivalent to ten times the amount of a duty or the cost of the relevant goods, whichever is lower than the highest:

1. A person who has imported goods without filing an import declaration required by Article 241 (1) and (2) or 244 (1); *Provided*, That the same shall not apply to any person who has filed a shipment report under Article 253 (1); and
2. Any person who has imported goods which are different from those on which an import declaration is filed under Article 241 (1) and (2) or 244 (1).

(3) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than three years or by a fine equivalent to the cost of the relevant goods:

1. A person who has exported or returned goods without filing a declaration as prescribed in Article 241 (1) and (2); and

2. A person who has exported or returned goods which are different from those on which a declaration is filed under Article 241 (1) and (2).

#### ■ Article 270 (Penalty for Evasion of Customs Duties)

(1) Any person falling under any of the following subparagraphs from among those who have filed import declarations under Article 241 (1) and (2) or 244 (1) shall be punished by imprisonment with prison labor for not more than three years or by a fine equivalent to five times the amount of evaded duty or the cost of the relevant goods, whichever is lower than the highest. In this case, the cost of the goods under subparagraph 1 shall be construed as only the cost of the goods equivalent to the rate of the evaded duty to the whole ones out of the whole goods:

1. A person who has filed a false dutiable value or a false tariff rate, etc. or failed to file a dutiable value or a tariff rate, etc. with the intention of affecting the determination of duty amount; and

2. A person who has imported goods as components and other unfinished, incomplete or finished goods of major characteristics as components for the purpose of avoiding import restrictions imposed under Acts and subordinate statutes.

(2) Any person, from among those who have filed import declarations under Article 241 (1) and (2) or 244 (1), who has imported goods without meeting requirements for permission, recommendation, certification or other conditions necessary for import under Acts and subordinate statutes or imported goods with meeting such requirements in a fraudulent and unfair manner shall be punished by imprisonment with prison labor for not more than three years or by a fine not exceeding thirty million won.

(3) Any person, from among those who have filed export declarations under Article 241 (1) and (2), who has exported goods without meeting requirements for permission, recommendation, certification or other conditions necessary for export under Acts and subordinate statutes or exported goods with meeting such requirements in a fraudulent and unfair manner shall be punished by imprisonment with prison labor for not more than one years or by a fine not exceeding twenty million won.

(4) Any person who has gotten the duty levied on his goods reduced or exempted in a fraudulent and unfair manner or evaded the collection of the duty of goods, which has been reduced or exempted, shall be punished by imprisonment with prison labor for not more than three years or by a fine equivalent to five times the amount of the evaded duty.

(5) Any person who has gotten his customs duties refunded in a fraudulent and unfair manner shall be punished by imprisonment for not more than three years or by a fine equivalent to not more than five times the amount of refunded customs duties. In this case, the head of any customhouse shall immediately collect the amount of the customs duties refunded in a fraudulent and unfair manner.

#### ■ Article 271 (Attempted Crime)

(1) Any person who has knowingly abetted or aided any act prohibited by the provisions of Articles 269 and 270 shall be punished in conformity with the principal offender.

(2) Any person who prepares to commit any offense under Articles 268-2, 269 and 270 or commits any criminal attempt shall be punished as committing any principal offense.

■ **Article 272 (Forfeiture of Transportation Carrier Exclusively Used for Smuggling)**

Any vessel, automobile and other transportation carrier which are exclusively used for committing any offense described in Article 269 shall be forfeited when the owner thereof has the knowledge that they are used for such purpose and they fall under any of the following subparagraphs:

1. When they are loaded with goods involved in an offense or an attempt is made to load such goods onto them;
2. When, in an attempt to escape from arrest, an order given by any authorized public official to halt is defied or the laden goods involved in an offense are thrown into the sea, destroyed or damaged;
3. When goods involved in an offense are taken over or acquired on the sea or an attempt is made to do so; and
4. When goods involved in an offense are transported.

■ **Article 273 (Forfeiture of Goods Used to Commit Offenses)**

(1) Goods specially processed to be used for committing any offense described in Article 269 shall be forfeited or destroyed to render their functions useless, regardless of whoever owns them.

(2) In the event that goods falling under Article 269 are contained in other goods and such goods are owned by an offender, other goods may be also forfeited.

■ **Article 274 (Penalty for Acquiring Smuggled Goods)**

(1) Any person who has acquired, transferred, transported, kept in custody, brokered or assessed goods falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than three years or by a fine equivalent to not more than the cost of the relevant goods:

1. Goods falling under Article 269; and
2. Goods falling under Article 270 (1) 2, (2) and (3).

(2) Any person who has prepared to commit an offense under paragraph (1) or committed a criminal attempt shall be punished as committing a principal offense.

#### ■ Article 275 (Concurrent Imposition of Penalties)

Any person who has committed any offense prescribed in Articles 269 through 271 and 274 may be concurrently punished by imprisonment with prison labor and a fine according to circumstances involved.

#### ■ Article 276 (Offenses of False Reports)

(1) Any person falling under any of the following subparagraphs shall be punished by a fine not more than the larger amount between the cost of goods and twenty million won:

1. A person who has performed the general bonded function without filing a report on the establishment and operation of a general bonded business place under Article 198 (1);
2. A person who has performed the general bonded function in violation of a measure taken by the head of any customhouse to discontinue such function;
3. A person who, in violation of an order given to ship his goods into a bonded area under Article 238, has failed to ship such goods, in whole or in part, into such bonded area;
4. A person who has failed to declare matters required by Article 241 (1) when he has filed a declaration under Article 241 or Article 244 or filed a false declaration thereon; and
5. A person who has violated the provisions of Article 248 (3).

