Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Maaliyadda
Xafiiska Wasiirka

جمهورية الصومال الفيدرالية
وزارة المالية
مكتب الوزير

Federal Republic of Somalia
Ministry of Finance
Office of the Minister

Ref: MOF/OM/0427/2024

May 19, 2024

THE MINISTER OF FINANCE OF THE FEDERAL GOVERNMENT

Having understood: The need to strengthen the enforcement of the Customs Act of 2020 through the establishment of appropriate and comprehensive Regulations;

Recognizing: The paramount importance of improving customs administration to promote fiscal responsibility and drive economic growth;

Acknowledging: The pivotal role regulations play in advancing the implementation of laws duly passed by the Parliament;

Taking into consideration: The powers granted to the Minister of Finance as outlined in Article 28 of the Customs Act of 2020;

Hereby issues the following decree:

Article 1
Approval of the General Customs Regulation

1. The General Customs Regulation attached to this Ministerial Decree, and bearing initials of the Minister on the right edge of each page, is hereby approved.

2. The approved Regulation shall be made available for public access through publication on the Ministry of Finance's official website, and shall enter into force immediately upon publication.

19/5/2024

H.E. Bihi Iman Egeh
The Minister

JAMHUURIYADDA FEDERAALKA SOOMAALIYA
FEDERAL REPUBLIC OF SOMALIA
OFFICE OF THE MINISTER
XAFIISKA WASIIRKA
MINISTRY OF FINANCE
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General Customs Regulation

Regulation No. 0427 -2024

Issued by the Minister of Finance in the exercise of the powers granted by Article 28 of the Customs Act 2020.

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PART ONE
PRELIMINARY PROVISIONS

Article 1
Purpose and Title

1. The purpose of this Regulation is to facilitate the effective and efficient implementation of the Customs Act 2020 by outlining the relevant provisions regarding the collection of duties, taxes, fees, and charges; enforcement measures; refunds; restrictions on imports and exports; licensing of customs brokers; and the cross-border movement of cash and negotiable instruments.

2. These Regulations may be cited as the "General Customs Regulations of 2024" and are issued in the exercise of the powers granted to the Minister of Finance by Article 28 of the Customs Act 2020.

Article 2
Definitions

For the purposes of this Regulation, the following terms shall have the meanings respectively ascribed to them in this Article:

1. **"Broker's Licence":** means a licence to act as a customs broker granted under this Regulation (including such a licence renewed under this Regulation).
2. **"Bearer negotiable instruments" or "BNIs":** refer to monetary instruments in bearer form, such as traveler's checks or negotiable instruments (including checks, promissory notes, and money orders) that are either in bearer form, endorsed without restriction, made out to a fictitious payee, signed but with the payee's name omitted, or otherwise in such form that title passes upon delivery, allowing the holder to sell or exchange them for cash or other value.
3. **"Customs broker"** means any legal or natural person who holds a valid broker's license granted in accordance with this Regulation.
4. **"Customs Department":** means the Department of Customs established under Article 3 of the Customs Act, 2020, hereinafter referred to as "Customs" or the "Customs Department."
5. **"Customs Act":** means the Customs Act 2020 (Law No. 21 of February 2020).
6. **"Customs-controlled area":** means an area designated by the Director of Customs, with the approval of the Director General for Revenue, pursuant to Article 1(6) of the Customs Act of 2020. This designation is made by a notice published on the Ministry of Finance website. It is an area where Customs controls are exercised, and the specific provisions of this Regulation and the Customs Act, 2020, apply. This includes any "customs place" such as a seaport or airport where passengers, goods, and crafts must enter and leave the country.

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7. **"Customs Officer":** means the officer defined in Article 1(5) of the Customs Act, 2020 and for purposes of this Regulation, includes the management of the Customs Department at Customs-controlled areas.

8. **"Customs Tariff"**: means the Somali Customs Tariff established and published in accordance with Articles 4 and 32 of the Customs Act.

9. **"Cash":** means legal tender—currency or coins—that can be used to exchange goods, debt, or services.

10. **"Declaration":** refers to a Customs declaration as stipulated in the Regulation for the Customs Declarations.

11. **"Duty":** means duty imposed under the Customs Laws or Regulation.

12. **"Director General of Revenue":** means the Director General of the Revenue Directorate of the Ministry of Finance of the Federal Government of Somalia appointed by the Minister of Finance.

13. **"Head of Customs":** means the Director of the Department of Customs at the Revenue Directorate of the Ministry of Finance, hereinafter referred to as the Director of Customs or the Director of the Department of Customs.

14. **"HS Code":** means a code assigned in accordance with the Harmonized System of classification in the Somali Customs Tariff.

15. **"Minister":** means the Minister of Finance of the Federal Government.

16. **"Ministry":** means the Ministry of Finance of the Federal Government of Somalia.

17. **"Obscene publication":** means a publication that is obscene under Article 404 of the Penal Code of Somalia.

18. **"Person":** means a natural person, a company or a partnership.

19. **"Prohibited exports"**: means goods whose exportation is prohibited under the Customs laws (whether conditionally or unconditionally).

20. **"Prohibited goods":** means prohibited exports or prohibited imports.

21. **"Prohibited imports"**: means goods whose importation is prohibited under the Customs laws (whether conditionally or unconditionally).

22. **"Publication":**means any medium, including printed, celluloid, electromagnetic, digital electronic formats, for the storage, display, reproduction or viewing of material.

23. **"Revenue Administration Law":** means the Revenue Administration Law 2019 (Law No. 13 of 2019).

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24. **"Terrorism financing":** refers to the offense of terrorism financing as defined in the AML/CFT Act 2016, including any subsequent amendments to the Act.

25. A reference in an any other law or regulation to a clearing agent is deemed to be a reference to a Customs Broker under this Regulation, and this Regulation accordingly apply to any person referred to as a clearing agent.

PART TWO
TAXES, DUTIES, FEES AND CHARGES TO BE COLLECTED BY CUSTOMS

CHAPTER ONE
TAXES, DUTIES, FEES AND CHARGES TO BE COLLECTEDBYCUSTOMS

Article 3
Objectives of Part Two

In accordance with Articles 2 and 28 of the Customs Act, the objectives of Part Two of the Regulation are to establish a comprehensive framework for customs revenue collection.

Article 4
Taxes, duties, fees and charges to be collected by Customs Department

1. The Customs Department, in accordance with applicable Revenue Laws, is responsible for collecting taxes, duties, fees and charges that are payable in respect of:

(a) goods imported into, or exported from Somalia, at the time the goods are brought under Customs-controlled area for the purposes of their import or export; and

(b) passengers arriving in or departing from Somalia.

2. Entities obligated to pay taxes, duties, fees and charges that are payable under applicable Revenue Laws shall ensure full payment of these revenues. This obligation entails ensuring the timely payment of taxes and duties to the designated Government accounts notified by the Customs Department at the time when the goods are brought under the Customs-controlled area for importation or exportation purposes.

3. Willful failure to pay taxes, duties, fees and charges that are payable under applicable Revenue Laws constitutes an offense and is punishable by law. Entities found to be in violation of their revenue payment obligations may face penalties, fines, or other legal consequences imposed by the competent authorities. Therefore, it is imperative for entities engaged in activities in respect of which taxes, duties, fees and charges are payable to adhere to the revenue payment requirements stipulated by the Revenue Laws to avoid legal repercussions and ensure compliance with regulatory obligations.

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Article 5
All revenues to be deposited into the Treasury Single Account

1. In respect of all taxes, duties, fees and charges imposed under Revenue and Customs Law and Regulations, the Customs Department shall:

(a) ensure that these various types of revenues are deposited and collected only into the designated revenue accounts of the Government that are part of the Treasury Single Account; and

(b) notify the other relevant Offices and the Departments of the Ministry for each tax, duty, fee or charge of the amounts deposited in accordance with paragraph (1)(a) of this Article no later than the end of the working day on which they are collected.

Article 6
Establishment and Review of Customs Revenue Schedules

1. The Minister of Finance shall issue ad valorem revenue schedules, applying revenue rates as a percentage of the value of goods imported or exported. These schedules shall base tax calculations on the value of each transaction and its accompanying invoice, considering the nature of the goods and any applicable international agreements or treaties.

2. The Revenue Schedules issued under paragraph (1) of this Article shall be periodically reviewed and updated to ensure alignment with prevailing economic conditions, trade policies, and revenue collection objectives.

3. During the process of issuing the Revenue Schedules specified under paragraph (1) of this Article, the Minister may consider factors such as industry standards, market trends, and regulatory requirements in determining the rates and types of taxes, duties, fees, and charges to be imposed, thereby promoting fairness, transparency, and efficiency in the customs collection process.

4. The Minister of Finance, upon issuing Revenue Schedules for Customs, shall inform the Cabinet, in order to ensure transparency and accountability in customs revenue collection and promote effective financial governance.

PART THREE
REFUNDS

CHAPTER ONE
REFUNDS

Article 7
Objectives of Part Three

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The objectives of Part Three of this Regulation are to establish a transparent and efficient process for customs duty refunds, by providing clarity on refund conditions, timelines, and eligibility criteria.

Article 8
Application for refund of customs duty paid in error or in excess

1. A person may apply a refund from the Ministry for customs duties paid in error or that exceed the person's tax liability.

2. The application must be in writing, explaining the nature of the error or the calculation of the excess, and must include relevant evidence supporting the calculation or identifying the error.

3. Requests for refunds must be submitted within four years from either the occurrence of the event leading to the over-payment or erroneous payment of tax, or the date of payment.

