

Imported goods shall be withdrawn from the free zone for entry to the customs territory when the goods declaration is electronically lodged, together with required documents at the time of the withdrawal from the free zone.

SEC. 815. *Exemption from Duty and Tax of Goods in Free Zones.* – Unless otherwise provided by law and in accordance with the respective laws, rules and regulations of the free zone authorities, goods admitted into a free zone shall not be subject to duty and tax.

SEC. 816. *Movement of Goods into and from Free Zones.* – The entry of goods into a free zone, whether directly or through the customs territory, shall be covered by the necessary goods declaration for admission or transit. Withdrawal from the free zone into the customs territory shall be covered by the necessary goods declaration for consumption or warehousing.

Transfer of goods from one free zone into another free zone shall likewise be covered by the necessary transit permit.

The implementing rules and regulations on the transit of goods admitted into, exported from, withdrawn into the customs territory, and moved between free zones shall be formulated and issued jointly by the Bureau and the free zone authorities.

SEC. 817. *Coordination With Free Zone Authority.* – To ensure compliance with customs laws and regulations, the Bureau shall coordinate with the governing authority of the free zone.

## CHAPTER 4

### STORES

SEC. 818. *Stores for Consumption.* – Stores for consumption shall include:

(a) Goods intended for use by the passengers and the crew on board vessels, aircrafts, or trains, whether or not sold; and

(b) Goods necessary for the operation and maintenance of vessels, aircrafts, or trains including fuel and lubricants but excluding spare parts and equipment which are either on board upon arrival or are taken on board during the stay in the customs territory of vessels, aircrafts, or trains used, or intended to be used, in international traffic for the transport of persons for remuneration or for the industrial or commercial transport of goods, whether or not for remuneration.

SEC. 819. *Stores to be Taken Away.* – For purposes of this chapter, "stores to be taken away" means goods for sale to the passengers and the crew of vessels, aircrafts, or trains with a view to being landed, which are either on board upon arrival or are taken on board during the stay in the customs territory of vessels, aircrafts, or trains used, or intended to be used, in international traffic for the transport of persons for remuneration or for the industrial or commercial transport of goods, whether or not for remuneration.

SEC. 820. *Exemption from Duties and Taxes of Stores.* – Customs treatment of stores should apply uniformly, regardless of the country of registration or ownership of vessels, aircraft, or trains. Stores which are carried in a vessel, aircraft, or train arriving in the customs territory shall be exempted from import duties and taxes provided that they remain on board. Stores for consumption by the passengers and the crew imported as provisions on international express vessels, aircrafts, or trains shall be exempted from import duties and taxes: *Provided, That:*

(a) Such goods are purchased only in the countries crossed by the international vessels and aircrafts in question; and

(b) Any duties and taxes chargeable on such goods in the country where they were purchased are paid.

Stores necessary for the operation and maintenance of vessels, aircrafts, or trains which are on board these means of transport shall be exempted from import duties and taxes: *Provided, further,* That they remain on board while these means of transport are in the customs territory. The Bureau shall allow the issue of stores for use on board during the stay of a vessel

in the customs territory in such quantities as the customs authority deems reasonable with due regard to the number of the passengers and the crew and to the length of the stay of the vessel in the customs territory. The Bureau should allow the issue of stores for use on board by the crew while the vessel is undergoing repairs in a dock or shipyard: *Provided, finally*, That the duration of stay in a dock or shipyard is considered to be reasonable.

When an aircraft is to land at one or more airports in the customs territory, the Bureau should allow the issuance of stores for consumption on board both during the stay of the aircraft at such intermediate airports and during its flight between such airports.

The Bureau shall require a carrier to take appropriate measures to prevent any unauthorized use of the stores including sealing of the stores, when necessary. It shall require the removal of stores from the vessel, aircraft, or trains for storage elsewhere during its stay in the customs territory only when the Bureau considers it necessary.

Vessels, aircrafts, or trains which depart for an ultimate foreign destination shall be entitled to take on board, exempted from duties and taxes, the following:

(1) Stores in such quantities as the Bureau deems reasonable with due regard to the number of the passengers and the crew, to the length of the voyage or flight, and to any quantity of such stores already on board; and

(2) Stores necessary for the operation and maintenance of a vessel, aircraft, or train, in such quantities as are deemed reasonable for operation and maintenance during the voyage or flight, after due regard of the quantity of such stores already on board.

Replenishment of stores that are exempted from duties and taxes shall be allowed for vessels, aircrafts, or trains which have arrived in the customs territory, and which need to replenish

their stores for the journey to their final destination in the customs territory, subject to the same conditions provided in this Chapter.

SEC. 821. *Goods Declaration for Stores.* – When a declaration concerning stores on board vessels arriving in the customs territory is required by the Bureau, the information required shall be kept to the minimum and as may be necessary for customs control.

The quantities of stores which are supplied to vessels during its stay in the customs territory should be recorded on the required goods declaration concerning stores.

The Bureau shall not require the presentation of a separate declaration of remaining stores on board a vessel, an aircraft or a train. No separate declaration concerning stores should be required upon departure of vessels from the customs territory. When a declaration is required concerning stores taken on board the vessels or aircrafts upon departure from the customs territory, the information required shall be kept to the minimum as may be necessary for customs control.

When a vessel, aircraft, or train arrives in the customs territory, stores on board shall:

(a) Be cleared for consumption or placed under another customs procedure, subject to compliance with the conditions and formalities applicable in each case; or

(b) Subject to prior authorization by the Bureau, be transferred respectively to another vessel, aircraft, or train assigned to an international route.

TITLE IX  
DUTY DRAWBACK AND REFUND  
CHAPTER 1  
DUTY DRAWBACK

SEC. 900. *Basis of Duty Drawback.* – (A) On Fuel Used for Propulsion of Vessels. – On all fuel imported into the Philippines used for propulsion of vessels engaged in trade with foreign countries, or in the coastwise trade, a refund or tax credit shall be allowed not exceeding ninety-nine percent (99%) of the duty imposed by law upon such fuel, which shall be paid or credited under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary of Finance.

(B) On Petroleum Oils and Oils Obtained from Bituminous Minerals, Crude, Eventually Used for Generation of Electric Power and for the Manufacture of City Gas. – On petroleum oils and oils obtained from bituminous materials, crude oil imported by nonelectric utilities, sold directly or indirectly, in the same form or after processing, to electric utilities for the generation of electric power and for the manufacture of city gas, a refund or tax credit shall be allowed not exceeding fifty percent (50%) of the duty imposed by law upon such oils, which shall be paid or credited under such rules and regulations as may be prescribed by the Commissioner with the approval of the Secretary of Finance.

(C) On Goods Made from Imported Materials. – Upon exportation of goods manufactured or produced in the Philippines, including the packing, covering, putting up, marking or labeling thereof either in whole or in part of the imported materials for which duties have been paid, a refund or tax credit shall be allowed for the duties paid on the imported materials so used including the packing, covering, putting up, marking or labeling thereof, subject to the following conditions:

(1) The actual use of the imported materials in the production or manufacture of the goods exported with their

quantity, value, and amount of duties paid thereon, should be established satisfactorily;

(2) The duties refunded or credited shall not exceed one hundred percent (100%) of duties paid on the imported materials used;

(3) There is no determination by the NEDA of the requirement for certification on nonavailability of locally-produced or manufactured competitive substitutes for the imported materials used at the time of importation;

(4) The exportation shall be made within one (1) year after the importation of materials used and claim of refund or tax credit shall be filed within six (6) months from the date of exportation; and

(5) When two or more products result from the use of the same imported materials, an apportionment shall be made on its equitable basis.