(2) Any person falling under any of the following subparagraphs shall be punished by a fine not exceeding twenty million won: *Provided*, That he shall be punished by a fine not exceeding three million won when he falls under subparagraphs 2 through 4 by negligence:

1. A person who has compiled and submitted a cargo manifest in a fraudulent and unfair manner;
2. A person who has violated the provisions of Articles 12, 98 (2), 109 (1), 134 (1), 136 (2), 148 (1), 149, 192 (including a case where the provisions are applied *mutatis mutandis* in Article 205), 200 (1), 222 (1) or 225 (1) (including a case where the provisions are applied *mutatis mutandis* in paragraph (3) of the same Article);
3. A person who has violated the provisions of Articles 83 (2), 88 (2), 97 (2), 102 (1) and 104 (5): *Provided*, That any person falling under Article 277 (1) 3 shall be excluded; and
4. A person who has failed to discharge duties requested by the head of any customhouse under Article 227.

(3) Any person falling under any of the following subparagraphs shall be punished by a fine not exceeding ten million won: *Provided*, That when he falls under subparagraphs 2 through 4 by negligence, he shall be punished by a fine not exceeding two million won:

1. A person who has made a false statement in response to questions by any customs officer, or rejected or avoided the performance of duties by any customs officer;
2. A person who has falsely filed a port entry report required by Article 135 (1);
3. A person who has violated Article 135 (1), 136 (1), 139, 140 (1), (2) and (4), subparagraphs 1 and 3 of 141, 142 (1), 143 (1), 144, 150, 151, 152 (1), 155 (1), 156 (1), 159 (2), 160 (1), 161 (1), 186 (1) (including a case where the provisions are applied *mutatis mutandis* in Article 205), 201 (1) and (3), 213 (2), 219 (2) or 266 (2);
4. A person who has violated measures taken by the Commissioner of the Korea Customs Service or the head of any customhouse pursuant to Article 135 (2), 140 (3), 200 (3), 203 (1) or 262, or refused, interfered with or dodged inspections;
5. A person who has done the work in a place other than a bonded factory, a bonded construction work site, a general bonded area or a designated factory without obtaining permission under Article 187 (1) (including a case where the provisions are applied *mutatis mutandis* in Article 89 (4)) or 195 (1), or filing a report under Article 202 (2);
- 5-2. A person who has received the delivery of a declaration completion certificate provided for in the proviso of Article 248 (1) in an illegal manner;
6. A person who has failed to execute orders given to submit documents, file reports or take necessary measures or filed false reports in violation of Article 263;
7. A person who has refused or impeded measures taken by the head of any customhouse or customs officers in accordance with Article 265; and
8. A person who has refused any request made by customs officers for presenting books or furnishing data in accordance with Article 266 (1).

#### ■ Article 277 (Fine for Negligence)

(1) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding two million won:

1. An operator who has violated licensed matters of a licensed bonded area;
2. A person who has violated Article 83 (1), 107 (3), 157 (1), 158 (2) and (4), 172 (3), 194 (including a case where the provisions are applied *mutatis mutandis* in Article 205), 198 (3), 199 (1), 202 (1), 214, 215 (including a case where the provisions are applied *mutatis mutandis* in

Articles 219 (4) and 221 (2)), 216 (2)(including a case where the provisions are applied *mutatis mutandis* in Articles 219 (4) AND 221 (2)), 221 (1), 222 (3) or 251 (1);

3. A person who has transferred imported goods to other person who intends to use such goods for the same purpose as an importer intends to do so and is entitled to the reduction or exemption of customs duties of such goods from among persons who have violated Articles 83 (2), 88 (2), 97 (2), 102 (1) and 104 (5);

4. A person who has violated measures taken by the Commissioner of the Korea Customs Service or the head of any customhouse in accordance with Article 159 (4), 180 (3) (including a case where the provisions are applied *mutatis mutandis* in Article 205), 196 (2), 216 (1) (including a case where the provisions are applied *mutatis mutandis* in Articles 219 (4) and 221 (2)), 225 (2) (including a case where the provisions are applied *mutatis mutandis* in paragraph (3) of the same Article), 228 or 266 (3); and

5. A person who has dealt with goods in the transportation means in violation of Article 321 (2) 2.

(2) Any person falling under any of the following subparagraphs shall be punished by a fine for negligence not exceeding one million won:

1. A person who has compiled or submitted a cargo manifest not in conformity with laden goods: *Provided*, That in the event that a person who has submitted a cargo manifest is impossible to confirm details of the relevant laden goods on the grounds that other person falling under any of the following items has loaded and sealed such laden goods, the person who has submitted such cargo manifest shall be excluded:

(a) A person who falls under Article 276 (2) 1;

(b) A person who exports the laden goods; and

(c) Other shipping company, airline and cargo transportation broker;

2. A person who has failed to file a final dutiable value return required by Article 28 (2);

3. A person who has violated Article 107 (4), 108 (2), 138 (2) and (4), subparagraph 2 of 141, 162, 171, 179 (2), 182 (1) (including a case where the provisions are applied *mutatis mutandis* in Article 205), 183 (2) and (3), 184, 185 (2) (including a case where the provisions are applied *mutatis mutandis* in Article 205) or 245 (3);

4. A person who has failed to execute any order given by the head of any customhouse under Article 160 (4) (including a case where the provisions are *mutatis mutandis* in Article 207 (2));

5. A person who has failed to execute any order or supplementary measures given by the head of any customhouse under Article 177 (2), 180 (4) (including a case where the provisions are applied *mutatis mutandis* in Article 205) or 249; and

6. A person who has refused to comply with instructions given by the head of any customhouse with respect to supervision, inspection and report under Articles 180 (1) (including a case where the provision is applied *mutatis mutandis* in Article 205) and (2) (including a case where the provision is applied *mutatis mutandis* in Article 89 (4)), 193(including a case where the provision is applied *mutatis mutandis* in Article 205) or 203 (2).