4. The refund applications submitted to the Ministry shall be reviewed by a Refund Committee comprised of the Director of Customs, a Senior Officer of the Revenue Directorate appointed by the Director General of Revenue, and the Director General of Revenue.The Refund Committee shall be chaired by the Director General for Revenue.

5. A person is ineligible to request a refund under paragraph (1) of this Article unless all outstanding obligations under all revenue laws, including the filing of tax returns, have been fulfilled.

6. All decisions made by the Refund Committee concerning customs duty refund applications under this Part of the Regulation shall require the signature of the Chair of the Refund Committee.

Article 9
Decision on application for refund of customs duty paid in error or in excess

1. The Refund Committee specified under paragraph (4) of Article 8 of this Regulation must consider and decide on a refund application submitted under paragraph (1) of Article 8 of this Regulation within 30 days of receipt of the application. The decision shall be as the Refund Committee thinks appropriate, and may contain conditions. The decision may include:

(a) Where the Refund Committee is satisfied that the applicant has not paid erroneously or excess tax, rejecting the application.

(b) Where the Refund Committee determines that the applicant has not paid erroneously or in excess tax, it may request additional information necessary to reach a final decision on the application.

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(c) Where the Refund Committee is satisfied that the applicant has paid erroneously or in excess tax, making a refund to the extent to which the Refund Committee is satisfied.

2. The Refund Committee must serve the applicant with written notice of the refund decision within 30 days of receipt of the refund application. In the case of a rejection of a refund, the Refund Committee must provide reasons for the rejection.

3. Once an applicant provides additional information described in paragraph 1(b) of this Article, the Refund Committee will reconsider the refund request. The Refund Committee will inform the applicant of its decision within 30 days of receiving the original refund application. The Refund Committee's deadline for notifying the applicant of its decision is extended by the amount of time it takes for the applicant to respond to any requests made by the Ministry during the reconsideration process.

Article 10
Payment of customs duty refund

1. Where the Refund Committee decides that a person has paid excess tax, based on an application for a tax refund, a court order or such other evidence that satisfies the Refund Committee that a refund is due, the Refund Committee mus:

(a) apply the excess in reduction of tax due but unpaid by the person; and

(b) refund the remainder within 30 days of the decision.

2. Where the Refund Committee accepts only part of a person's refund application, the Refund Committee must refund the amount accepted. This rule applies irrespective of any objection filed by the person.

3. Where the Refund Committee refunds tax when no refund was due, the Refund Committee may recover any excess refund as tax. The Refund Committee must serve the taxpayer with written notice of the decision to recover.

4. A decision under this Article is a tax decision for the purposes of Article 52, and may be objected to under Part VII of the Revenue Administration Law.

Article 11
Refunds and remissions of duty in case of damage, faults or abandonment

1. For the purposes of Article 29(2) of the Customs Act 2020, the Refund Committee may refund or remit any duty calculated on an ad valorem basis if the Refund Committee is satisfied that imported goods:

(a) have been damaged, destroyed, pillaged, or lost, or have diminished in value or deteriorated in condition, prior to their ceasing to be subject to the control of Customs; or

(b) are of faulty manufacture and have been re-exported for return to their manufacturer or supplier; or

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(c) have been abandoned to the Federal Government of Somalia for destruction or any other form of disposal prior to their ceasing to be subject to the control of Customs.

2. A decision under this Article is a tax decision for the purpose of Article 52, and may be objected to in accordance with Part VII of the Revenue Administration Law.

3. This Article does not apply to duties imposed under the Customs Laws or other written law in relation to:

(a) anti-dumping and countervailing measures; or

(b) safeguarding of trade.

Article 12
Minimum amounts of refunds

1. The minimum amount of duty refundable on goods is US$300.

2. The Refund Committee shall not make a refund under this Regulation or under the Revenue Administration Law, 2019, if the amount of duty is less than the minimum refundable amount prescribed in paragraph (1) of this Article.

PART FOUR
PROHIBITED IMPORTS AND EXPORTS

CHAPTER ONE
PROHIBITED IMPORTS AND EXPORTS

Article 13
Objectives of Part Four

The objectives of Part Four of this Regulation are to establish clear guidelines on prohibited imports and exports to safeguard public health, safety, and security. Additionally, it mandates maintaining an updated list of prohibited goods for effective enforcement.

Article 14
Prohibited Imports and Exports

1. The importation and the exportation of the following is prohibited:

(a) obscene publications;

(b) goods that are for a dishonest purpose;

(c) counterfeit goods;

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(d) asbestos and goods containing asbestos, that are classified under HS Codes 2524.10, 2524.90, 6811.40, 6812 or 6813;

(e) biological weapons, and substantive components for the development, production or deployment of biological weapons;

(f) nuclear explosive weapons and substantive components for the development, production or deployment of nuclear weapons;

(g) chemical weapons and substantive components for the development, production or deployment of chemical weapons;

(h) weapons and military equipment to which the United Nations Security Council Resolutions 751(1992) and 2551 (2020) apply;

(i) wood charcoal classified under HS Code 4402, or any other form of charcoal to which United Nations Security Council Resolutions 751 (1992) and 2551 (2020) apply.

2. Paragraph (3) applies specifically to obscene publications, which wouldn't typically be considered as goods under other circumstances.

3. Despite not being traditionally viewed as goods, obscene publications are considered goods under the Customs Laws, particularly in the context of imported goods or their importation.

Article 15
Prohibition on other imports or exports by Regulations

1. The Council of Ministers may, by a specific Regulation, on the recommendation of the Minister of Finance, prohibit the importation or exportation of:

(a) any specified goods; or

(b) any specified class of goods.

2. A prohibition under the specific Regulation issued by Council of Ministers may:

(a) be general or be limited to:

i. the importation of goods:

(A) from a specified place; or

(B) by or from a specified person or class of persons;

ii. the exportation of goods:

(A) to a specified place; or

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(B) by or to a specified person or class of persons;

(b) be subject to conditions.

3. A prohibition under the specific Regulation issued by the Council of Ministers commences on the day that is approved by the Council of Ministers.

4. A conditional prohibition may allow the importation or exportation of goods under the terms of a licence, or a permit issued in accordance with the specific Regulation issued by the Council of Ministers.

5. A licence, or permit issued in accordance with the specific Regulation issued by the Council of Ministers may be granted before or after the importation or exportation of the goods.

6. The Minister of Finance must not make a recommendation for the purposes of paragraph (1) unless he or she considers that the proposed prohibition is necessary in the public interest of Somalia.

7. The Director-General of Revenue must maintain an up-to-date list of all goods and classes of goods, whose importation or exportation is prohibited in accordance with a specific Regulation issued by the Council of Ministers or any legal framework that is in force in Somalia, and the date of commencement of the prohibition.

8. The Director-General of Revenue must make the list maintained under paragraph (7) of this Article available by:

(a) notifying the Director of Customs of it; and

(b) publishing it on the Ministry of Finance's website.

9. To avoid doubt, any failure to publish a list in accordance with paragraph (7) of this Article does not invalidate the prohibition of the exportation of any goods or classes of goods mentioned in the list.

10. A specific Regulation that prohibits the exportation of goods extends and applies to the shipment of the goods for use as stores by a craft, except as otherwise specified under the terms of a licence, or a permit issued in accordance with the specific Regulation issued by the Council of Ministers.

11. In this Article, "goods" includes documents that are not otherwise goods.

12. Any specification of goods, the importation or exportation of which is prohibited must include the HS Code of the goods.

13. Documents that are not otherwise goods and whose importation or exportation is prohibited are goods for the purposes of the rest of the Customs Law as it applies in relation to, as the case may be:

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(a) imported goods or the importation of goods (including (without limitation) for the purposes of the definition of prohibited imports; or

(b) exported goods or the exportation of goods (including (without limitation) for the purposes of the definition of prohibited exports.

Article 16
Permit or licence for the importation or exportation of prohibited goods

A person may apply, in accordance with a specific Regulation issued by the Council of Ministers, for a permit or licence to import or export goods that are otherwise prohibited from import or export in accordance with a specific Regulation issued by the Council of Ministers.

Article 17
Production of licence or permit for the importation or exportation of prohibited goods

1. This Article applies to:

(a) prohibited goods that may be imported or exported under a licence or permit; and

(b) goods whose importation or exportation is prohibited under any other written law, except under a licence or permit.

2. The management of the Customs Department that are stationed at a Customs-controlled area may do any of the following until satisfied that the importation or exportation of the goods is permitted under a licence, permit:

(a) refuse to allow an entry for the goods;

(b) not allow the goods to be exported; or

(c) not allow the goods to be removed from a Customs-controlled area.

Article 18
Duty applies even if importation prohibited

Notwithstanding any prohibition on importation concerning goods stipulated in this Regulation, a specific Regulation issued by the Council of Ministers, or any other legislation that is in force, duty remains applicable to such goods. Therefore, the importation prohibition does not absolve the goods from the duty payment obligation.

PART FIVE
CUSTOMS BROKER LICENSING

CHAPTER ONE
CUSTOMS BROKER LICENSING

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Article 19
Objectives of Part Five

The objective of Part Five is to define, in accordance with paragraph (o) of Article 28 of the Law, the process for licensing Customs Brokers in the Federal Republic of Somalia.

Article 20
Authorization of Customs Broker

1. Subject to paragraph (2), an owner of goods may, in writing, authorize a person to be his agent at a Customs-controlled area or Places specified by the owner.

2. When the Director of Customs, with the approval of the Director General for Revenue and pursuant to Article 1(6) of the Customs Act of 2020, designates a location as a Customs-controlled area subject to this Regulation, a goods owner may not appoint an agent to represent him at that location unless the appointed individual is:

(a) a natural person who is an employee of the owner and is not an employee of any other person; or

(b) a customs broker.