SEC. 901. *Payment of Drawbacks.* – Eligible claims for refund or tax credit shall be paid or granted by the Bureau to claimants within sixty (60) days after receipt of properly accomplished claims: *Provided*, That a registered enterprise under Republic Act No. 5186, otherwise known as the "Investment Incentives Act", or Republic Act No. 6135, otherwise known as the "Export Incentives Act of 1970", which has previously enjoyed tax credits based on customs duties paid on imported raw materials and supplies, shall not be entitled to a drawback under this section with respect to the same importation subsequently processed and reexported.

The Secretary of Finance may, upon the recommendation of the Commissioner, promulgate rules and regulations allowing partial payments of drawbacks pursuant to this section.

SEC. 902. *Prescription of Drawback Claim.* – A claim and application for a drawback shall prescribe if it is not filed within one (1) year from the date of importation in case of

Section 900, paragraphs (A) and (B) and within one (1) year from the date of exportation in the case of Section 900, paragraph (C), subject to such rules and regulations as may be issued by the Commissioner, upon approval of the Secretary of Finance.

## CHAPTER 2

### REFUND AND ABATEMENT

SEC. 903. *Refund of Duties and Taxes.* – Refund shall be granted where it is established that duties and taxes have been overcharged as a result of an error in the assessment or goods declaration.

Where permission is given by the Bureau for goods originally declared for a customs procedure with payment of duties and taxes to be placed under another customs procedure, a refund shall be made of any duties and taxes charged in excess of the amount due under the new procedure, subject to such regulation issued for the purpose.

A refund shall not be granted if the amount of duties and taxes involved is less than five thousand pesos (P5,000.00): *Provided*, That the Secretary of Finance, in consultation with the Commissioner, may adjust the minimum amount specified in this Act, taking into account the CPI as published by the PSA.

SEC. 904. *Abatement of Duties and Taxes.* – When goods have not yet been released for consumption or have been placed under another customs procedure, provided that no other offense or violation has been committed, the declarant shall neither be required to pay the duties and taxes nor be entitled to refund thereof in any of the following cases:

(a) When, at the request of the declarant, the goods are abandoned, or as determined by the Bureau, the goods are destroyed or rendered commercially valueless while under customs control. Any cost herein incurred shall be borne by the declarant;

(b) When goods are destroyed or irrecoverably lost by accident or *force majeure*, the remaining waste or scrap after destruction, if taken into consumption, shall be subject to the duties and taxes that would be applicable on such waste or scrap if imported in same state; and

(c) When there are shortages due to the nature of the goods.

SEC. 905. *Abatement for Damage Incurred During Voyage.* – Except as otherwise provided, no abatement of duties shall be made on account of damage incurred or deterioration suffered during the voyage of importation; and duties will be assessed on the actual quantity imported as determined by the customs officers concerned.

SEC. 906. *Abatement or Refund of Duty on Missing Package.* – When any package appearing on the manifest or bill of lading or airway bill is missing, an abatement or refund of the duty shall be made if it is certified by the importer or consignee, under pain of penalty for falsification or perjury, and upon production of proof satisfactory to the Collector concerned, that the package in question has not been unlawfully imported into the Philippines.

SEC. 907. *Abatement or Refund for Deficiency in Contents of Packages.* – If, upon opening of any package, a deficiency in the quantity of the goods is found to exist based upon the invoice, such deficiency shall be certified, under pain of penalty for falsification or perjury, by the customs officers concerned and upon the production of proof showing that the shortage occurred before the arrival of the goods in the Philippines. Upon sufficient proof thereof, the proper abatement or refund of the duty shall be made.

SEC. 908. *Abatement or Refund of Duties on Goods Lost or Destroyed After Arrival.* – The Bureau may abate or refund the amount of duties accruing or paid on any goods that have been lost due to injury, theft, destruction through fire or through any other causes, upon satisfactory proof of the same, under any of the following circumstances:

- (a) While within the territory of any port of entry, prior to unloading under the Bureau's supervision;
- (b) While remaining in customs custody after unloading;
- (c) While in transit from the port of entry to any port in the Philippines; and
- (d) While released under sufficient security for export except in case of loss by theft.

SEC. 909. *Abatement and Refund of Defective Goods.*

– Under conditions to be set by the Commissioner, and with the approval of the Secretary of Finance, an abatement and refund shall be granted on imported or exported goods which are found defective or otherwise not in accordance with the agreed specifications at the time of importation or exportation and are returned either to the supplier or to another person designated by the supplier, subject to the following conditions:

- (a) The goods have not been worked, repaired, or used in the country of importation, and are reexported within a reasonable time; and
- (b) The goods have not been worked, repaired, or used in the country to which they were exported, and are reimported within a reasonable time.

Use of the goods shall, however, not hinder the refund if such use was indispensable to discover the defects or other circumstances which caused the reexportation or reimportation of the goods.

As an alternative to reexportation or reimportation, the goods may be expressly abandoned or destroyed or rendered commercially valueless under customs control as the Bureau may decide. In such case, the importer shall not be entitled to an abatement or a refund if it does not defray the costs of such abandonment, destruction, or rendition.

SEC. 910. *Abatement of Duty on Dead or Injured Animals.*

– Where it is certified, under pain of penalty for falsification or perjury, and upon production of proof satisfactory to the Bureau that an animal subject of importation dies or suffers injury before arrival, or while in customs custody, the duty due thereon shall be abated provided that its carcass on board or in customs custody is removed in the manner required by the Bureau and at the expense of the importer.

SEC. 911. *Investigation Required in Case of Abatements and Refunds.* – The Customs Officer concerned shall, in all cases of abatement or refund of duties, submit an examination report as to any fact discovered which indicates any discrepancy and cause the corresponding adjustment on the goods declaration.

SEC. 912. *Refund Arising from Correction of Errors.*

– Manifest clerical errors made on an invoice or entry, errors in return of weight, measure and gauge, when duly certified under penalties of falsification or perjury by the surveyor or examining officer when there are such officers at the port, and errors in the distribution of charges on invoices not involving any question of law and certified under penalties of falsification or perjury by the examining customs officer, may be corrected in the computation of duties, if such errors are discovered before the payments of duties, or if discovered within one (1) year after release from customs custody of imported goods upon written request and notice of error from the importer, or upon statement of error certified by the District Collector.

For the purpose of correcting errors specified in the next preceding paragraph, the Bureau is authorized to make refunds within the statutory time limit.

SEC. 913. *Claims for Refund.* – All claims and application for refund of duties and taxes shall be made in writing and filed with the Bureau within twelve (12) months from the date of payment of duties and taxes.

If, as a result of the refund of duties, a corresponding refund of internal revenue taxes on the same importation becomes due, the Bureau shall cause the refund of internal revenue taxes in

favor of the importer after issuance of a certification from the Commissioner of Internal Revenue, when applicable.