(3) The fine for negligence as prescribed in paragraphs (1) and (2) shall be imposed and collected by the head of any customhouse.

(4) Any person who is dissatisfied with a disposition taken to impose a fine for negligence against him may raise an objection to the head of any customhouse within thirty days from the date on which a notice thereon is served.

(5) The head of any customhouse shall, when any person subjected to a disposition taken to impose a fine for negligence against him raises an objection in accordance with paragraph (4), promptly notify the competent court of the fact and the competent court shall, upon receiving such notification, put the case on trial under the Non-Contentious Case Litigation Procedure Act.

(6) If no objection is raised and no fine for negligence is paid within the period described in paragraph (4), the provisions of Article 26 shall apply *mutatis mutandis* thereto.

#### ■ Article 278 (Non-Application of Provisions of Criminal Act)

(1) The provisions of Articles 9, 10 (2), 11, 32 (2), 38 (1) 2 and 53 of the Criminal Act shall not apply to any person who commits an offense in violation of the penal provisions of this Act.

(2) The provisions of Article 16 of the Criminal Act shall not apply to the penal provisions of this Act, regardless of whether there is any justifiable reason for a misunderstanding.

(3) The provisions of paragraphs (1) and (2) shall not apply to any case of the punishment of imprisonment with prison labor.

#### ■ Article 279 (Joint Penal Provisions)

If the employee of any person falling under any of the following subparagraphs acts in violation of the penal provisions of this Act in relation to the person's business, such person shall be punished in addition to the punishment of the actor: *Provided*, That the same shall not apply to the case falling under Article 277:

1. The operator of a licensed bonded area or a general bonded business place;
2. A person who runs the business of exporting, importing and transporting goods (including the export, etc. under Article 4 of the Act on Special Cases concerning the Refundment of Customs Duties, etc. Levied on Raw Materials for Export);
3. A licensed customs broker; and

4. A person who runs the business of providing goods and services in an open port.

5. An e-document brokerage operator provided for in Article 327-2 (3).

#### ■ Article 280 (Punishment of Corporation)

If any officer, employee or the employed of a corporation acts in violation of the penal provisions of this Act in relation to the business of such corporation, such corporation shall be punished in addition to the punishment of the actor: *Provided*, That the same shall not apply to any case falling under Article 277.

#### ■ Article 281 (Exception from Punishment)

(1) In case of Article 279, if the person proves that there has been no way for him to prevent the act of violation, he shall not be punished.

(2) In case of Article 280, if there is proof referred to in paragraph (1) with respect to any officer, employee or the employed of a corporation, who is engaged in the business of such corporation, the corporation shall not be punished.

#### ■ Article 282 (Forfeiture and Additional Collection)

(1) In case of Article 269 (1), the goods concerned shall be forfeited.

(2) In case of Article 269 (2) and (3) or 274 (1) 1, the goods owned or possessed by any offender shall be confiscated.

(3) When the whole or part of goods subject to forfeiture under paragraphs (1) and (2) cannot be forfeited, an amount equivalent to the domestic wholesale price of the goods subject to forfeiture at the time of offense shall be collected from any offender.

(4) The person referred to in Article 270 and the corporation referred to in Article 280 shall be deemed offenders in the application of paragraphs (1) through (3).

## CHAPTER XII INVESTIGATION

### AND DISPOSITION

#### SECTION 1 Common Provisions

#### ■ Article 283 (Customs Offenders)

(1) The term "customs offender" means a person who is punished by this Act for acting in violation of this Act or any order given under this Act.

(2) Any investigation into and any disposition against any customs offender shall be carried out and taken by customs officers.

■ **Article 284 (Requirements for Indictment)**

(1) Any public prosecutor shall not indict any customs offender unless an accusation is filed against him by the Commissioner of the Korea Customs Service or the head of any customhouse.

(2) When other authorities find a case involving any customs offender or arrest any suspect, they shall immediately turn such case and such suspect over to the Commissioner of the Korea Customs Service or the head of any customhouse.

■ **Article 285 (Documents concerning Customs Offenders)**

Documents concerning customs offenders shall be dated, subscribed with names and affixed with seals.

■ **Article 286 (Documents concerning Investigation and Disposition)**

(1) Documents concerning the investigation into and disposition against customs offenders shall be affixed with a joint seal on every page.

(2) Any addition or deletion of letters or marginal notes shall be sealed thereon.

(3) If letters are deleted, such letters shall be kept intact and the number of deleted letters shall be indicated.

■ **Article 287 (Signature on Protocol)**

(1) Where a document concerning any customs offender is subscribed with a name and affixed with a seal, if the person is unable to subscribe his name and affix his seal, he may let other person act on behalf of him in subscribing such name and affixing such seal. If the person concerned fails to carry his seal, his thumb-mark shall be affixed.

(2) If other person acts on behalf of the person concerned, such other person shall subscribe his name and affix his seal, citing in writing reasons therefor.