3. Where an owner of goods authorizes a person to be his agent for the purposes of this Regulation at a place, the authorized agents shall comply with the provisions of this Regulation.

Article 21
Authority to be produced and penalties for false representation

1. Where a person claims to be the agent of an owner of goods and is authorized to represent him at Customs-controlled area, a Customs Officer may require that person to produce written notarized authority from the owner authorizing that person to be such an agent and, if that written authority is not produced, the Customs Officer may refuse to recognize the authority of that person to act on behalf of the owner at that Customs-controlled area.

2. To discourage false representation, the Ministry can fine licensed customs brokers up to $10,000 and/or suspend their licenses for claiming representation at a Customs-controlled area without proper authorization. For non-customs agents, fines up to $5,000 may be imposed, along with restrictions on customs-related activities.

Article 22
Responsibility of Principals for Actions of Agents

1. Where an agent of an owner of goods makes a declaration in relation to goods, that declaration shall be deemed to be made with the knowledge and consent of the owner. Consequently, in the event of an offense related to such a declaration, the principal shall be deemed liable.

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2. Notwithstanding any other provision of this Regulation, a person who is convicted of an offence by reason of the operation of paragraph (1) shall not be subject to a penalty of imprisonment.

Article 23
Customs Brokerage Licensing and Penalties

1. An individual shall be deemed to participate in the work of a customs broker when they are involved in activities integral to customs brokerage operations. Such activities may include facilitating customs clearance processes, managing documentation related to import and export procedures, or acting on behalf of clients in dealings with customs authorities regarding tariff classifications, duty payments, and compliance matters.

2. No individual shall be involved in customs brokerage tasks specified in the above paragraph until duly licensed in accordance with the Regulation, in order to ensure compliance and uphold professional standards, safeguarding client and regulatory interests.

3. The procedure for licensing Customs Brokers shall ensure that Customs Brokers to be licensed possess the necessary knowledge and expertise to facilitate smooth and lawful customs clearance processes.

4. Natural and legal persons undertaking customs brokerage tasks without the requisite license shall be subject to a fine of up to $5,000, accompanied by limitations on involvement in customs-related activities.

Article 24
Recognition and Certification for Customs Brokers

1. An individual is officially recognized as a Customs Broker upon receiving a certificate issued by the Customs Brokers Certification and Registration Committee of Ministry, accompanied by the allocation of a unique registration number.

2. Once an individual receives a certificate from the Ministry and is given a specific registration number, they are formally acknowledged as a Customs Broker. This certification process validates their ability to provide customs brokerage services.

3. The Certificate for Licensed Customs Brokers issued by the Customs Brokers Certification and Registration Committee shall bear the signature of the Chair of the Customs Brokers Certification and Registration Committee.

Article 25
The Customs Brokers Certification and Registration Committee

1. A Customs Brokers Certification and Registration Committee is hereby established, consisting of the Director General for Revenue, the Director of Customs, and a Senior Officer of the Revenue Directorate of the Ministry, appointed by the Director General for Revenue. The Committee, chaired by the Director General for Revenue, shall have

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the primary responsibility of managing the certification and licensing of customs brokers.

2. To accomplish this task, the Customs Brokers Certification and Registration Committee shall comply with the procedure for the certification and licensing of Customs Brokers established under this Regulation.

3. The Customs Brokers Certification and Registration Committee shall conduct regular oversight regulatory measures to ensure compliance with licensing requirements and uphold the standards of professional practice among certified Customs Brokers.

4. All decisions made by the Customs Brokers Certification and Registration Committee concerning matters such as fines or license suspensions for false representation at Customs-controlled areas, application rejection or further processing, and notification of applicants regarding non-approval of certification applications and appeal rights shall require the signature of the Chair of the Customs Brokers Certification and Registration Committee.

Article 26
Functions of Customs Brokers

1. Licensed and Certified Customs Brokers shall have the authority to carry out the following functions:

(a) Assist businesses and other clients in obtaining clearances for imports and exports, ensuring compliance with customs regulations and procedures.

(b) Handle the preparation and submission of required documents (including electronic filings) to the management of the Customs Department of the Ministry of Finance at the Customs-controlled area, including customs declarations, certificates of origin, bill of landing, invoice, parking list, shipping manifests and other supporting documentation, on behalf of clients.

(c) Calculate for their Clients, the applicable duties, taxes, and fees on imported and exported goods, ensuring accurate assessment and payment to customs authorities.

(d) Act as intermediaries between importers/exporters and customs officials, representing clients' interests and resolving any issues that may arise during customs clearance processes.

(e) Provide guidance on regulatory compliance, including import/export restrictions, licensing requirements and trade agreements, to ensure adherence to Somali Customs Law and Regulations.

(f) Facilitate the clearance of goods through customs check-points by coordinating logistics, such as transportation and warehousing, to ensure smooth and efficient movement of goods across borders.

(g) Monitor changes in customs legal frameworks, tariff schedules, and trade policies to advise clients on potential impacts to their import/export operations and assist in strategic planning.

(h) Assist clients in obtaining necessary permits, licenses, and certifications required for importing/exporting specific goods, such as agricultural products, hazardous materials, or controlled substances.

Article 27
Customs Broker Obligations in relation to the Ministry of Finance

1. Customs Brokers have the obligation to maintain a transparent and compliant relationship with the Ministry of Finance. This obligation includes:

(a) Accurate and timely submission of all required documentation to the Customs Department of the Ministry of Finance, including customs declarations, certificates of origin, bill of landing, invoice, parking list and shipping manifests.

(b) Adherence to customs legal frameworks and procedures outlined by the Ministry of Finance, ensuring that import and export clearances are obtained in compliance with applicable laws and regulations.

(c) Accurately calculating and facilitating the payment of applicable duties, taxes, and fees on behalf of their clients to the Ministry of Finance.

(d) Reporting any discrepancies or non-compliance incidents to the Ministry of Finance and cooperating with any audits or investigations conducted by the Ministry of Finance to ensure regulatory compliance.

Article 28
Qualifications for Customs Broker Certification Required from Natural Persons

1. Natural persons who are seeking to obtain a certificate as Customs Brokers must satisfy the following requirements:

(a) The individual must have completed a bachelor's degree or higher in a relevant field such as international trade, customs laws and regulations, business administration, logistics, or a related discipline. Alternatively, completion of specialized courses or training programs focusing on customs procedures, import/export regulations, and logistics management is also acceptable. If obtained from an institution outside Somalia, the certificate must be authenticated by the Ministry of Foreign Affairs or the relevant Somali embassy in that country.

(b) The individual must have a minimum of three years of verifiable experience in customs brokerage or relevant employment roles, such as import/export operations, logistics management, or customs clearance processes.

(c) The individual must have not been convicted by a competent court within Somalia for violating Revenue or Customs Laws or by a court in another jurisdiction for a similar offense.

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(d) The individual must have not been convicted by a competent court within Somalia or another jurisdiction for an offense related to dishonesty.

(e) The individual must have not been convicted by a court of competent jurisdiction in Somalia or in another country for an offense whose conviction entails a permanent interdiction from public office.

Article 29
Requirements for Customs Broker Certification Required from Legal Persons

1. Legal persons seeking to obtain a certificate as Customs Brokers shall satisfy the following requirements:

(a) The legal entity must demonstrate that its designated representatives who will mainly carry out its Customs Brokerage Services meet the educational and experiential qualifications outlined for natural persons in the above Article of this Regulation.

(b) The legal entity must provide evidence of at least three years of verifiable experience in customs brokerage or relevant employment roles for its designated representatives who will mainly carry out its Customs Brokerage Services, similar to the requirement for natural persons.

(c) The legal entity must certify that none of its designated representatives who will mainly carry out its Customs Brokerage Services have been convicted by a competent court within Somalia for violating Revenue or Customs Laws, or by a court in another jurisdiction for a similar offense.

(d) The legal entity must certify that none of its designated representatives who will mainly carry out its Customs Brokerage Services have been convicted by a competent court within Somalia or another jurisdiction for an offense related to dishonesty.

(e) The legal entity must certify that none of its designated representatives who will mainly carry out its Customs Brokerage have been convicted by a court of competent jurisdiction in Somalia or in another country for an offense resulting in a permanent interdiction from public office.

Article 30
Standards required from Customs Brokers

1. After receiving certification, both natural persons and designated representatives of legal entities acting as customs brokers must comply with the following standards:

(a) They must continue professional development by engaging in ongoing education and training to stay updated on changes in customs laws, regulations, and procedures.

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(b) The must adhere to ethical standards and professional codes of conduct in all customs-related activities.

(c) They must comply with relevant customs laws, regulations, and reporting requirements.

(d) They must maintain the confidentiality of client information and data in line with legal and ethical guidelines.

(e) They must conduct all dealings with clients and authorities with honesty, integrity, and professionalism.

(f) They must be diligent by providing accurate and thorough customs advice and services, exercising due diligence in all customs-related matters.

(g) They must avoid conflicts of interest and promptly disclose any potential conflicts to clients.

(h) They must maintain accurate records of all customs-related activities and transactions for transparency and accountability.

2. In cases where Customs Brokers, whether natural persons or legal entities demonstrate gross misconduct by failing to adhere to the aforementioned standards, their Customs Broker certificate may be suspended for a duration of six months. This action will be taken by the Customs Brokers Certification and Registration Committee to uphold the integrity of Customs Brokerage Services and enforce compliance with the standards outlined in paragraph one of this Article.