The importer may file an appeal of a denial of a claim for refund or abatement, whether it is a full or partial denial, with the Commissioner within thirty (30) days from the date of the receipt of the denial. The Commissioner shall render a decision within thirty (30) days from the receipt of all the necessary documents supporting the application. Within thirty (30) days from receipt of the decision of the Commissioner, the case may also be appealed to the CTA.

Notwithstanding the provisions in the preceding paragraphs, the filing of claims for refund of national internal revenue taxes shall be governed by the provisions provided under the NIRC of 1997, as amended.

## TITLE X

### POST CLEARANCE AUDIT

SEC. 1000. *Audit and Examination of Records.* – Within three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, the Bureau may conduct an audit examination, inspection, verification, and investigation of records pertaining to any goods declaration, which shall include statements, declarations, documents, and electronically generated or machine readable data, for the purpose of ascertaining the correctness of the goods declaration and determining the liability of the importer for duties, taxes and other charges, including any fine or penalty, to ensure compliance with this Act.

SEC. 1001. *Scope of the Audit.* – The audit of importers shall be conducted when firms are selected by a computer-aided risk management system, the parameters of which are to be based on objective and quantifiable data, subject to the approval of the Secretary of Finance upon recommendation of the Commissioner. The criteria for selecting firms to be audited shall include:

- (a) Relative magnitude of customs revenue to be generated from the firm;
- (b) The rates of duties of the firm's imports;
- (c) The compliance track records of the firm; and
- (d) An assessment of the risk to revenue of the firm's import activities.

SEC. 1002. *Access to Records.* – Any authorized officer of the Bureau shall be given by the importer and customs broker full and free access to the premises where the records are kept, to conduct audit examination, inspection, verification, and investigation of those records relevant to such investigation or inquiry.

A copy of any document certified by or on behalf of the importer is admissible in evidence in all courts as if it were the original copy.

A customs officer is not entitled to enter the premises under this section unless, before so doing, the officer produces to the person occupying or apparently in charge of the premises written evidence of the fact of being duly authorized. The person occupying or apparently in charge of the premises entered by an officer shall provide the officer with all reasonable facilities and assistance for the effective exercise of the officer's authority under this section.

Unless otherwise provided herein or in other provisions of law, the Bureau may, in case of disobedience, invoke the aid of the proper regional trial court within whose jurisdiction the matter falls. The court may punish contumacy or refusal as contempt. In addition, the fact that the importer or customs broker denies the authorized customs officer full and free access to importation records during the conduct of a post clearance audit shall create a presumption of inaccuracy in the transaction value declared for their imported goods and constitute grounds for the Bureau to conduct a reassessment of such goods.

In addition, the imposition of the appropriate criminal sanctions provided under this Act and other administrative sanctions may be concurrently invoked against contumacious importers, including the suspension of the delivery or release of their imported goods.

SEC. 1003. *Requirement to Keep Records.* – (a) All importers are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of final payment of duties and taxes or customs clearance, as the case may be, all records pertaining to the ordinary course of business and to any activity or information contained in the records required by this title in connection with any such activity.

For purposes of the post clearance audit and Section 1005 of this Act, the term importer shall include the following:

(1) Importer-of-record or consignee, owner or declarant, or a party who:

(i) Imports goods into the Philippines or withdraws such goods into the Philippine customs territory for consumption or warehousing; files a claim for refund or drawback; or transports or stores such goods carried or held under security; or

(ii) Knowingly causes the importation or transportation or storage of imported goods referred to above, or the filing of refund or drawback claim.

(2) An agent of any party described in paragraph (1); or

(3) A person whose activities require the filing of a goods declaration.

A person ordering imported goods from a local importer or supplier in a domestic transaction shall be exempted from the requirements imposed by this section unless:

(1) The terms and conditions of the importation are controlled by the person placing the order; or

(2) The circumstances and nature of the relationship between the person placing the order and the importer or supplier are such that the former may be considered as the beneficial or true owner of the imported goods; or

(3) The person placing the order had prior knowledge that they will be used in the manufacture or production of the imported goods.

(b) All parties engaged in customs clearance and processing are required to keep at their principal place of business, in the manner prescribed by regulations to be issued by the Commissioner and for a period of three (3) years from the date of filing of the goods declaration, copies of the abovementioned records covering the transactions handled.

(c) Locators or persons authorized to bring imported goods into free zones, such as the special economic zones and free ports, are required to keep subject-records of all its activities, including in whole or in part, records on imported goods withdrawn from said zones into the customs territory for a period of three (3) years from the date of filing of the goods declaration.

Failure to keep the records required by this Act shall constitute a waiver of this right to contest the results of the audit based on records kept by the Bureau.

SEC. 1004. *Power of the Commissioner to Obtain Information and Issue Summons.* – For the effective implementation of the post clearance audit functions of the Bureau, the Commissioner is hereby authorized to:

(a) Obtain on a regular basis from any person, in addition to the person who is the subject of a post clearance audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the BSP and GOCCs, any information such as costs

and volume of production, receipts or sales and gross income of taxpayers, and the names, addresses, and financial statements of corporations, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures or consortia and registered partnerships, and their members, whose business operations or activities are directly or indirectly involved in the importation or exportation of imported goods or products manufactured from imported component materials;

(b) Summon the person liable for duties and taxes or required to file goods declaration, or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for duties and taxes, or any other person, to appear before the Commissioner or the duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony;

(c) Take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry; or

(d) Obtain information from banks or other financial institutions on commercial documents and records pertaining specifically to payments relevant to import transaction.

The provisions of the foregoing paragraphs notwithstanding, nothing in this section shall be construed as granting the Commissioner the authority to inquire into bank deposits of persons or entities mentioned in this Title.

SEC. 1005. *Failure to Pay Correct Duties and Taxes on Imported Goods.* – Any person who, after being subjected to post clearance audit and examination as provided in Section 1000 of this Act, is found to have incurred deficiencies in duties and taxes paid for imported goods, shall be penalized according to two (2) degrees of culpability subject to any mitigating, aggravating, or extraordinary factors that are clearly established by available evidence as described hereunder:

(a) *Negligence.* – When a deficiency results from an offender's failure, through an act or acts of omission or commission, to exercise reasonable care and competence in ensuring that a statement made is correct, the offender shall be charged for committing negligence, and, if found guilty shall be penalized with a fine equivalent to one hundred twenty-five percent (125%) of the revenue loss: *Provided,* That subject to Section 108 of this Act, no substantial penalty shall be imposed on an inadvertent error amounting to simple negligence, as defined by rules promulgated by the Secretary of Finance, upon recommendation of the Commissioner;

(b) *Fraud.* – When the material false statement or act in connection with the transaction was committed or omitted knowingly, voluntarily and intentionally, as established by clear and convincing evidence, the offender who is charged for committing fraud and is found guilty thereof, shall be penalized with a fine equivalent to six (6) times of the revenue loss and/or imprisonment of not less than two (2) years, but not more than eight (8) years.

The decision of the Commissioner, upon proper hearing, to impose penalties as prescribed in this section may be appealed in accordance with Section 1104 of this Act.