■ **Article 288 (Delivery of Documents)**

Any document concerning any customs offender shall be delivered by a person or by a registered mail.

■ **Article 289 (Receipt Certificate When Document Delivered)**

When any document concerning any customs offender is delivered, a receipt certificate thereof shall be collected.

## SECTION 2 Investigation

### ■ Article 290 (Investigation of Customs Offenders)

When a customs offender is deemed by a customs officer to exist, such customs officer shall investigate such customs offender, the fact of offense and evidence.

### ■ Article 291 (Interrogation)

Any customs officer may, when he deems it necessary to investigate any customs offender, interrogate any suspect, witness or person of reference.

### ■ Article 292 (Preparation of Protocol)

(1) Any customs officer shall, when he interrogates any suspect, witness or person of reference, prepare a protocol.

(2) Any customs officer shall read his protocol to any person who states what he knows, or allow him to read or peruse it and seek his confirmation of its accuracy.

(3) If the person who states what he knows requests any addition, any deletion or any revision, the customs officer in charge shall enter his requests in the protocol.

(4) The date and place shall be entered in the protocol and the person falling under any of the following subparagraphs shall subscribe his name and affix his seal on such protocol:

1. An interrogator;
2. A person who states what he knows; and
3. A witness.

### ■ Article 293 (Substitution for Protocol)

(1) When emergency interrogation of a flagrant offender is required, a statement summarizing such emergency interrogation may be substituted for a protocol.

(2) The date and place shall be entered in the summary statement referred to in paragraph (1) and such summary statement shall be signed and sealed both by the interrogator and the suspect.

### ■ Article 294 (Summon)

(1) Any customs officer may, when he deems it necessary to investigate a customs offender, summon any suspect, witness or person of reference.

(2) Any customs officer may, when he deems it necessary to investigate a customs offender, order any suspect, witness or person of reference to appear in or be accompanied by him to the designated place.

(3) Any customs officer shall issue a subpoena for summoning any suspect, witness or person of reference.

#### ■ Article 295 (Judicial Police Power)

Every customs officer may perform the duties of judicial police officer with respect to any person accused of committing the customs offense as prescribed by the Act on the Persons Performing the Duties of Judicial Police Officers and Scope of Their Duties.

#### ■ Article 296 (Search and Seizure Warrant)

(1) A warrant shall be obtained from a judge of the competent local court to make a search or seizure under this Act: *Provided*, That in case of urgency, an ex post facto warrant shall be obtained.

(2) Any goods provided voluntarily or left behind by their owner, occupant or custodian may be seized without a warrant.

#### ■ Article 297 (Arrest of Flagrant Offender)

When any customs officer finds a flagrant offender committing an offense involving customs, he shall immediately arrest such offender.

#### ■ Article 298 (Transfer of Flagrant Offender)

(1) Any person may arrest any customs offender committing an offense, if the latter is still on the spot of offense.

(2) The person who arrests any customs offender under paragraph (1) shall promptly turn him over to any customs officer.

#### ■ Article 299 (Reversion of Seized Goods to National Treasury)

(1) With respect to goods seized in accordance with Articles 269, 270 (1) through (3) and 272 through 274, if their owner or any offender is unidentifiable within six months from the date of seizure, such goods shall be deemed lost goods and the head of any customhouse concerned shall publish such goods as lost ones.

(2) When their owner or any offender is unidentifiable for one year from the day on which the publication required by paragraph (1) was made, the relevant goods shall revert to the National Treasury.

### ■ Article 300 (Rummaging)

Any customs officer may, when he deems it necessary to investigate any customs offender, rummage or search any vessel, vehicle, aircraft, warehouse and other place.

### ■ Article 301 (Body Search)

(1) Any customs officer may, when a suspect is deemed to keep goods enough to prove the fact of his offense in his body, ask him to produce them. If the suspect refuses to comply with the request, such customs officer may search his body.

(2) If the body of a female is searched, an adult female shall be present: *Provided*, That the same shall not apply to a case of urgency.

### ■ Article 302 (Presence)

(1) Any customs officer shall, when he makes a search, require the person falling under any of the following subparagraphs to be present: *Provided*, That none of them is available, the customs officer shall make any public official to be present:

1. The owner or manager of any vessel, vehicle, aircraft, warehouse and other place;
2. A relative residing together or an employee; and
3. A neighbor.

(2) The persons referred to in paragraph (1) 2 and 3 shall be adults.

### ■ Article 303 (Seizure and Custody)

(1) Any customs officer may, when goods found in the course of investigating a customs offender are deemed enough to prove the fact of offense and that necessary to be forfeited, seize such goods.

(2) Seized goods may be kept in custody, for convenience, by their owner or in the office of *Shi, Kun, Eup* or *Myon*.

(3) The Commissioner of the Korea Customs Service or the head of any customhouse may, when the seized goods fall under any of the following subparagraphs, sell such seized goods and keep in custody or deposit proceeds therefrom after serving a notice thereon on the suspect or other interested person: *Provided*, That if there is no time to serve a notice, such notice shall be made after selling them:

1. Where they are feared to be rotten, damaged or made useless due to the expiration of their practical use;

2. Where they are deemed extremely inconvenient for keeping them in custody;
3. Where they are feared to suffer a sharp fall in their commercial value due to a delay in disposal;  
and
4. Where the suspect or the interested person requests their sale.

(4) The provisions of Articles 160 (5) and 326 shall apply *mutatis mutandis* to the case of paragraph (3).