Article 31
Application Process for the Certification of Customs Brokers

1. Individuals or legal entities seeking certification as Customs Brokers must submit a formal application to the Customs Brokers Certification and Registration Committee of the Ministry of Finance.

2. The application for the certification of Customs Brokers required as per paragraph 1 of this Article, must adhere to the following requirements:

(a) it must be in writing and adhere to the prescribed form;

(b) it must include or be accompanied, in the case of natural persons, by:

i. full name and address of the applicant;

ii. national identity number and a copy of the national identity document of the applicant; and

iii. detailed description of the applicant's business address in Somalia, sufficient for the delivery or service of notices under this Regulation.

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iv. Tax Identification Number (TIN) and a copy of Tax Compliance Certificate (TCC).

(c) it must include or be accompanied, in the case of legal persons, by:

i. legal name of the company;

ii. registered address of the company;

iii. business registration number or corporate identification number;

iv. copy of the certificate of incorporation or registration;

v. names and positions of designated representatives who will be involved in customs brokerage activities;

vi. national identity numbers and copies of national identity documents for each designated representative;

vii. details of the legal entity's ownership structure, including names and ownership percentages of shareholders;

viii. copy of the legal entity's memorandum and articles of association or equivalent documents;

ix. financial statements for the legal entity, such as balance sheets and income statements;

x. proof of financial solvency or bank statements;

xi. detailed description of the company's business premises in Somalia, including physical address, size, and facilities available;

xii. proof of ownership or lease agreement for the business premises; and

xiii. evidence of the legal entity's compliance with tax laws and regulations, such as tax clearance certificates or tax returns.

(d) it must provide any other necessary personal and contact information and documents specified in the prescribed form.

(e) it must include a declaration by the applicant confirming compliance with the conditions required for approval.

(f) it must be signed by the applicant, affirming the correctness, completeness, and truthfulness of its contents.

(g) it must be accompanied by the prescribed fee or proof of payment to the Ministry of Finance for processing.

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Article 32
Certain procedural requirements to be issued in an official notification

1. The Chair of the Customs Brokers Certification and Registration Committee shall issue an official notification, to be published on the Ministry's official website, outlining the following procedural requirements:

(a) The application form (including renewal application form);

(b) Time periods, with closing dates, during which applications may be made; and

(c) Any additional procedural requirements deemed necessary for the submission and processing of applications, as determined by the Chair of the Committee.

Article 33
Consideration of Applications

1. Upon receiving an application for the certification of Customs Brokers, the Customs Brokers Certification and Registration Committee must:

(a) Reject and return the application if it is unsigned, incomplete, lacks the prescribed documents, or if the application fee has not been paid; or

(b) Consider and make a determination on the application for further processing, if the application is not rejected and returned under paragraph (a) of this Article.

Article 34
Proceedings of the Customs Brokers Certification and Registration Committee

1. The decisions of the Customs Brokers Certification and Registration Committee shall be reasoned and must be based on thorough analysis and consideration of relevant factors, in order to ensure that decisions are made fairly.

2. The decisions of the Customs Brokers Certification and Registration Committee shall be recorded in writing to provide a documented record of the decision-making process, in order to ensure transparency and accountability in the licensing process.

3. The Customs Brokers Certification and Registration Committee shall provide applicants with the opportunity to present their case and provide any necessary evidence or documentation to support their application, in order to ensure fairness and allow applicants to have their voices heard in the decision-making process.

4. The Customs Brokers Certification and Registration Committee shall assess and finalize every application in a timely manner following its submission, in order to ensure that applicants receive a prompt and efficient review process for their licensing requests.

Article 35
Approval of Certification Applications

1. The Customs Brokers Certification and Registration Committee shall approve applications for natural persons upon determining that the applicant possesses the necessary competence, proficiency, and capability to uphold the required professional standards. Additionally, applicants must successfully complete the certification examination, unless waived in accordance with the following Article of this Regulation.

2. The Customs Brokers Certification and Registration Committee shall approve applications for legal entities upon determining that the entity demonstrates the requisite competence, proficiency, and capability to uphold professional standards in customs brokerage services. Additionally, the Committee shall also consider factors such as the qualifications and experience of designated representatives involved in customs brokerage activities.

Article 36
Waiver of Certification Examination

1. The certification examination mentioned in the above Article of this Regulation can be waived for the following:

(a) for applicants who have extensive relevant experience in customs brokerage or related fields, demonstrating a high level of competence and proficiency without the need for formal examination; and

(b) for applicants who have completed equivalent certifications or qualifications recognized by the Customs Brokers Certification and Registration Committee of the Ministry of Finance.

Article 37
Notification of Approval of Certification Applications

1. Upon approval of a certification application by the Customs Brokers Certification and Registration Committee, it shall:

(a) Notify the applicant in writing;

(b) Provide a certificate of approval designating them as a Customs Broker; and

(c) Record the applicant's name in the Customs Brokers Register.

Article 38
Notification of Non-approval of Certification Applications

1. In case of non-approval of certification applications, the Customs Brokers Certification and Registration Committee shall notify the applicant in writing, stating the reasons for the decision.

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2. Reasons for non-approval may include insufficient qualifications, failure to meet professional standards, or unresolved certification examination issues. Applicants may address deficiencies and resubmit their application for reconsideration.

3. The notification shall outline the applicant's right to appeal and the procedure.

Article 39
Appeals against the decisions of the Customs Brokers Certification and Registration Committee

1. Any individual aggrieved by a decision of the Customs Brokers Certification and Registration Committee may file an appeal within thirty days from the date of notification. The appeal must be submitted to the Minister of Finance.

2. The appeal application against non-approval decisions for certification applications as a Customs Broker, may be based on one or more of the following legal grounds:

(a) Dispute over the assessment of qualifications.

(b) Allegations of procedural irregularities during the application review process.

(c) Challenge regarding the interpretation or application of certification criteria.

(d) Presentation of new evidence or information not previously considered.

(e) Claims of bias or unfair treatment during the decision-making process.

3. The appeal application against deregistration of a Customs Broker, may be based on one or more of the following legal grounds:

(a) Disputing the accuracy or validity of the conviction.

(b) Claiming procedural irregularities during the deregistration process.

(c) Presenting evidence of exoneration or rehabilitation since the conviction.

(d) Challenging the interpretation or application of the deregistration criteria.

(e) Asserting that the offense does not meet the threshold for deregistration as stipulated in this Regulation.

Article 40
Decision on Appeal by the Minister of Finance

1. The Minister of Finance shall render a decision on the appeal and provide a written notification thereof.

2. The decision of the Minister of Finance shall be conclusive and not subject to further review.

Article 41
Register of Customs Brokers

1. The Customs Brokers Certification and Registration Committee shall establish and maintain a Register of Customs Brokers, which includes the following details for each Certified Customs Broker:

(a) Name and address;

(b) Date of approval as a Customs Broker; and

(c) A unique approval number assigned by the Customs Brokers Certification and Registration Committee.

2. The Customs Brokers Certification and Registration Committee shall publish the Register on the website of the Ministry of Finance, in order to ensure public awareness of approved Customs Brokers.

Article 42
Deregistration of Customs Brokers

1. The Customs Brokers Certification and Registration Committee shall deregister an approved Customs Broker if satisfied that the Customs Broker:

(a) Has been convicted by a court of competent jurisdiction in Somalia for an offense against the Revenue or Customs Laws, or in another country for a similar offense; or

(b) Has been convicted by a court of competent jurisdiction in Somalia or in another country for an offense involving dishonesty; or

(c) Has been convicted by a court of competent jurisdiction in Somalia or in another country for an offense whose conviction entails a permanent interdiction from public office.

Article 43
Notification of Deregistration of Customs Broker

1. If the Customs Brokers Certification and Registration Committee determines, in accordance with the above Article of this Regulation, that a Customs Broker shall be deregistered, the Customs Brokers Certification and Registration Committee must:

(a) Notify the Customs Broker of the determination to deregister him or her.

(b) Amend the published Register to reflect the deregistration of the Customs Broker, thereby ensuring public awareness of the deregistration. This update shall occur if the Customs Broker refrains from contesting the decision or has completed the appeals process.

Article 44
Return of Certificate

A Customs Broker who is deregistered and receives notice under the above Article must immediately return his or her certificate of approval to the Customs Brokers Certification and Registration Committee. This return of the certificate shall be executed immediately if the Customs Broker refrains from contesting the decision or has completed the appeals process.

Article 45
Offences relating to Customs Brokers

1. The offense of fraud is committed by anyone who:

(a) holds himself or herself out, or advertises himself or herself, to be a Certified Customs Broker when he or she is not so certified;

(b) materially alters a certificate issued under this Regulation;

(c) displays a false certificate purporting to be a certificate issued by the Customs Brokers Certification and Registration Committee; or

(d) materially alters the Register when not authorized to alter the Register.

(e) Frequently mis-declares imported and exported goods, with the intention to evade customs duties or misrepresent the nature or value of goods.

2. The offense of non-observance of the order lawfully given by a Government Authority is committed by anyone who fails to return a certificate after the deregistration process is completed.

3. A person who commits any of the offenses specified under paragraph 1 and 2 of this Article shall be punished with imprisonment for a term of not more than six months and a fine of ten thousand dollars.

Article 46
Duration of License and Initial Application and Retention Fees

1. The Customs Broker License shall be valid for a period of 3 years, commencing from the date on which it was issued. During this duration, the licensed Customs Broker is authorized to carry out the functions outlined in the Regulations governing customs brokerage services.