SEC. 1006. *Records to be Kept by the Bureau.* – The Bureau shall keep a database of importer and broker profiles which shall include a record of audit results and the following information and papers:

(a) Articles of Incorporation;

(b) The company structure, which shall include, but not limited to, incorporators and board of directors, key officers, and organizational structure;

(c) Key importations;

(d) Privileges enjoyed;



- (e) Penalties; and
- (f) Risk categories.

The Bureau shall furnish the BIR and the DOF a copy of the final audit results within thirty (30) days from the issuance thereof.

## TITLE XI

### ADMINISTRATIVE AND JUDICIAL PROCEDURES

#### CHAPTER 1

##### ADVANCE RULING AND DISPUTE SETTLEMENT

SEC. 1100. *Classification Ruling.* – An importer or exporter may file a written application for an advance ruling on the tariff classification of goods with the Commission. The Commission shall render a ruling within thirty (30) days from receipt of a properly documented application.

When a declared tariff classification of goods, not subject of a pending application for advance ruling, is in dispute, the importer, exporter, or the Bureau shall submit the matter to the Commission for a ruling, without prejudice to the application of Section 1106 of this Act on "protest": *Provided*, That such rulings of the Commission on commodity classification shall be binding upon the Bureau, unless the Secretary of Finance shall rule otherwise.

SEC. 1101. *Valuation Ruling.* – An importer or exporter may file a written application for an advance valuation ruling on the proper application of a specific method on customs valuation of specific goods as prescribed in Title VII, Chapter 1 of this Act.

The application for a valuation ruling shall be filed with the Commissioner who shall issue a ruling within thirty (30) days from submission of the application form and supporting documents as may be required by rules and regulations.

When the valuation method of goods not subject of an application for advance valuation ruling or the declared customs value is in dispute, the matter shall be resolved in accordance with Section 1106 of this Act on "protest".

SEC. 1102. *Ruling on the Rules of Origin.* – An importer or exporter may file a written application for a ruling on whether the goods qualify as originating under the rules of origin of the applicable preferential trade agreement. The application for an advance ruling on origin shall be filed with the Commissioner who shall act on the application within thirty (30) days from receipt of the application and supporting documents as may be required by rules and regulations.

When the declared origin of the goods, not subject of a request for advance ruling on origin, is in dispute, the matter shall be resolved in accordance with Section 1106 of this Act on "protest".

SEC. 1103. *Conditions for Application and Effect of Advance Ruling.* – An application for an advance ruling shall cover only one (1) product or item. The application for advance ruling shall be filed at least ninety (90) days before the importation or exportation of the product or item, as the case may be.

SEC. 1104. *Administrative and Judicial Appeals.* – An aggrieved party may, within thirty (30) days from receipt of an adverse ruling or decision, appeal the same to the CTA without prejudice to the authority of the Secretary of Finance to review decisions adverse to the government in accordance with Sections 1127 and 1128 of this Act, as the case may be.

SEC. 1105. *Implementing Rules and Regulations.* – The Secretary of Finance, upon the recommendation of the Bureau and the Commission, shall promulgate rules and regulations to implement the preceding provisions on advance ruling.

## CHAPTER 2

## PROTEST

SEC. 1106. *Protest.* — When a ruling or decision of the District Collector or customs officer involving goods with valuation, rules of origin, and other customs issues is made, except the fixing of fines in seizure cases, the party adversely affected may appeal by way of protest against such ruling or decision by presenting to the Commissioner at the time when payment of the amount claimed to be due the government is made, or within fifteen (15) days thereafter, a written protest setting forth the objection to the ruling or decision in question and the reasons therefore.

Subject to the approval of the Secretary of Finance, the Commissioner shall provide such rules and regulations as to the requirement for payment or nonpayment of the disputed amount and in case of nonpayment, the release of the importation under protest upon posting of sufficient security.

SEC. 1107. *Protest Exclusive Remedy in Protestable Case.* — In all cases subject to protest, the interested party who desires to have the action of the District Collector reviewed, shall file a protest as provided in Section 1106 of this Act, otherwise the action of the District Collector shall be final and conclusive.

SEC. 1108. *Form and Scope of Protest.* — A protest shall be filed in accordance with the prescribed rules and regulations promulgated under this section. It shall specify the particular decision or ruling of the District Collector for which protest is being made, and shall indicate the particular ground or grounds upon which the protesting party bases the claim for relief. The scope of a protest shall be limited to the particular goods subject of a goods declaration, but any number of issues may be raised in a protest with reference to the goods declaration constituting the subject matter of the protest.

SEC. 1109. *Samples to be Furnished by Protesting Parties.* — If the nature of the goods permit, importers filing protests involving questions of fact must, upon demand, present

to the Commissioner samples of the goods which are the subject matter of the protest. The samples of the goods shall be verified by the customs officer who made the classification against which the protests are filed.

SEC. 1110. *Decision in Protest.* — When a protest is filed in proper form, the Commissioner shall render a decision within thirty (30) days from receipt of the protest. In case the protest is sustained, in whole or in part, the appropriate order shall be made, and the entry reassessed, if necessary.

## CHAPTER 3

## ALERT ORDERS

SEC. 1111. *Alert Orders.* — Alert orders are written orders issued by customs officers as authorized by the Commissioner on the basis of derogatory information regarding possible noncompliance with this Act. An alert order will result in the suspension of the processing of the goods declaration and the conduct of physical or nonintrusive inspection of the goods within forty-eight (48) hours from issuance of the order. Within forty-eight (48) hours or, in the case of perishable goods, within twenty-four (24) hours from inspection, the alerting officer shall recommend the continuance of processing of goods in case of a negative finding, or issuance of a warrant of seizure and detention if a discrepancy between the declaration and actual goods is found. The Bureau's information system shall immediately reflect the imposition or lifting of an alert order.

Derogatory information shall indicate the violations and other necessary specifics thereof. For this purpose, the following shall not be considered derogatory information:

(a) General allegations of undervaluation;

(b) General allegations of misclassification without providing the appropriate tariff heading and duty of the shipment to be alerted;

(c) General allegations of over-quantity without indicating the source of information supporting the allegation;

(d) General allegations of misdeclaration in the entry without indicating the suspected actual contents thereof; and

(e) General allegations of importations contrary to law without indicating the specific law or rule to be violated.

No alert order shall be issued on account of allegations of undervaluation unless said undervaluation is caused by the submission to customs of forged or spurious invoice or other commercial documents.

An alert order may be issued only after lodgement of the goods declaration and prior to the release of goods from customs custody. Under no circumstances shall the suspension of the processing of goods declaration be allowed except through an alert order issued by an authorized customs officer.

The costs of the physical inspection shall be borne by the Bureau: *Provided*, That such cost shall be reimbursed by the owner prior to the release of the goods if the physical inspection results in the assessment of additional duties or taxes or the issuance of a warrant of seizure.

The Commissioner shall be notified of the recommendation by the alerting officer within twenty-four (24) hours from the issuance of the alert order. Alert orders shall be dated and assigned a unique reference number in series which shall be the basis for reporting to and monitoring by the Commissioner and the Secretary of Finance.

The Bureau shall create a central clearing house for alert orders and shall submit reports quarterly on the status thereof.