#### ■ Article 304 (Disposal of Seized Goods)

(1) The Commissioner of the Korea Customs Service or the head of any customhouse may dispose of goods falling under any of the following subparagraphs from among the seized goods after serving a notice thereon on the suspect or the interested person: *Provided*, That there is no time to serve the notice, such notice shall be served immediately after they are disposed of:

1. Goods which are feared to harm human life or damage property;
2. Goods which are decomposed or changed qualitatively;
3. Goods whose practical use period expires; and
4. Goods whose commercial value is lost.

(2) The provisions of Article 160 (5) shall apply *mutatis mutandis* to the case of paragraph (1).

#### ■ Article 305 (Compilation of Seizure Record)

(1) A record shall be compiled when any rummage, search or seizure is undertaken.

(2) The provisions of Article 292 (2) and (3) shall apply *mutatis mutandis* to the record of rummage, search or seizure, referred to in paragraph (1).

(3) The provisions of Article 293 shall apply *mutatis mutandis* to the compilation of a record with respect to the urgent search or seizure involving any flagrant offender.

#### ■ Article 306 (Restriction of Execution at Night)

(1) No rummage, search or seizure shall be undertaken during the time from sunset to sunrise.

(2) Any official inspection, search or seizure in progress may continue notwithstanding the provision of paragraph (1).

#### ■ Article 307 (Off-Limits During Investigation)

Any customs officer may prohibit any person from entering into or departing from a place where he is engaged in interrogation, rummage, search or seizure in connection with a suspect, a witness or a person of reference.

■ **Article 308 (Identification)**

(1) Any customs officer shall wear his uniform when he conducts interrogation, rummage, search or seizure and carry a certificate showing his identification and produce it when any person subjected to his disposition requests him to do so.

(2) In the event that the customs officer fails to wear his uniform required by paragraph (1) or to produce his certificate upon a request, any person subjected to his disposition may reject such disposition.

■ **Article 309 (Assistance of Police Officers)**

Any customs officer may, when it is deemed necessary in the course of conducting interrogation, rummage, search or seizure, seek assistance from police officers.

■ **Article 310 (Report of Investigation Results)**

(1) Any customs officer shall, upon completion of his investigation, make a written report on the results thereof to the Commissioner of the Korea Customs Service or the head of any customhouse.

(2) Any customs officer shall, when he makes a report required by paragraph (1), furnish related documents together.

**SECTION 3 DISPOSITION**

■ **Article 311 (Notice Disposition)**

(1) The Commissioner of the Korea Customs Service or the head of any customhouse may, when he obtains hard evidence proving any offense as a result of the investigation of a customs offender, notify such customs offender of the payment of the amount or goods falling under any of the following subparagraphs, explicitly citing the reasons therefor:

1. The amount equivalent to a fine;
2. Goods come to the seizure thereof; and
3. The amount equivalent to the additional imposition thereon.

(2) The Commissioner of the Korea Customs Service or the head of any customhouse may, when the person who receives the notification referred to in paragraph (1) intends to prepay an amount equivalent to a fine or an additional imposition, allow him to do so.

(3) Where notice disposition referred to in paragraph (1) is taken, the prescription of prosecution shall be suspended.

■ **Article 312 (Immediate Accusation)**

The Commissioner of the Korea Customs Service or the head of any customhouses shall, when the extent of an offense is deemed to be punishable by imprisonment with prison labor, immediately bring an accusation against the offender notwithstanding the provisions of Article 311 (1).

■ **Article 313 (Return of Seized Goods)**

(1) The Commissioner of the Korea Customs Service or the head of any customhouse shall, when he does not forfeit seized goods, return such seized goods or proceeds from the sale of such seized goods.

(2) When it is impossible to return the seized goods or the proceeds from the sale of such seized goods as prescribed in paragraph (1) on the grounds that the domicile or residence of any person to whom such seized goods or proceeds from the sale of such seized goods are to be returned are unidentifiable and for other reasons, a summary thereon shall be published.

(3) In the event that no request is filed for the return of the seized goods or the proceeds from the sale of such seized goods until the expiration of six months from the day on which the publication referred to in paragraph (2) was made, such seized goods and the proceeds from the sale of such seized goods shall revert to the National Treasury.

(4) If there are unpaid customs duties on the seized goods referred to in paragraph (1), such seized goods or the proceeds from the sale of such seized goods shall be returned any person to whom the seized goods are to be returned after collecting such unpaid customs duties from him.

■ **Article 314 (Preparation of Notice)**

(1) When a disposition is taken to serve a notice, such notice shall be prepared.

(2) The notice referred to in paragraph (1) shall include matters falling under each of the following subparagraphs and any person who takes a disposition thereon shall sign and seal on it:

1. Name, age, sex, occupation and domicile of a person subjected to a disposition;
2. An amount equivalent to a fine, goods to be forfeited or an amount equivalent to the additional imposition;
3. Description of offense;
4. Applicable provisions of Acts;

5. Place in which the notice is complied with; and

6. Date of a notice disposition.

■ **Article 315 (Delivery of Notice)**

Any notice shall be effected by the delivery of a notice disposition.

■ **Article 316 (Failure to Comply with Notice and Accusation)**

Any customs offender shall comply with any notice within ten days from the day on which such notice was served on him and if he fails to comply with such notice, the Commissioner of the Korea Customs Service or the head of any customhouse shall promptly bring an accusation against him: *Provided*, That the same shall not apply to a case where such customs offender complies with such notice prior to such accusation after the expiration of ten days.