2. The initial fee for the Customs Broker License is one thousand dollars ($1,000). This amount should be remitted to a designated Government account specified by the Committee, and proof of payment must accompany the application for certification. The fee is non-refundable and must be paid in full to initiate the licensing process.

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3. The holder of a Customs Broker License shall be required to pay a non-refundable annual license retention fee of five hundred dollars ($500) on or before the anniversary of the License's issuance. This fee is due annually, except for the year in which the license is renewed. Its purpose is to sustain the validity of the license and facilitate administrative processes related to overseeing customs brokerage activities.

4. The Committee will endorse on the license the payment of the annual retention fee. Failure to pay the retention fee within the specified timeframe will result in the automatic suspension of the license until the payment is made.

Article 47
Renewal of License

1. The renewal of the Customs Broker License shall begin at least one month before its expiration. This timeframe allows ample opportunity for the license holder to complete the renewal process and for the Customs Brokers Certification and Registration Committee to review and process the application promptly, ensuring uninterrupted customs brokerage services. Failure to apply for renewal within this timeframe may lead to the expiration of the license, necessitating reapplication for certification.

2. For the renewal of the license, the license holder shall be required to submit the following documents to the Customs Brokers Certification and Registration Committee:

(a) Completed renewal application form, providing updated information as necessary.

(b) Copy of the original Customs Broker License, with an endorsement indicating proof of payment of the annual retention fee.

(c) Any additional documentation or certifications required by the Customs Brokers Certification and Registration Committee for renewal purposes.

3. Upon submission of the renewal application and required documents, the license holder will be required to pay the renewal fee. Failure to pay the renewal fee within the specified timeframe may result in the expiration of the license and the need to reapply for certification.

4. The fee for the renewal of the Customs Broker License is five hundred dollars ($500). This amount should be paid to a designated Government account specified by the Committee. Proof of payment must accompany the application for renewal, and the fee is non-refundable.

Article 48
Customs Brokers Certification does not authorize one to act as a Tax Consultant

Customs Brokers Certification, while conferring authorization to carry out customs brokerage services as a Customs Broker, does not extend to the role of a Tax

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Consultant. The functions and responsibilities of Tax Consultants are subject to the Revenue Administration Regulations, 2024. Therefore, Customs Brokers are not authorized to perform Tax Consultant duties without abiding by the legal requirements of the Revenue Administration Regulations, 2024.

PART SIX
ENFORCEMENT

Article 49
Objectives of Part Six

The objective of this Part is to enhance the enforcement provisions outlined in the Customs Act, 2020, by stipulating provisions essential for the effective implementation of Articles 24, 28(c), 28(g), 28(i), and 28(j) of the Customs Act, 2020.

CHAPTER ONE
ARRIVING AND DEPARTING PASSENGERS

Article 50
Persons arriving in Somalia to report to Customs officer

1. Except as otherwise provided in the Customs Act, every person arriving in Somalia must, on his or her arrival:

(a) immediately report to:

i. a Customs Officer; or

ii. a Police Station, in the absence of Customs Officials; and

(b) remain at the place where he or she reported to the Customs officer, or at the Police station, for any reasonable time that Customs or the Police requires to enable the Customs Officers or the Police to carry out any function under the Customs Laws in relation to that person.

Article 51
Disembarkation

1. Every person who is on board a craft or vehicle that arrives in Somalia must comply with every Customs direction concerning disembarkation.

2. Every person who has disembarked must, unless otherwise directed by Customs:

(a) proceed to a Customs-controlled area; and

(b) remain there for any reasonable time that Customs requires to enable a Customs Officer to carry out any function under the Act or this Regulation in relation to that person.

Article 52
Baggage and goods to be presented for examination on disembarkation

1. Every person who disembarks from a craft or vehicle that has arrived in Somalia must:

(a) make the baggage and any other goods in his or her possession or under his or her control available for an examination by a Customs Officer; and

(b) comply with any Customs direction relating to the movement of the baggage or other goods:

i. within a Customs-controlled area; or

ii. from any craft to a Customs-controlled area;

(c) comply with any other Customs direction given to facilitate the examination referred to in paragraph (a) of this Article.

2. Any person not falling within the category of persons under paragraph (1) of this Article and who is moving or handling any baggage or other goods to which the Customs Act and this Regulation applies must comply with any Customs direction relating to the movement of the baggage or other goods:

(a) within a Customs-controlled area; or

(b) from any craft or vehicle to a Customs-controlled area.

Article 53
Persons departing from Somalia to depart from Customs-controlled area

1. For Customs to monitor goods, enhance security, ensure compliance, and protect revenue, every person who departs from Somalia must depart from a Customs-controlled area unless otherwise authorized by a Customs Officer.

2. The above paragraph does not apply to a person who departs from Somalia on a craft or vehicle that is not required to depart from a Customs-controlled area in accordance with the Customs Act or Regulations enacted under the Act.

Article 54
Embarkation must comply with Customs direction

For Customs to monitor goods, enhance security, ensure compliance, and protect revenue, every person preparing to board a craft or vehicle for departure from Somalia must comply with any Customs direction, or direction of a Customs Officer, concerning embarkation.

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Article 55
Outgoing baggage to be presented for an examination

1. Every person who arrives at a Customs-controlled area for embarkation onto a craft that has, as its destination, a point outside Somalia, must:

(a) make his or her baggage and any other goods in his or her possession or control available for an examination by a Customs officer; and

(b) comply with any Customs direction relating to the movement of the baggage or other goods:

i. within the Customs-controlled area; or

ii. from a Customs-controlled area to any craft; and

(c) comply with any other Customs direction given to facilitate an examination as referred to in paragraph (1) (a) of this Article.

2. Any person not falling within the category of persons under paragraph (1) of this Article and who is moving or handling any baggage or other goods to which the Customs Act and this Regulation applies must comply with any Customs direction relating to the movement of the baggage or other goods:

(a) within a Customs-controlled area; or

(b) from a Customs-controlled area to any craft.

Article 56
Offence in relation to wilful failure to comply with requirements when arriving in, or departing from Somalia

1. A person commits a compoundable offense if the person wilfully fails to comply with any requirement imposed on the person by or under any of the above provisions in this Chapter of this Regulation.

2. A person who commits an offense under any of the above provision in this Chapter of this Regulation shall be liable to a fine not exceeding USD 10,000.

Article 57
Evidence of identity and entitlement to travel

1. A person in a Customs-controlled area who has arrived in Somalia, is departing from Somalia, or any other person within a Customs-controlled area designated for disembarkation, embarkation, or processing of individuals arriving in or departing from Somalia, must, upon demand by a Customs Officer:

(a) State his or her:

i. full name;
ii. residential address; and
iii. date of birth; and

(b) produce any prescribed document for inspection or, if the person is unable to produce the prescribed document, complete a declaration in the prescribed form.

2. A Customs Officer may make a demand under sub-regulation (2)(b) only for the purpose of establishing one or more of the following:

(a) the person's identity; and

(b) the person's travel movements.

3. A Customs Officer must immediately inspect and return a document produced by a person under pagaraph (1)(b).

4. Notwithstanding paragraph (3) of this Article, a Customs officer may retain a document produced under paragraph (1)(b) for as long as is necessary to determine whether the management of the Customs Department at the Customs-controlled area wishes to exercise their power to retain the document under this Regulation for further inquiries.

5. If a document referred to in paragraphs (3) or (4) is produced in electronic form on a device, a Customs Officer:

(a) may retain the device subject to the requirements of paragraphs (3) or (4); and

(b) must not examine any other document or access other information stored on the device.

Article 58
Offence in relation to failure to produce evidence of identity, entitlement to travel

1. A person commits a compoundable offense if the person, without reasonable excuse, fails to comply with a demand made under the above Article of this Regulation.

2. A person who commits an offense under the above Article of this Regulation shall be liable to a fine not exceeding USD 10,000.

Article 59
Verification of identity using biometric information

1. A Customs Officer may, during the processing of a person's arrival in, or departure from, Somalia, request the person to provide biometric information for the purpose of verifying the person's identity using biometric matching.

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2. A Customs Officer may direct a person who fails to comply with a request under paragraph (1) of this Article to remain in the designated Customs-controlled area for any of the following purposes:

(a) to enable a Customs Officer to make any inquiries necessary to establish the identity of the person; or

(b) to enable a Customs Officer to obtain the attendance of, or make inquiries of, a police officer, or an employee or agent of a department of the Federal Government of Somalia who is authorized, to do any of the following:

i. question the person;
ii. ascertain or determine the status of the person;
iii. detain the person; or
iv. arrest the person.

3. A person must comply with a direction given under paragraph (2) of this Article.

4. A direction under paragraph (2) of this Article ceases to have effect four hours after it is given.

Article 60
Detention of persons failing to comply with direction of Customs Officers

1. A Customs Officer may detain a person who fails to comply with a direction given under paragraph (2) of Article 59 of this Regulation.

2. The person may be detained for a reasonable period not exceeding four hours.

3. A Customs Officer may use minimum reasonable force, if necessary when exercising the power of detention under this paragraph (1) of this Article.

4. To avoid doubt, this Regulation does not prevent a person from being detained or further detained under any other provision of the Customs Laws or under any other applicable law.

5. In this Regulation, "detain" includes delivering a person to a police station or into the custody of a police officer.

Article 61
Search of persons

1. The authority to conduct searches of persons by Customs Officers can be applied to any person who is on board or in the process of disembarking from a craft that has arrived in Somalia, as well as to any person who is on board or in the process of embarking onto a craft that is departing from Somalia.

2. A Customs Officer may conduct a preliminary search of the person described in paragraph (1) of this Article and for the purpose of conducting the preliminary search, detain the person for a reasonable period.