SEC. 1112. *Alert Orders on Perishable Goods.* – When the subject of the alert order are perishable goods, the Bureau shall attach to the recommendation a certificate stating that the goods are perishable.

## CHAPTER 4

### SEIZURE AND FORFEITURE

SEC. 1113. *Property Subject to Seizure and Forfeiture.* – Property that shall be subject to seizure and forfeiture include:

(a) Any vehicle, vessel or aircraft, including cargo, which shall be used unlawfully in the importation or exportation of goods or in conveying or transporting smuggled goods in commercial quantities into or from any Philippine port or place. The mere carrying or holding on board of smuggled goods in commercial quantities shall subject such vehicle, vessel, aircraft, or any other craft to forfeiture: *Provided*, That the vehicle, vessel, aircraft or any other craft is not used as a common carrier which has been chartered or leased for purposes of conveying or transporting persons or cargo;

(b) Any vessel engaging in the coastwise trade which shall have on board goods of foreign growth, produce, or manufacture in excess of the amount necessary for sea stores, without such goods having been properly entered or legally imported;

(c) Any vessel or aircraft into which shall be transferred cargo unloaded contrary to law prior to the arrival of the importing vessel or aircraft at the port of destination;

(d) Any part of the cargo, stores, or supplies of a vessel or aircraft arriving from a foreign port which is unloaded before arrival at the vessel's or aircraft's port of destination and without authority from the customs officer; but such cargo, ship, or aircraft stores and supplies shall not be forfeited if such unloading was due to accident, stress of weather, or other necessity and is subsequently approved by the District Collector;

(e) Goods which are fraudulently concealed in or removed contrary to law from any public or private warehouse, container yard, or container freight station under customs supervision;

(f) Goods, the importation or exportation of which are effected or attempted contrary to law, or any goods of prohibited importation or exportation, and all other goods which, in the opinion of the District Collector, have been used, are or were entered to be used as instruments in the importation or the exportation of the former;

(g) Unmanifested goods found on any vessel or aircraft if manifest therefor is required;

(h) Sea stores or aircraft stores adjudged by the District Collector to be excessive, when the duties and taxes assessed by the District Collector thereon are not paid or secured forthwith upon assessment of the same;

(i) Any package of imported goods which is found upon examination to contain goods not specified in the invoice or goods declaration including all other packages purportedly containing imported goods similar to those declared in the invoice or goods declaration to be the contents of the misdeclared package;

(j) Boxes, cases, trunks, envelopes, and other containers of whatever character used as receptacle or as device to conceal goods which are subject to forfeiture under this Act or which are so designed as to conceal the character of such goods;

(k) Any conveyance actually used for the transport of goods subject to forfeiture under this Act, with its equipage or trappings, and any vehicle similarly used, together with its equipment and appurtenances. The mere conveyance of smuggled goods by such transport vehicle shall be sufficient cause for the outright seizure and confiscation of such transport vehicle but the forfeiture shall not be effected if it is established that the owner of the means of conveyance used as aforesaid, is engaged as common carrier and not chartered or leased, or that the agent in charge thereof at the time, has no knowledge of the unlawful act; and

(l) Goods sought to be imported or exported:

(1) Without going through a customs office, whether the act was consummated, frustrated, or attempted;

(2) Found in the baggage of a person arriving from abroad and undeclared by such person;

(3) Through a false declaration or affidavit executed by the owner, importer, exporter, or consignee concerning the importation of such goods;

(4) On the strength of a false invoice or other document executed by the owner, importer, exporter, or consignee concerning the importation or exportation of such goods; or

(5) Through any other practice or device contrary to law by means of which such goods entered through a customs office to the prejudice of the government.

SEC. 1114. *Properties not Subject to Forfeiture in the Absence of Prima Facie Evidence.* – The forfeiture of the vehicle, vessel, or aircraft shall not be effected if it is established that the owner thereof or the agent in charge of the means of conveyance used as aforesaid has no knowledge of or participation in the unlawful act: *Provided*, That a *prima facie* presumption shall exist against the vehicle, vessel, or aircraft under any of the following circumstances:

(a) If the conveyance has been used for smuggling before;

(b) If the owner is not in the business for which the conveyance is generally used; and

(c) If the owner is not financially in a position to own such conveyance.

SEC. 1115. *Conditions Affecting Forfeiture of Goods.* – The forfeiture shall be effected only when and while the goods are in the custody or within the jurisdiction of customs officers, or in the possession or custody of or subject to the control of the importer, exporter, original owner, consignee, agent of another

person effecting the importation, entry or exportation in question, or in the possession or custody of or subject to the control of persons who shall receive, conceal, buy, sell, or transport the same, or aid in any of such acts, with knowledge that the goods were imported, or were the subject of an attempt at importation or exportation contrary to law.

SEC. 1116. *Seizure or Release of Goods.* – The District Collector shall issue an order of release or a warrant of seizure within five (5) days, or two (2) days in case of perishable goods, upon the recommendation of the alerting officer or any other customs officer. The District Collector shall immediately make a report of such seizure or release to the Commissioner.

SEC. 1117. *Warrant of Seizure or Order of Release.* – The District Collector shall have the authority to issue a warrant of seizure of the goods upon determination of the existence of probable cause and in case of nonexistence thereof, the issuance of order of release. In case the District Collector issued an order of release, the District Collector shall immediately transmit all the records to the Commissioner who shall automatically review within forty-eight (48) hours, or within twenty-four (24) hours in case of perishable goods. When no decision is made by the Commissioner within the prescribed period, the imported goods shall be deemed released.

The lifting of the alert order shall be issued by the District Collector only upon the affirmation of the decision of the District Collector by the Commissioner, or after the lapse of the period of review by the Commissioner, whichever is earlier.

SEC. 1118. *Sale of Perishable Goods During Forfeiture Proceedings.* – Upon motion of the importer of the perishable goods, the goods may be sold at a public auction during the pendency of the forfeiture proceedings. The proceeds of the auction shall be held in escrow until the final resolution of the proceedings.

SEC. 1119. *Service of Warrant of Seizure.* – The District Collector shall cause the service of warrant of seizure to the owner or importer of the goods or the authorized representative

thereof. The owner or importer shall be given an opportunity to be heard during the forfeiture proceedings.

For the purpose of serving the warrant, the importer, consignee, or person holding the bill of lading or airway bill shall be deemed the "owner" of the goods. For the same purpose, "authorized representative" shall include any agent of the owner and if the owner or the agent is unknown, any person having possession of the goods at the time of the seizure.

Service of warrant to an unknown owner shall be effected by posting the warrant for fifteen (15) days in a public place at the concerned district, and by electronic or printed publication.

SEC. 1120. *Description, Classification and Valuation of Seized Goods.* – The District Collector shall cause the preparation of a list and particular description, classification, and valuation of the goods seized and valuation of identical or similar goods.

SEC. 1121. *Proceedings in Case of Property Belonging to Unknown Parties.* – If, within fifteen (15) days after service of warrant, no owner or agent can be found or appears before the District Collector, the seized goods shall be forfeited *ipso facto* in favor of the government to be disposed of in accordance with this Act.