■ **Article 317 (Prohibition on Double Jeopardy)**

Once any customs offender complies with any notice, he shall not be punished for the same offense.

■ **Article 318 (Accusation against Insolvent)**

In the case falling under any of the following subparagraphs, the Commissioner of the Korea Customs Service or the head of any custom-house shall immediately bring an accusation notwithstanding the provisions of Article 311 (1):

1. When any customs offender is deemed financially unable to implement any notice; and
2. When it is deemed difficult to serve any notice on the grounds that the domicile and residence of any customs offender are unidentifiable and for other reasons.

■ **Article 319 (Applicable Provisions)**

The Criminal Procedure Act shall apply *mutatis mutandis* to any customs offender except as otherwise *Provided* for in this Act.

**CHAPTER XIII SUPPLEMENTARY PROVISIONS**

■ **Article 320 (Additional Duty)**

The additional duty as prescribed in this Act shall be the item of the tariff.

■ **Article 321 (Office Hours of Customhouse)**

(1) The office hours of every customhouse and the hours during which goods are handled in bonded areas and transportation means shall be prescribed by the Presidential Decree.

(2) Any person falling under any of the following subparagraphs shall give a prior notice to the head of any customhouse as prescribed by the Presidential Decree:

1. A person who intends to take procedures for customs clearance, bonded transportation or entry into or departure from port during off-duty hours of any customhouse; and
2. A person who intends to handle goods of transportation means during off-duty hours.

(3) Any person who gives the prior notice required by paragraph (2) shall pay fees as prescribed by the Ordinance of the Ministry of Finance and Economy.

■ **Article 322 (Compilation and Delivery of Statistics and Certificates)**

(1) The Commissioner of the Customs Service shall compile statistics with respect to the matters of the following subparagraphs and if any person applies for the perusal or delivery of such statistics, the Commissioner of the Customs Service shall comply with such application:

1. Matters concerning the export and import of cargoes;
2. Matters concerning foreign trade vessels or foreign trade aircraft entering into or departing from open ports; and
3. Other matters deemed necessary by the Commissioner of the Korea Customs Service for foreign trade.

(2) The Commissioner of the Korea Customs Service may compile statistics referred to in paragraph (1) and periodically publish such statistics under the conditions as prescribed by the Presidential Decree.

(3) Any person who intends to pursue detailed statistical data pertaining to customs clearance other than the statistics referred to in paragraph (1) or to get such detailed statistical data delivered may file an application specifying the purpose of use and contents of the statistical data to the Commissioner of the Customs Service. In this case, the Commissioner of the Customs Service shall allow him to pursue such detailed statistical data or deliver it to him except as otherwise prescribed by the Presidential Decree.

(4) The Commissioner of the Customs Service may record and deliver the statistics compiled under paragraphs (1) and (3) in the transmission media capable of making the electronic data-processing equipment to deliver them to the public. In this case, the scope of statistics that can be delivered to the public and procedures therefor shall be prescribed by the Commissioner of the Customs Service.

(5) The Commissioner of the Customs Service may designate any person who acts on behalf of the former in performing the work of compiling and delivering the statistics in accordance with paragraphs (1), (3) and (4). In this case, the Commissioner of the Customs Service shall supply the person with basic data needed to compile the statistics.

(6) Any person who intends to obtain a certificate relating to customs affairs and receive the statistics referred to in paragraphs (1), (3) and (4) shall pay fees as prescribed by the Ordinance of the Ministry of Finance and Economy. If the person designated under paragraph (5) lowers such fees within the limit of an amount prescribed by the Ordinance of the Ministry of Finance and Economy, such lowered fees shall be paid.

(7) Any certificate pertaining to the export, import or return of goods from among certificates referred to in paragraph (6) shall be issued only within five years from the date of the acceptance of a declaration thereon.

#### ■ Article 323 (Utilization of Customhouse Facilities)

Any person who intends to utilize customhouse facilities installed for storing goods or customs clearance shall pay usage fees prescribed by the Ordinance of the Ministry of Finance and Economy.

#### ■ Article 324 (Rewards)

(1) The Commissioner of the Korea Customs Service may reward the person falling under any of the following subparagraphs after going through a decision of the Customs Reward Examination Committee as prescribed by the Presidential Decree:

1. A person who tips off any customhouse or any investigative authority about the customs offender falling under the provisions of Articles 260 through 274 or is credited with arresting such customs offender;
2. A person who is credited with seizing goods related to customs offense falling under Articles 269 through 274; and
3. A person who is specially credited with improving and developing the tariff administration.

(2) Necessary matters concerning the composition and operation of the Customs Reward Examination Committee shall be prescribed by the Presidential Decree.

#### ■ Article 325 (Provision of Conveniences)

Any person who is engaged in transporting, storing or handling goods under this Act shall provide every convenience to any customs officer when he performs his duties.

#### ■ Article 326 (Disposal of Forfeited Goods)

(1) The head of every customhouse may dispose of goods forfeited or reverted to the National Treasury in accordance with the provisions of this Act (hereinafter referred to as "forfeited goods, etc.") by public auction or other methods.

(2) The provisions of Article 210 shall apply *mutatis mutandis* to the public auction of the forfeited goods, etc.: *Provided*, That goods prescribed by the Commissioner of the Korea Customs Service may be sold by the way of free contract or consignment sale instead of competitive bidding.

(3) The head of any customhouse shall dispose of the forfeited goods, etc. falling under the standards prescribed by the Commissioner of the Korea Customs Service according to instructions given by the Commissioner of the Korea Customs Service.