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3. A Customs Officer may search the person, whether or not a preliminary search of the person has been conducted if a Customs Officer has reasonable cause to suspect:

(a) that the person has hidden on or about his or her person:

i. any dutiable, uncustomed, prohibited, or forfeited goods; or

ii. evidence relating to any such goods; or

iii. anything that is, or might be, evidence of a contravention of the Customs Laws and Regulations; or

(b) that the person:

i. has a dangerous item on or about his or her person;

ii. the item poses a threat to the safety of the Customs Officer, or any other person;

iii. there is a need to act immediately in order to address that threat; and

iv. a preliminary search would expose the Customs Officer, or any other person, to greater risk from the threat.

4. In this Article, "preliminary search" means a search that:

(a) involves little or no physical contact between the person conducting the search and the person being searched; and

(b) is conducted by using aids such as a Customs dog, chemical substances, imaging equipment, or other mechanical, electrical, or electronic devices, while avoiding more invasive methods.

5. In this Article "craft' includes a vehicle.

Article 62
Search of persons suspected of having goods hidden on or about their person

1. The authority to conduct searches of persons by Customs Officers under this Article can be applied to:

(a) any person who has arrived in Somalia at a place other than a designated port or airport within the preceding 24 hours; or

(b) any person who is about to depart from Somalia from any place other than a designated port or airport; or

(c) any person who is in a designated port or airport.

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2. A Customs Officer may search the person if the Customs Officer has reasonable cause to believe that the person has hidden on or about his or her person:

(a) any dutiable, uncustomed, prohibited, or forfeited goods; or

(b) evidence relating to any such goods; or

(c) anything that is, or might be, evidence of a contravention of the Customs Laws or Regulations.

CHAPTER TWO
FORFEITURE OF GOODS

Article 63
Goods forfeited

1. The following goods are forfeited to the Federal Government of Somalia:

(a) all goods that are unlawfully imported;

(b) all goods that are unlawfully exported;

(c) all goods that any person or persons have attempted unlawfully to export;

(d) goods in respect of which an offense has been committed under the Customs Laws or Regulations;

(e) dutiable or prohibited goods that are:

i. found in the course of a search under the Customs Laws or Regulation; or

ii. seized under the Customs Laws or Regulation;

(f) dangerous items seized under the Customs Laws or Regulations;

(g) goods treated as forfeited in accordance with the Customs Laws or Regulations;

(h) goods in respect of which an erroneous statement, declaration, certificate, or claim as to the country of which the goods are produced or manufactured has been made or produced to any Customs Officer;

(i) dutiable or prohibited goods that are found on or in any craft or cargo device that is unlawfully present in any place;

(j) dutiable or prohibited goods that are found on or in any craft or cargo device after arrival in any Customs-controlled area from a point outside Somalia other than:

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i. goods that are specified in Customs declaration; or

ii. baggage belonging to the crew or passengers; or

iii. goods otherwise accounted for to the satisfaction of a Customs Officer;

(k) dutiable or prohibited goods that are found concealed in or on:

i. any craft, vehicle, or cargo device; or

ii. any other thing;

(l) goods in any package if those goods are not fully accounted for in the entry or declaration relating to that package;

(m) dutiable or prohibited goods that are packed so as to be likely to deceive Customs officers;

(n) uncustomed goods that are found in any place;

(o) imported goods that have been acquired (whether by the importer or some other person):

i. in a country outside Somalia; and

ii. by an act that, if done in Somalia, would have amounted to a crime involving dishonesty;

(p) goods exported, or in respect of which an attempt to export has been made, that have been acquired (whether by the exporter or some other person):

i. in Somalia; and

ii. by an act that amounts to a crime involving dishonesty;

(q) a craft treated as forfeited under the Customs Laws or Regulation.

2. For the purposes of sub-regulation (1)(b) and (c), prohibited goods are treated as exported when they are placed in or on any craft for exportation.

3. If goods are forfeited, the following are also forfeited:

(a) any case, covering, or other enclosure in or on which the goods are contained at the time of seizure, importation, or exportation (other than a cargo device):

(b) any cargo device in or on which the goods are contained at the time of seizure, importation, or exportation if the cargo device has been adapted for the purpose of concealing goods: or

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(c) any animal, craft, vehicle, or other thing (including any machinery or equipment on or in the craft, vehicle, or thing) that is used for the transportation, handling, deposit, or concealment of the goods (whether at the time, or after the time, of any alleged offence in relation to those goods).

4. A craft or vehicle is forfeited to the Federal Republic of Somalia if:

(a) the craft or vehicle is one in respect of which an offence under the Customs Laws or Regulations is committed; and

(b) that offence was committed to facilitate non-compliance with any requirement under the Customs Laws or Regulations by a person or persons who arrived in Somalia (in that craft or vehicle or in any other craft or vehicle).

Article 64
The forfeiture is retroactive to the time of the unlawful act or event

Goods are forfeited immediately at the time the act or event that gives rise to the forfeiture takes place.

CHAPTER THREE
SEIZURE

Article 65
Seizure of forfeited goods or goods suspected to be forfeited goods

1. A Customs officer may seize:

(a) any forfeited goods; or

(b) any goods that he or she has reasonable cause to suspect are forfeited.

2. Forfeited goods (other than goods forfeited because they are prohibited goods) may be seized at any time within two years after their forfeiture.

3. Goods that are forfeited because they are prohibited goods may be seized at any time after their forfeiture.

4. A Customs Officer may use all reasonable force to effect the seizure of goods under paragraph (1) of this Article.

5. This Article applies to the maritime waters of Somalia.

6. The power under this Article may be exercised in maritime waters only in accordance with Article 33 of the United Nations Convention on the Law of the Sea.

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Article 66
Securing seized goods

1. All goods seized under the above Article must be taken to a place of security and detained.

2. Notwithstanding paragraph (1) of this Article, a Customs Officer may leave goods that have been seized under the above Article in the custody of:

(a) the person from whom the goods have been seized; or

(b) any other person who:

i. is authorized by the Customs Department; and

ii. consents to having custody of the goods.

3. A person who has custody of goods under paragraph (2) of this Article must:

(a) hold them for safe keeping:

i. until a final decision is made as to whether they are to remain forfeit; and

ii. without charge to the Federal Republic of Somalia; and

iii. in accordance with any reasonable conditions imposed by the management of the Customs Department at the relevant Customs-controlled area; and

(b) make the goods available to the management of the Customs Department at the relevant Customs-controlled area on demand;

(c) not alter, dispose of, or remove the goods from Somalia unless the person is authorized to do so by the management of the Customs Department at the relevant Customs-controlled area; and

(d) return the goods on demand to the custody of the Customs Department.

Article 67
Offence in relation to securing seized goods

1. A person who has custody of goods under parageraph (2) of the above Article commits a compoundable offence if the person, without reasonable excuse, fails to comply with parageraph (3) of the above Article.

2. A person who commits the offence under paragraph (1) of this Article shall be liable to a fine not exceeding USD 10,000.

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Article 68
Notice of seizure

1. If goods have been seized under Article 65 of this Regulation or otherwise under the Customs Law or other applicable Regulations of the Customs Law, Customs Department must, as soon as is reasonably practicable, notify:

(a) any person who is known or believed to have an interest in the goods; or

(b) if any such person is overseas, his or her agent in Somalia.

2. The notice referred to in paragraph (1) of this Article must:

(a) be in writing; and

(b) contain the reasons for the seizure.

3. A seizure is not invalidated or illegal by reason of a failure to provide a notice under this Article if reasonable steps were taken to give the notice.

Article 69
Delivery of goods seized on deposit of value

1. This Article applies to goods that:

(a) have been seized under Article 65 of this Regulation; and

(b) have not yet been formally forfeited.

2. The management of the Customs Department at the relevant Customs-controlled area may deliver the goods to the owner (or any other person from whom they were seized) on the deposit to the designated Government revenue account notified by the Customs Department of a cash sum equal to:

(a) the Customs value of the goods; or

(b) any duty that the Department of Customs determines is payable on the goods.

3. The money deposited is treated as substituted for the goods seized, and this Chapter applies to the money accordingly.

Article 70
Sale of seized goods

Subject to the provisions under this Chapter, Article 65 of the Revenue Administration Law applies to the sale of goods seized under the provisions of this Chapter of this Regulation as if they were charged assets for the purposes of the Revenue Administration Law, 2019.

Article 71
Sale of certain seized goods

1.This Article applies to goods that:

(a) have been seized under Article 65 of this Regulation; and

(b) have not yet been formally forfeited or disposed of.

3. The Director of the Customs Department may sell:

(a) a living creature; or

(b) any thing that, in the opinion of the Director of the Customs Department:

i. is of a perishable nature; or

ii. is likely to deteriorate or diminish in value by keeping; or

iii. it is desirable, having regard to the nature of the condition and longevity of it, to sell.

4. The net proceeds of sale are substituted for the goods sold, and the provisions of Chapter applies to the proceeds accordingly.

Article 72
Application for review of seizure

1. A decision to seize goods is a tax decision for the purposes of Article 52 of the Revenue Administration Law, 2019.

2. Any person who has an interest in goods that have been seized may object to the seizure in accordance with Part VII of the Revenue Administration Law, 2019.

CHAPTER FOUR
POWERS IN RELATION TO CRAFT

Article 73
Boarding and searching craft

1. This Article applies to the following craft:

(a) a craft that has arrived in Somalia;

(b) a craft that is departing from Somalia;

(c) a craft in Somalia that is en route to a point outside Somalia;

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(d) any other craft in Somalia that is transporting any domestic cargo or international cargo;

(e) a craft that is in Somalia and that a Customs Officer has reasonable cause to suspect:

i. is transporting any dutiable, uncustomed, prohibited, or forfeited goods; or

ii. has been, is, or is about to be involved in the commission of an offense under the Customs Laws or Regulation.