SEC. 1122. *Seizure of Vessel or Aircraft for Delinquency of Owner or Officer.* – When the owner, agent, master, pilot in command or other responsible officer of any vessel or aircraft becomes liable for any violation of this Act, the vessel or aircraft may be seized and be subjected to forfeiture proceedings for the settlement of any fine or penalty for which such person is liable. In determining whether or not to seize a vessel or aircraft, the Bureau shall take into account the amount of fine or penalty in relation to the commercial impact that ~~may~~ be caused to international trade by the seizure or detention as well as the value of the vessel or aircraft.

SEC. 1123. *Burden of Proof in Forfeiture Proceedings.* – In all proceedings for the forfeiture of any vehicle, vessel, aircraft, or goods under this Act, the burden of proof shall be borne by the claimant.

SEC. 1124. *Settlement of Pending Seizure Case by Payment of Fine or Redemption of Forfeited Goods.* – Subject to the approval of the Commissioner, the District Collector may allow the settlement by payment of fine or the redemption of forfeited goods, during the course of the forfeiture proceeding. However, the Commissioner may accept the settlement by redemption of any forfeiture case on appeal. No settlement by payment of fine shall be allowed when there is fraud or when the discrepancy in duties and taxes to be paid between what is determined and what is declared amounts to more than thirty percent (30%).

In case of settlement by payment of fine, the owner, importer, exporter, or consignee or agent shall offer to pay a fine equivalent to thirty percent (30%) of the landed cost of the seized goods. In case of settlement by redemption, the owner, importer, exporter, or consignee or agent shall offer to pay the redeemed value equivalent to one hundred percent (100%) of the landed cost.

Upon payment of the fine or payment of the redeemed value, the goods shall be released and all liabilities which may attach to the goods shall be discharged without prejudice to the filing of administrative or criminal case.

Settlement of any seizure case by payment of the fine or redemption of forfeited goods shall not be allowed when there is fraud, or where the importation is prohibited or the release of the goods is contrary to law.

SEC. 1125. *Decision in Forfeiture Cases.* – In forfeiture cases, the District Collector shall issue an order for hearing within fifteen (15) days, or five (5) days in case of perishable goods, from issuance of the warrant. The District Collector shall render a decision within thirty (30) days upon termination of the hearing, or within ten (10) days in case of perishable goods. The decision shall include a declaration of forfeiture, the imposition of a fine or such other action as may be proper.

## CHAPTER 5

### APPEAL IN PROTEST AND FORFEITURE CASES

SEC. 1126. *Appeal to the Commissioner.* – In forfeiture cases, the person aggrieved by the decision of a District Collector may, within fifteen (15) days or five (5) days in case of perishable goods, from receipt of the decision, file a written notice of appeal, together with the required appeal fee to the District Collector, furnishing a copy to the Commissioner. The District Collector shall immediately transmit all the records of the proceedings to the Commissioner, who shall review and decide on the appeal within thirty (30) days from receipt of the records, or fifteen (15) days in the case of perishable goods: *Provided*, That if within thirty (30) days, no decision is rendered, the decision of the District Collector under appeal shall be deemed affirmed. An appeal filed beyond the period herein prescribed shall be dismissed.

Appeals to protest cases shall be governed by Section 114 of this Act.

The decision of the Commissioner may be served through the recognized modes of service under existing law.

SEC. 1127. *Automatic Review in Forfeiture Cases.* – The Commissioner shall automatically review any decision by the District Collector adverse to the government. The entire records of the case shall be elevated within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records. When no decision is rendered within the prescribed period or when a decision adverse to the government is rendered by the Commissioner involving goods with FOB or FCA value of ten million pesos (P10,000,000.00) or more, the records of the decision of the Commissioner, or of the District Collector under review, as the case may be, shall be automatically elevated within five (5) days for review by the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days, or within ten (10) days in the case of perishable goods, from receipt of the records, shall be final upon the Bureau.

SEC. 1128. *Automatic Review by the Secretary of Finance in Other Cases.* – In cases not involving protest or forfeiture, the Commissioner shall automatically review any decision by the District Collector that is adverse to the government. The records of the case shall be elevated to the Commissioner within five (5) days from the promulgation of the decision. The Commissioner shall decide on the automatic review within thirty (30) days from receipt of the records, or within ten (10) days in the case of perishable goods. When no decision is rendered within the prescribed period or when any decision rendered by the Commissioner is adverse to the government, the records of the case under review shall be automatically elevated within five (5) days for the review of the Secretary of Finance. The decision issued by the Secretary of Finance, whether or not a decision was rendered by the Commissioner within thirty (30) days from receipt of the records, or within ten (10) days in the case of perishable goods, shall be final upon the Bureau.

## CHAPTER 6

### ABANDONMENT

SEC. 1129. *Abandonment, Kinds and Effects of.* – Imported goods are deemed abandoned under any of the following circumstances:

- (a) When the owner, importer, or consignee of the imported goods expressly signifies in writing to the District Collector the intention to abandon the same; or
- (b) When the owner, importer, consignee, or interested party after due notice, fails to file the goods declaration within the prescribed period in Section 407 of this Act: *Provided*, That the term goods declaration shall include provisional or incomplete goods declaration deemed valid by the Bureau as provided in Section 403 of this Act. For this purpose, it is the duty of the District Collector to post a list of all packages discharged and their consignees, whether electronically or physically in the District Office, or send a notice to the consignee within five (5) days from the date of discharge; or

- (c) Having filed such goods declaration, the owner, importer, consignee or interested party after due notice, fails to pay the assessed duties, taxes and other charges thereon, or, if the regulated goods failed to comply with Section 117 of this Act, within fifteen (15) days from the date of final assessment: *Provided*, That if such regulated goods are subject of an alert order and the assessed duties, taxes and other charges thereof are not paid within fifteen (15) days from notification by the Bureau of the resolution of the alert order, the same shall also be deemed abandoned; or

- (d) Having paid the assessed duties, taxes and other charges, the owner, importer or consignee or interested party after due notice, fails to claim the goods within thirty (30) days from payment. For this purpose, the arrastre or warehouse operator shall report the unclaimed goods to the District Collector for disposition pursuant to the provisions of this Act; or

- (e) When the owner or importer fails to claim goods in customs bonded warehouses within the prescribed period.

The due notice requirement under this section may be provided by the Bureau through electronic notice or personal service: *Provided*, That for non-regular importers, notification shall be by registered mail or personal service. For this purpose, the accreditation of importers, exporters, and other third parties shall include provision for mandatory receipt of electronic notices.

SEC. 1130. *Treatment and Disposition of Abandoned Goods.* – Expressly abandoned goods under paragraph (a) of Section 1129<sup>a</sup> of this Act shall *ipso facto* be deemed the property of the government and shall be disposed of in accordance with the provisions of this Act.

If the Bureau has not disposed of the abandoned goods, the owner or importer of goods impliedly abandoned may, at any time within thirty (30) days after the lapse of the prescribed period to file the declaration, reclaim the goods provided that all legal requirements have been complied with and the corresponding duties, taxes and other charges, without prejudice to charges and fees due to the port or terminal operator, as well as expenses

incurred have been paid before the release of the goods from customs custody.