(4) With respect to the forfeited goods, etc., the head of any customhouse may pay expenses incurred by their storage and management prior to their forfeiture or their reversion to the National Treasury within the limit of the amount prescribed by the Presidential Decree.

(5) The head of any customhouse may pay expenses involved in the sale, storage and management referred to in paragraph (4) of the forfeited goods, etc. from proceeds from the sale of such goods.

#### ■ Article 327 (Utilization of Data-Processing Facilities and Equipment)

(1) The head of customhouse may get any declaration, any application, any report or any payment, etc. made through the electronic data-processing equipment (hereinafter referred to as "e-declaration, etc.") under this Act and any approval, any permission and any receipt, etc. delivered, notified and informed through the electronic data-processing equipment (hereinafter referred to as "e-delivery") as prescribed by the Commissioner of the Customs Service.

(2) In the event that the e-declaration, etc. is filed or requested in accordance with paragraph (1), the submission of related documents may be omitted or simplified as prescribed by the Commissioner of the Customs Service.

(3) The e-declaration, etc. made under paragraph (1) shall be deemed to be received at a customhouse when such e-declaration, etc. is stored in the electronic data-processing equipment prescribed by the Commissioner of the Customs Service and the e-delivery shall be deemed to be delivered to any person entitled to taking such delivery when the e-delivery is input in the computer designated by the person entitled to taking the delivery (when the e-delivery is stored in the electronic data-processing equipment in case that such e-delivery is stored in the electronic data-processing equipment prescribed by the Commissioner of the Customs Service).

(4) The e-delivery referred to in paragraph (1) shall be made only when any person entitled to taking such delivery applies for such e-delivery under the conditions as prescribed by the Presidential Decree.

(5) Notwithstanding paragraph (4), in the event that the electronic data-processing equipment breaks down or the grounds prescribed by the Presidential Decree exist, such e-delivery may be made by means of delivery, a person or mail.

(6) Necessary matters concerning the specific scope and methods of the e-delivery, etc. provided for in paragraph (4) shall be prescribed by the Presidential Decree.

■ **Article 327-2 (Designation of E-Document Brokerage Operators, etc.)**

(1) Any person who runs the telecommunications business in accordance with Article 2 (1) 1 of the Framework Act on Telecommunications and intends to run the e-declaration and e-delivery brokerage provided for in Article 327 (1) (hereinafter referred to as the "e-document brokerage") shall get his intended business designated by the Commissioner of the Customs Service according to the standards and procedures prescribed by the Presidential Decree.

(2) Any person falling under any of the following subparagraphs shall be prohibited from getting his business designated under paragraph (1):

1. Person who falls under any of subparagraphs 2 through 5 of Article 175;
2. Person for whom two years have yet to elapse from the date on which the designation of his business is revoked in accordance with paragraph (3); and
3. Corporation that employs any officer falling under subparagraph 1 or 2.

(3) In the event that any person who has gotten his business designated under paragraph (1) (hereinafter referred to as the "e-document brokerage operator") falls under any of the following subparagraphs, the Commissioner of the Customs Service shall revoke the designation of his business or order his e-document brokerage suspended in whole or in part for a fixed period of not more than one year: *Provided*, That if he falls under subparagraphs 2 and 3, his e-document brokerage shall be revoked:

1. When he falls under any of subparagraphs of paragraph (2);
2. When he gets his e-document brokerage designated under paragraph (1) in a fraudulent and illegal manner;
3. When he falls short of the standards provided for in paragraph (1); and
4. When he violates this Act or the orders or disposition under this Act.

(4) In the event that the suspension of e-document brokerage under paragraph (3) causes great inconveniences to clients or is feared to harm the public interest, the Commission of the Customs Service may levy not more than 100 million won in penalty charges in lieu of the disposition taken to suspend the e-document brokerage. In this case, necessary matters concerning the amount of

penalty charges imposed according to the kinds and extent of the act of violation, etc. shall be prescribed by the Presidential Decree.

(5) In the event that any person liable to pay penalty surcharges under paragraph (4) fails to pay such penalty surcharges by the fixed time, the provisions of Article 26 shall apply *mutatis mutandis* to him.

(6) Every e-document business operator may levy necessary charges, including fees, on any person who is provided with e-document brokerage service under the conditions as prescribed by the Ordinance of the Ministry of Finance and Economy.

(7) The Commissioner of the Customs Service shall guide and oversee e-document business operators in connection with their business.

*[This Article Newly Inserted by Act No. 6777, Dec. 18, 2002]*

#### ■ Article 327-3 (Security of Relevant Information, including E-Documents)

(1) Any person shall be prohibited from forging or altering relevant information, including e-documents, stored in the electronic data-processing equipment of any e-document brokerage operator or using such forged or altered information.

(2) Any person shall be prohibited from damaging or infringing on the secrets of the relevant information, including e-documents, that are recorded in the electronic data-processing equipment of any e-document brokerage operator.

(3) Any officer or any staff, or any former officer or any former staff of every e-document brokerage operator shall be prohibited from leaking or stealing the secrets of e-documents and the relevant information that he has learned while performing his duties.

(4) In the application of the penal provisions of the Criminal Act and other Acts, the officers or staff of every e-document brokerage operator shall be deemed public officials.