2. A Customs officer may board the craft.

3. A Customs officer may search the craft for the purpose of carrying out any function, or discharging any duty, under the Customs Laws.

4. In exercising the power to search under this Article, a Customs Officer may:

(a) use reasonable force to:

i. enter any part of a craft; or

ii. open any package, locker, or other place:

(b) examine all goods found on a craft.

5. For the purpose of this Article "craft" includes vehicle.

Article 74
Facilitation of boarding

1. A Customs officer may direct the person in charge of a craft to which the above Article applies:

(a) to stop the craft and bring it to for boarding; and

(b) to ensure that the craft remains stopped until a Customs Officer directs that the craft may proceed.

2. A Customs Officer may direct the person in charge of a craft to which the above Article applies to facilitate the boarding of the craft by all reasonable means.

Article 75
Offenses in relation to facilitation of boarding a craft

1. The person in charge of a craft commits a compoundable offence if the person fails to comply with any direction of a Customs Officer under paragraph (1) of Article 74 of this Regulation.

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2. The person in charge of a craft commits a compoundable offence if the person fails to comply with any direction of a Customs Officer under paragraph (2) of Article 74 of this Regulation.

3. A person who commits an offence under this Article is liable to:

(a) imprisonment for a term not exceeding 12 months; or

(b) a fine not exceeding USD 12,000.

Article 76
Stationing Customs officers on board craft

1. The management of the Customs Department at the relevant Customs-controlled area, in consultation with the Director of the Customs Department may, for the purpose of enabling any Customs Officer to carry out a function under the Customs Laws or Regulation, station the officer on board a craft that has arrived in Somalia.

2. The person in charge of the craft must ensure that the Customs Officer is provided:

(a) free of charge, with:

i. carriage; and

ii. suitable accommodation and meals in accordance with the officer's reasonable requirements; and

(b) with safe access to any part of the craft; and

(c) with safe means of leaving the craft.

3. For the purposes of this Article, "craft" includes vehicle.

Article 77
Securing goods on craft

1. A Customs Officer boarding or searching any craft in Somalia under Article 73 of this Regulation may, for the purpose of carrying out a function under the Customs Laws or Regulation:

(a) secure goods on board that craft by appropriate means; or

(b) remove goods on board that craft to a secure place.

2. For the purpose of this Article "craft" includes vehicle.

Article 78
Measures to be applied against non-compliant crafts

1. The person in charge of any craft in the service of the Federal Republic of Somalia:

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(a) must, at the request of the management of the Customs Department at the relevant Customs-controlled area, give chase to any craft in Somalia if:

i. the craft does not immediately stop or halt its movement upon being signaled to do so or required to stop; or

ii. the person in charge of the ship refuses to permit the craft to be boarded; and

(b) may, as a last resort (after having fired a warning shot), fire at or onto the craft to compel it to comply.

2. In the case of a craft in the service of the Federal Republic of Somalia, the person in charge of the craft must ensure that the proper ensign of the craft or the Customs flag is hoisted or prominently displayed on the craft at all times when acting under this Article.

Article 79
Power to order crafts to leave Somalia

1. This Article applies to a craft that has arrived in, or is departing from, Somalia.

2. A Customs Officer may, with the approval of the management of the Customs Department at the relevant Customs-controlled area, order the person in charge of the craft to cause the craft to leave Somalia.

3. If a Customs Officer gives the order under paragraph (2) of this Article, the person in charge of the craft must cause the craft to leave Somalia immediately.

4. The management of the Customs Department at the relevant Customs-controlled area may approve the giving of an order under paragraph (2) of this Article only if he or she is satisfied that it is in the public interest for the order to be given.

Article 80
Offence in relation to power to order crafts to leave Somalia

1. The person in charge of a craft commits a compoundable offence if the person fails to comply with paragraph (3) of the above Article.

2. A person who commits the offence under paragraph (1) of this Article is liable to:

(a) imprisonment for a term not exceeding 12 months; and

(b) a fine not exceeding USD 10,000.

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Article 81
Detention of craft suspected to be involved in offenses or smuggling migrants

1. This Article applies if a Customs Officer has reasonable cause to believe:

(a) that an offence under the Customs Laws or Regulation has been committed on, or in respect of, a craft that is in Somalia; or

(b) that an offence under the Customs Laws or Regulations is being, or is about to be, committed on, or in respect of, a craft that is in Somalia; or

(c) that:

i. there is a person on a craft in Somalia; and

ii. the craft has transported that person into Somalia; and

iii. that transportation constitutes an offence under the Laws of the Federal Republic of Somalia that are in force.

2. A Customs Officer:

(a) may detain the craft at the place where it is; or

(b) may direct:

i. that the craft proceed to the nearest Customs-controlled area or to any other place that the officer considers appropriate; and

ii. that the craft's detention continues during the craft's journey to that place, and at that place once the craft arrives there.

3. The power under paragraph (2) is exercisable only if, and for so long as, a Customs Officer is satisfied that the exercise of the power is reasonably necessary to carry out an investigation into the commission of the offence concerned.

4. If a direction is given under paragraph (2)(b) of this Article, a Customs Officer may, for the purpose of implementing the direction, do any of the following:

(a) direct any person on the craft to take any specified action;

(b) take charge of the craft; or

(c) arrange for the craft to be towed by another craft.

5. Paragraph (4) applies if the person in charge of the craft attempts, or threatens, to cause the craft to depart, without a certificate of clearance, from a place where it is detained under paragraph (2) of this Article.

6. A Customs Officer may detain the craft until a certificate of clearance is issued.

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7. For the purposes of this Article "craft" includes vehicle.

Article 82
Offenses in relation to detained craft

1. A person commits a compoundable offence if the person, without the permission of the management of the Customs Department at the relevant Customs-controlled area, takes, carries away, or otherwise converts to the person's own use a craft detained under the provisions of this Chapter.

2. A person who commits the offence under paragraph (1) of this Regulation is liable:

(a) in the case of a natural person, to:

i. imprisonment for a term not exceeding 12 months; or

ii. a fine not exceeding an amount equal to three times the value of the craft to which the offence relates.

(b) in the case of a legal person, to a fine not exceeding an amount equal to three times the value of the craft to which the offence relates.

3. For the purposes of this Article, "craft" includes vehicle.

CHAPTER FIVE
POWERS TO ENTER AND SEARCH PREMISES AND DWELLINGS

Article 83
Entry to Customs-controlled areas

1. A Customs Officer may, without a warrant, enter any of the following :

(a) any Customs-controlled area; or

(b) any other place that it is necessary to pass through to enter a Customs-controlled area.

Article 84
Entry into and search of premises

1. Without limiting Article 44 of the Revenue Administration Law 2019, a Customs Officer may enter any place for the purpose of exercising any power under the Customs Laws or Regulation in respect of goods that are, or that the Officer suspects are:

(a) subject to the control of Customs Department; or

(b) goods in respect of which an offence against the Customs Laws or Regulation has been committed.

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2. However, a Customs Officer must not enter private dwelling between the hours of 7 PM and 7 AM except:

(a) with the consent of an occupier or owner of that dwelling; or

(b) under a warrant issued under Article 85 of this Regulation.

Article 85
Issue of search warrant

1. A court of competent jurisdiction, on an application by a Customs Officer, may issue a search warrant if it is satisfied that there are reasonable grounds to believe that there is, in or on any place or thing:

(a) any thing that there are reasonable grounds to believe may be evidence of:

i. the commission of an offence under the Customs Laws or Regulations; or

ii. the unlawful exportation or importation of goods; or

(b) any thing that there are reasonable grounds to believe is intended to be used for the purpose of:

i. committing an offence against the Customs Laws or Regulations; or

ii. unlawfully exporting or importing goods; or

(c) any thing that is liable to seizure under the Customs Laws or Regulations.

2. The Customs Officer shall be accompanied by the police during the execution of the search warrant to deter any attempts to obstruct or interfere with the execution of the Customs Officer's duties.

Article 86
Patrols to detect offenses

1. A Customs Officer may, at any time and in any manner the officer considers appropriate, do any of the following for the purpose of detecting offenses against Customs Laws or Regulations:

(a) patrol on or over any Customs-controlled area;

(b) patrol on or over any part of the foreshore or the shore of any lake or lagoon or the banks of any river (including any structure extending from that land) or any part of the adjacent land;

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(c) enter and inspect any landing strip, or any building on an aircraft landing strip; or

(d) remain in an area referred to in paragraphs 1 (a) to 1 (c) of this Article for the purpose of carrying out investigations or surveillance.

Article 87
Use of dogs and other aids

1. A Customs Officer who is exercising any power of boarding, entry, or search under the Customs Laws or Regulation may have with him or her, and use for the purpose of searching, any of the following:

(a) a Customs dog;

(b) any chemical substance;

(c) X-ray or imaging equipment or any other mechanical, electrical, or electronic device.

2. However, a Customs Officer may use a dog or aid of the kind referred in paragraph (1) of this Article in commercial premises or in a private dwelling except:

(a) with the consent of an occupier or owner of those premises or that dwelling; or

(b) under a warrant.