When the Bureau sells goods which have been impliedly abandoned, although no offense has been discovered, the proceeds of the sale, after deduction of any duty and tax and all other charges and expenses incurred as provided in Section 1143 of this Act, shall be turned over to those persons entitled to receive them or, when this is not possible, held at their disposal for a specified period. After the lapse of the specified period, the balance shall be transferred to the forfeiture fund as provided in Section 1151 of this Act.

## CHAPTER 7

### OTHER ADMINISTRATIVE PROCEEDINGS

SEC. 1131. *Authority of the Commissioner to Make Compromise.* — Subject to the approval of the Secretary of Finance, the Commissioner may compromise any administrative case arising under this Act involving the imposition of fines and surcharges, including those arising from the conduct of a post clearance audit, unless otherwise specified by law.

Cases involving forfeiture proceedings shall however not be subject to any compromise.

## CHAPTER 8

### CIVIL REMEDIES FOR THE COLLECTION OF DUTIES AND TAXES

SEC. 1132. *Remedies for the Collection of Duties, Taxes, Fines, Surcharges, Interests, and Other Charges.* — The civil remedies for the collection of import duties, taxes, fees, or charges resulting from the conduct of a post clearance audit shall be obtained by:

(a) Distraint of goods, chattels, or effects, and other personal property of whatever character, including stocks and other securities, debts, credits, bank accounts, and interest in

and rights to personal property, and by levy upon real property and interest in rights to real property; and

(b) Civil or criminal action.

Either or both of these remedies may be pursued at the discretion of the Bureau: *Provided*, That the remedies of distraint and levy shall not be allowed when the amount of duties and taxes involved is not more than ten thousand pesos (P10,000.00).

The Bureau shall advance the amounts needed to defray costs of collection by means of civil or criminal action, including the preservation or transportation of personal property distrained and the advertisement and sale thereof, as well as of real property and improvements thereon.

SEC. 1133. *Constructive Distraint of the Property.* — To safeguard the interest of the government, the Commissioner may place under constructive distraint the property of a delinquent importer who, in the opinion of the Commissioner, is retiring from any business subject to duty and tax, or is intending to leave the Philippines, or to remove the property therefrom, or to hide or conceal the property, or to perform any act tending to obstruct the proceedings for collecting the duty and tax due, or which may be due.

The constructive distraint of personal property shall be effected by requiring the importer or any person in possession or control of such property to sign a receipt covering the property, to obligate to preserve the distrained property on the state and condition at the time of the government's seizure of the same, and not to dispose of the same in any manner whatsoever, without the express authority of the Commissioner.

In case the importer or the person in possession and control of the property sought to be placed under constructive distraint refuses or fails to sign the receipt herein referred to, the customs officer effecting the constructive distraint shall proceed to prepare



a list of such property and, in the presence of two (2) witnesses, leave a copy thereof in the premises where the property distrained is located, after which the said property shall be deemed to have been placed under constructive distraint.

SEC. 1134. *Summary Remedies.* – (A) Distraint of Personal Property. – Upon failure of the person owing any delinquent duty, tax and other charges to pay at the time required, the Commissioner shall seize and distraint the goods, chattels or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property of such persons, in sufficient quantity to satisfy the duty, tax or other charge and the expenses of the distraint and the cost of the subsequent sale.

The officer serving the warrant of distraint shall make or cause to be made an account of the goods, chattels, effects, or other personal property distrained, a copy of which, signed by the said officer, shall be left either with the owner or person from whose possession such goods, chattels, or effects or other personal property were taken, or at the dwelling or other place of business of such person and with someone of suitable age and discretion, to which list shall be added a statement of the sum demanded and note of the time and place of sale.

Stocks and other securities shall be distrained by serving a copy of the warrant of distraint upon the importer and upon the president, manager, treasurer, or other responsible officer of the corporation, company or association, which issued the said stocks or securities.

Debts and credits shall be distrained by leaving with the person owing the debts or having in his/her possession or under his/her control such credits, or with his/her agent, a copy of the warrant of distraint. The warrant of distraint shall be sufficient authority to the person owing the debts or having in his possession or under his control any credits belonging to the importer to pay to the Commissioner the amount of such debts of credits.

Bank accounts shall be garnished by serving a warrant of garnishment upon the importer and upon the president, manager,

treasurer, or other responsible officer of the bank. Upon the receipt of the warrant of garnishment, the bank shall turn over to the Commissioner so much of the bank accounts as may be sufficient to satisfy the claim of the government.

A report on the distraint shall, within ten (10) days from receipt of the warrant, be submitted by the Commissioner to the Secretary of Finance: *Provided*, That the Commissioner shall have the power to lift such order of distraint subject to the rules and regulations promulgated pursuant to this Act.

(B) Levy on Real Property. – After the expiration of the period within which to pay the duty, tax and other charges as prescribed in this section, real property may be levied upon, before, simultaneously, or after the distraint of personal property belonging to the importer. To this end, the Commissioner or the duly authorized representative shall prepare a duly authenticated certificate showing the name of the importer and the amounts of the duty and tax and penalty due. The certificate shall operate with the force of a legal execution throughout the Philippines.

The levy shall be effected by writing upon the certificate a description of the property on which levy is made. At the same time, written notice of the levy shall be mailed to or served upon the register of deeds of the province or city where the property is located and upon the importer, or if the latter is not in the Philippines, upon the agent or the manager of the business from which the liability arose, or if there be none, to the occupant of the property in question.

In case the warrant of levy on real property is not issued before or simultaneously with the warrant of distraint on personal property, and the personal property of the importer is not sufficient to satisfy the duty and tax due, the Commissioner or a duly authorized representative shall, within ~~thirty~~ (30) days after execution of the distraint, proceed with the levy on the real property of the importer.

Within ten (10) days after receipt of the warrant, a report on any levy shall be submitted by the levying officer to the Commissioner: *Provided*, That the Commissioner may lift such

warrants of levy issued, subject to the rules and regulations promulgated pursuant to this Act.

## CHAPTER 9

### JUDICIAL PROCEEDINGS

SEC. 1135. *Supervision and Control over Criminal and Civil Proceedings.* – Civil and criminal actions and proceedings instituted on behalf of the Government under the authority of this Act or other laws enforced by the Bureau shall be brought in the name of the government of the Philippines and shall be prosecuted and handled by the Bureau with the assistance of the Department of Justice (DOJ): *Provided*, That the determination of the existence of probable cause and the subsequent filing of any criminal or civil case with the proper court against violators of this Act shall exclusively belong to the DOJ: *Provided, however*, That no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Act shall be filed in court without the approval of the Commissioner.

SEC. 1136. *Review by the CTA.* – Unless otherwise provided in this Act or by any other law, the party aggrieved by the ruling or decisions of the Commissioner may appeal to the CTA, in the manner and within the period prescribed by law and regulations. Decisions of the Secretary of Finance when required by this Act, may likewise be appealed to the CTA.

Unless an appeal is made to the CTA in the manner and within the period prescribed by law and regulations, the ruling or decision of the Commissioner or the Secretary of Finance shall be final and executory.

SEC. 1137. *Exclusive Jurisdiction of the Bureau.* – Jurisdiction over imported goods and goods for exportation shall be exclusive to the Bureau, or the Secretary of Finance, when under review by the latter, subject to the proceedings described in this title.