*[This Article Newly Inserted by Act No. 6777, Dec. 18, 2002]*

#### ■ Article 328 (Hearing)

The head of any customhouse shall hold a hearing when he intends to take the disposition falling under each of the following subparagraphs:

1. Cancellation of the designation of a self-managed bonded area under Article 164 (6);
2. Cancellation of the designation of a designated bonded area under Article 167;
3. Cancellation of a license granted to an operator under Article 178 (2);

4. Cancellation of the designation of a general bonded area under Article 204 (1); and
5. Suspension of the performance of a general bonded function under Article 204 (2).
6. Revocation of the designation of an e-document brokerage operator under Article 327-2 (3).

■ **Article 329 (Delegation of Authority, etc.)**

(1) The Commissioner of the Korea Customs Service may delegate part of his authority under this Act to the head of every customhouse and the head of any customhouse may delegate part of his authority under this Act to the head of every agency under his jurisdiction under the conditions as prescribed by the Presidential Decree, respectively.

(2) The head of every customhouse may delegate part of his authority as prescribed in Articles 257 through 259 to the head of any postal service office under the conditions as prescribed by the Presidential Decree.

(3) The head of every customhouse may delegate his authority as prescribed in Articles 157, 158 (2), 159 (2), 165 (2), 209, 213 (2) (limited to the receipt of any report on bonded transportation) (3), 215, 222 (1) 1 and 246 (1) to the person falling under each of the following subparagraphs as prescribed by the Presidential Decree:

1. Any nonprofit corporation established to maintain customs clearance order and efficiently manage export and import cargoes;
2. Any cargo manager;
3. Any operator; and
4. Any bonded transportation operator as prescribed in Article 222.

(4) In applying Articles 129 through 132 of the Criminal Act, any person who is delegated to exercise the authority under paragraphs (2) and (3) (including officers, employees and the employed) shall be deemed as a public official.

**ADDENDA**

■ **Article 1 (Enforcement Date)**

This Act shall enter into force on January 1, 2001.

■ **Article 2 (Application Example)**

(1) The amended provisions of Article 8 (4) shall apply starting with the portion of a declaration or a report filed first after the enforcement of this Act.

(2) The amended provisions of Articles 9 (1) 3, 19 (1) 1, 41, 42, 88 through 96, 99, 101, 102, 249, the proviso of 251 (1) and 254 shall apply starting with a declaration on export, import or return and a duty imposition notice filed or served first after the enforcement of this Act.

(3) The amended provisions of Articles 39 (1) 5 and 253 shall apply starting with the portion of a declaration on immediately shipped goods filed first after the enforcement of this Act.

(4) The amended provisions of Articles 40 and 118 shall apply starting with the portion of customs duties collected first after the enforcement of this Act.

(5) The amended provisions of Article 117 shall apply starting with the portion of goods stored first after the enforcement of this Act.

### ■ Article 3 (General Transitional Measures)

Any disposition taken, any procedure followed and any act performed in accordance with the previous provisions at the time that this Act enters into force shall be deemed to be taken, followed and performed in accordance with the provisions of this Act.

### ■ Article 4 (Transitional Measures concerning Correction Application Period)

The amended provisions of Article 38 (4) shall apply to the correction of customs duties amount in the event that one year does not expire from the day on which a duty return is filed at the time that this Act enters into force.

### ■ Article 5 (Transitional Measures concerning Licensed Bonded Area)

(1) Any person who has been granted a license on the establishment and operation of a licensed bonded storage place under the previous provisions shall be deemed granted a license on the establishment and operation of a bonded warehouse pursuant to the amended provisions of Article 183.

(2) Any person who has been granted a license on the establishment and operation of a special bonded factory under the previous provisions shall be deemed granted a license on the establishment and operation of a bonded factory pursuant to the amended provisions of Article 185.

### ■ Article 6 (Transitional Measures concerning Penal Provisions)

The application of the penal provisions to any act committed before the enforcement of this Act shall be governed by the previous provisions.

### ■ Article 7 Omitted.

### ■ Article 8 (Relation with Other Acts and Subordinate Statutes)

In the event that other Acts and subordinate statutes cite the previous Customs Act and its provisions at the time that this Act enters into force and any provisions of this Act fall under such cited provisions, this Act or the relevant provisions shall be deemed cited in lieu of the previous provisions.

## **ADDENDA**

### **■ Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

### **■ Articles 2 through 4 Omitted.**

## **ADDENDA**

### **■ Article 1 (Enforcement Date)**

This Act shall enter into force on January 1, 2003.

### **■ Article 2 (Application Example)**

(1) The amended provisions of Articles 38 (3) and 42 (2) shall apply, starting with the portion of any amended duty return that is first filed after the enforcement of this Act.

(2) The amended provisions of Article 185 (4) shall apply, starting with the portion of goods that are first shipped into any bonded factory for their use therein after getting through customs clearance after the enforcement of this Act.

(3) The amended provisions of Articles 241 (3) and 243 (1) shall apply, starting with the portion of goods that are first shipped into any designated storage place or any bonded warehouse or are first stored in a place that is not a bonded area after the enforcement of this Act.

### **■ Article 3 (Transitional Measures concerning Administrative Disposition)**

The application of any administrative disposition to any act performed prior to the enforcement of this Act shall be governed by the previous provisions.

### **■ Article 4 (Transitional Measures concerning E-Document Brokerage Operator)**

Any person who runs the e-document brokerage under the amended provisions of Article 327-2 (1) at the time of enforcement of this Act may continue to run his e-document brokerage by three months from the date of enforcement of this Act.

■ **Article 5 (Transitional Measures concerning Penal Provisions)**

The application of the penal provisions to any act performed prior to the enforcement of this Act shall be governed by the previous provisions.

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