Except for the CTA, no court may issue any order or decision until all the remedies for administrative appeal have been exhausted.

SEC. 1138. *Fraud Investigation and Prosecution.* – No criminal case for violation of this title shall be instituted without the approval of the Commissioner pursuant to the provisions of this Act.

The Bureau shall have the power to investigate and institute smuggling cases committed within its jurisdiction: *Provided*, That in case of inquest, the same may be instituted by the apprehending customs officer.

## CHAPTER 10

### DISPOSITION OF PROPERTY IN CUSTOMS CUSTODY

SEC. 1139. *Goods Subject to Disposition.* – Goods in customs custody that are in the following conditions and status shall be subject to disposition:

- (a) Abandoned goods;
- (b) Goods entered under warehousing entry but not withdrawn, or those whose duties and taxes have not been paid within the period prescribed under Section 811 of this Act;
- (c) Forfeited goods, other than prohibited, restricted and regulated goods; after liability have been established by the proper administrative or judicial proceedings in conformity with the provisions of this Act; and
- (d) Goods subject to a valid lien for customs duties, taxes and other charges collectible by the Bureau, after the expiration of the period allowed for payment thereof.

SEC. 1140. *Place of Disposition of Goods.* – Upon the order of the District Collector, goods may be sold or otherwise disposed

of at the port where the goods are located, unless the Commissioner shall direct its transfer to another port.

SEC. 1141. *Mode of Disposition.* – The goods subject to disposition may be donated to another government agency or declared for official use of the Bureau, after approval of the Secretary of Finance, or sold at a public auction within thirty (30) days after a ten (10)-day notice posted at a public place at the port where the goods are located and published electronically or in a newspaper of general circulation.

For purposes of donating the goods as above described, goods suitable for shelter or consisting of foodstuffs, clothing materials or medicines may be donated to the DSWD.

SEC. 1142. *Disqualification to Participate in Auction Sale.* – No customs officer or employee, their spouses and relatives within the fourth degree of consanguinity or affinity shall be allowed to bid directly or indirectly, in any customs auction.

SEC. 1143. *Disposition of Proceeds.* – The following expenses and obligations shall be paid from the proceeds of the sale in the order provided:

- (a) Customs duties, except in the case of forfeited goods;
- (b) Taxes and other charges due the government;
- (c) Government storage charges;
- (d) Expenses for the appraisal, advertisement, and sale of auctioned goods;
- (e) Arrastre and private storage charges and demurrage charges; and
- (f) Freight, lighterage or general average, on the voyage of importation, of which due notice shall have been given to the District Collector.

The Commissioner is authorized to determine the maximum charges to be recovered by private entities concerned under subsections (e) and (f) of this section.

SEC. 1144. *Disposition of Perishable Goods.* – Perishable goods as defined under this Act when certified as such by the Bureau, may be sold at a public auction within five (5) days, after a three (3)-day notice.

For this purpose, perishable goods shall include goods liable to perish or be wasted, or those that depreciate greatly in value while stored, or which cannot be kept without great disproportionate expense. The Bureau shall proceed to advertise and sell the same at auction upon notice as shall be deemed to be reasonable.

SEC. 1145. *Disposition of Goods Injurious to Public Health.* – Goods in the custody of the Bureau which, in the opinion of the District Collector are injurious to public health, shall be seized. The District Collector shall, if the matter is not disposable under the provisions relating to food and drugs, appoint three (3) members to constitute a Board to examine the goods. The Board shall be composed of one (1) representative from either the DOH or other appropriate government agency or the local government unit (LGU) concerned, and two (2) representatives from the Bureau. If the goods are found to be injurious to public health, the Board shall report this to the District Collector, who shall order its destruction in an appropriate manner or order its reexportation in accordance with this Act.

The District Collector shall immediately coordinate with the health and quarantine officers at the port of entry for the disposition of goods injurious to public health.

SEC. 1146. *Disposition of Prohibited Goods.* – Prohibited goods, as provided in Section 118 of this Act, shall be destroyed, except paragraph (d) thereof which shall be turned over to the BSP. All goods suitable for shelter, foodstuffs, clothing materials or medicines may be disposed in accordance with Section 1141 of this Act.

SEC. 1147. *Disposition of Restricted Goods.* – Restricted goods as described in Section 119 of this Act shall be disposed as follows:

(a) Dynamite, gunpowder, ammunitions and other explosives, firearms and weapons of war, and parts thereof shall be turned over to the AFP;

(b) Roulette wheels, gambling outfits, loaded dice, marked cards, machines, apparatus or mechanical devices used in gambling or the distribution of money, cigars, cigarettes, or other goods when such distribution is dependent on chance, including jackpot and pinball machines or similar contrivances, or parts thereof shall be turned over to the appropriate government body or agency;

(c) Lottery and sweepstakes tickets, except advertisements thereof, and lists of drawings therein shall be turned over to the appropriate government body or agency;

(d) Marijuana, opium, poppies, coca leaves, heroin, or other narcotics or synthetic drugs which are or may hereafter be declared habit forming by the President of the Philippines, or any compound, manufactured salt, derivative, or preparation thereof, shall be turned over to the Dangerous Drugs Board;

(e) Opium pipes and parts thereof, of whatever material, shall be turned over to the Dangerous Drugs Board; and

(f) All other restricted goods which are highly dangerous to be kept or handled shall be destroyed in a manner as the District Collector deems appropriate. Otherwise, the restricted goods shall be turned over to the proper government agency for appropriate handling.

SEC. 1148. *Disposition of Regulated Goods.* – Regulated goods shall be disposed of in a manner to be determined by the appropriate regulatory agency. In the event that the regulatory agency allows the disposition of the regulated goods with

commercial value and capable of legitimate use, these shall be disposed of in accordance with Section 1141 of this Act.

SEC. 1149. *Disposition of Unsold Goods for Want of Bidders.* – Goods subject to sale at public auction by the Bureau shall be sold at a price not less than the landed cost of the goods adjusted for normal depreciation.

Goods which remain unsold after at least two (2) public biddings either due to the lack of bidders or for the lack of an acceptable bid, may be donated to another government agency or declared for official use of the Bureau. If the goods are not suitable either for official use or donation, these may be subject to reexport as government property or sold through a negotiated sale. In case of negotiated sale, the same shall be subject to the approval of the Secretary of Finance and executed in the presence of a representative of the COA. For purposes of donating the goods as above described, goods suitable for shelter or consisting of foodstuffs, clothing materials or medicines may be donated to the DSWD.

SEC. 1150. *Disposition of Smuggled Goods.* – Smuggled goods, when forfeited, shall be disposed of as provided in Section 1148 of this Act.

SEC. 1151. *Forfeiture Fund.* – All proceeds from public auction sales after deduction of the charges as provided in Section 1143 of this Act and subject to the claim of the owner or importer of an impliedly abandoned goods as provided in Section 1130 of this Act, shall be deposited in an account to be known as Forfeiture Fund.

The Fund shall be in the name of and shall be managed by the Bureau which is hereby authorized, subject to the usual government accounting rules and regulations, to utilize it for the following purposes:

(a) To outsource, subject to the rules on government procurement established by law, the management of the inventory, safekeeping, maintenance and sale of goods