CHAPTER SIX
ADMINISTRATIVE PENALTIES AGAINST VIOLATIONS RELATED TO CUSTOMS DECLARATIONS

Article 88
Criteria for determining material inaccuracy in Customs Declarations

1. For purposes of this Chapter of the Regulation, "declaration" includes:

(a) every amendment of a declaration;

(b) every amendment of an assessment that relates to a declaration; and

(c) every invoice, certificate, written statement, or other document that is required or authorized to be made or produced by the person making a declaration or an amendment referred to in paragraphs (a) or (b) of this Article.

2. For purposes of this Chapter of the Regulation, "materially incorrect" in relation to a declaration, means containing an error or omission in relation to any of the following matters:

(a) the overseas supplier's identity;

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(b) the importer's identity;

(c) the identity of the person making the entry;

(d) the identification of the importing craft or its voyage number;

(e) the bill of lading, air waybill, or container identification details;

(f) the supplier's invoice number;

(g) any permit number or code;

(h) the Tariff item in which the goods are classified under the Customs Tariff;

(i) the statistical quantity of the goods;

(j) the currency code for the currency in which the goods are traded;

(k) the value for duty expressed in the currency in which the goods are traded;

(l) the value for duty expressed in either Somali currency or United States dollars;

(m) the country of origin of the goods;

(n) the country from which the goods have been exported;

(o) the amount paid or payable to transport the goods to Somalia from the country of exportation, including any amount paid or payable for internal transportation of the goods in the country of exportation; or

(p) the insurance costs associated with transporting the goods to Somalia, inclusive of any insurance costs in the country of exportation.

Article 89
Penalties for errors or omissions in Customs declarations

1. The management of the Customs Department at the relevant Customs-controlled area in consultation with the Director of the Customs Department may impose a penalty on a person if he or she is satisfied that:

(a) a declaration made by that person contains an error or omission; and
(b) either as a result of the error or omission, an amount of duty payable has not been paid or declared for payment, or would not have been paid or declared for payment; or
(c) the entry is otherwise materially incorrect.

2. The obligation to pay an administrative penalty shall be a civil obligation. Failure to pay a penalty imposed shall result a suit for unpaid tax under Article 62 of Revenue Administration Law, 2019.

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Article 90
When penalty is payable

A person on whom a penalty is imposed under Article 89 of this Regulation must pay the penalty to the designated Government account within 20 working days after the date on which the penalty is notified in writing to the person.

Article 91
Calculation of penalty

1. Subject to paragraph (3) of this Article, the amount of the penalty to be imposed under paragraphs 1(a) and (b) of Article 89 of this Regulation is:

(a) 100% of the duty unpaid or undeclared and shall not exceed a maximum amount of three time of the duty unpaid or undeclared, if management of the Customs Department at the relevant Customs-controlled area is satisfied that the error or omission was made knowingly;

(b) 40% of the duty unpaid or undeclared, and shall not exceed up to a maximum amount of 80% of the duty unpaid or undeclared, if management of the Customs Department at the relevant Customs-controlled area is satisfied that the error or omission occurred because the person was grossly careless.

(c) 20% of the duty unpaid or undeclared and shall not exceed up to a maximum amount of 40% of the duty unpaid or undeclared, if management of the Customs Department at the relevant Customs-controlled area is satisfied that the error or omission occurred because the person did not take reasonable care (but was not grossly careless).

2. The amount of the penalty imposed under paragraph 1(c) of Article 89 is five thousand dollars (USD $5,000).

3. If a penalty calculated under paragraph (1) of this Article is less than the penalty specified under paragraph (2) of this Article, the amount of the penalty to be imposed shall be that specified under paragraph (2) of this Article, instead of the amount calculated under paragraph (1) of this Article.

Article 92
Administrative appeal against penalties

A decision to impose a penalty under Article 89(1) of this Regulation may be objected to and appealed against in accordance with Articles 35 and 36 of the Law on the Investigation and Suppression of Violations of Financial Laws (Law No. 12 of August 1, 1966).

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PART SEVEN
CROSS BORDER MOVEMENT OF CASH AND BEARER OF NEGOTIABLE INSTRUMENT

CHAPTER ONE
CROSS BORDER MOVEMENT OF CASH AND BEARER OF NEGOTIABLE INSTRUMENT

Article 93
Objectives of the Part Seven

In line with Article 28 (c) of the Customs Act of 2020 and pursuant to Article 18 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2016, the provisions in Part Seven of this Regulation are issued.

These provisions are established in order to provide guidance and procedures to implement Article 18 of the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2016 which requires under paragraph of the same Article 18, the establishment of further procedures to manage cross border movement of cash and bearer of negotiable instrument.

Article 94
The Establishment of Forms and Registry

1. For purposes of managing declarations regarding the cross-border movement of cash and negotiable instruments:

(a) "Form F-C," a Cash Declaration Form, is established;

(b) "Form F-I," a Negotiable Instruments Declaration Form, is established; and

(c) A Registry is instituted to record details of cash or bearer instruments seized by Customs officials, along with information regarding their transfer to the Office of the Attorney General. The Registry also logs all declarations made by individuals.

Article 95
Declaration Forms for Cross-Border Currency and Bearer Negotiable Instruments

1. The declaration forms for cross-border movement of cash and bearer negotiable instruments established in the above Article of this Regulation shall include at minimum the following pertinent information:

(a) Full name and contact information of the individual making the declaration.

(b) Passport or identification number of the individual making the declaration.

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(c) Date and time of departure or arrival.

(d) Mode of transportation, including flight number or vehicle registration.

(e) Description of the cash or bearer negotiable instruments being transported, including:

i. Amount in US Dollars or foreign currency.

ii. Type of currency (if foreign currency).

iii. Description of bearer negotiable instruments (e.g., traveler's checks, money orders).

(f) Purpose of transporting the cash or bearer negotiable instruments (e.g., business transactions, personal use).

(g) Declaration of any accompanying individuals or parties involved in the transportation.

(h) Disclosure of the origin of transported funds, including details on employment income, business revenues, or remittances.

(i) Information pertaining to previous travel history, encompassing recent trips and visited countries.

(j) Signature of the individual making the declaration, along with the date and place of signing.

2. The declaration form shall also include warnings about the consequences of providing false information and instructions for submission to the Customs Department.

Article 96
Reporting for Cross-Border Currency and Bearer Negotiable Instruments

1. Any person who:

(a) Leaves or arrives in the Federal Republic of Somalia in possession of, or imports to or exports from by mail, courier, or otherwise, an amount of Ten Thousand Dollars (USD $10,000) or more or the equivalent in local currency or any foreign currency, whether in cash or in bearer negotiable instruments, shall make a truthful declaration, in writing, to the Customs Department of the Ministry of Finance at the relevant port of entry.

2. The reporting obligation is not deemed fulfilled if the information provided is incorrect or incomplete.

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3. Provisions regarding the movement of cash or bearer negotiable instruments across the border do not apply to personal cheques, credit cards, and debit cards.

4. The verified declartion form shall be stamped as a proof of acknowledgment and a copy shall be given to the declarant.

5. Natural persons representing financial institutions and entities engaged in international trade must obtain prior approval from the Revenue Directorate of the Ministry of Finance. Approval is obtained by completing the designated form available on the Ministry of Finance's website before transporting cash or other bearer negotiable instruments.

Article 97
Powers and procedures for enforcement of Reporting Obligations

1. A Customs official who suspects a violation of the obligation to declare under sub-paragraph (a) of paragraph (1) of Article 96 of this Regulation has the power to:

(a) Examine any article that a person has with him or her or in his or her luggage; and

(b) Search the person.

2. Persons searched per sub-paragraph (b) of paragraph (1) of this Article shall be searched by one or more Customs officials of the same gender.

3. To verify the implementation of, and enforce the reporting obligation set out in, sub-paragraph (a) of paragraph (1) of Article 96 of this Regulation, Customs Officials may stop, board, and search any ship, aircraft, or other type of transportation vehicle in the territory under Customs Department control.

4. The Customs Officer at the point of entry shall verify the identity of the person making the declaration and the authenticity of the data reported.

Article 98
Procedures for handling unreported Cash and Bearer Negotiable Instruments in ordinary cases

1. Where a Customs Official has found cash or bearer negotiable instruments that were not declared or that were falsely declared in violation of sub-paragraph (a) of paragraph 1 of Article 96 of this Regulation, the official shall further examine the case and has the power to request and obtain further information from the carrier with regard to the reasons and purpose for transporting the cash or bearer negotiable instruments across state lines, their origin and intended use. The same powers apply in situations where the cash or bearer negotiable instruments were declared, but where the facts and circumstances would for other reasons require an interview and the collection of information.

2. Where cash or bearer negotiable instruments were not declared or were falsely declared, the Customs official shall afford evidence to the management of the

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Customs Department at the relevant port of entry and the management of the Customs Department at relevant port of entry shall seize the cash or bearer negotiable instruments for a period not exceeding thirty (30) days from the moment that the natural person or the owner no longer has access to the cash or bearer negotiable instruments. After this period has expired, the cash or bearer negotiable instruments shall be made available to the carrier or owner without prejudice to the possibility of further seizure by or at the request of competent judicial authorities.

Article 99
Procedure for handling unreported Cash and Instruments in cases of suspected Money Laundering or Terrorism Financing

1. In case of suspicion of money laundering, predicate offenses to money laundering, or terrorism financing, the Customs Official, together with the management of the Customs Department at the relevant port of entry, has the power to stop the carrier and seize the cash or bearer negotiable instruments for a period of thirty (30) days.

2. The seizure period specified under paragraph (1) of this Article can be extended to ninety (90) days by the regional court on an application by the Office of the Attorney General to determine whether a formal investigation into money laundering, associated predicate offenses, or terrorism financing should be launched. After this extended period has expired, the cash or bearer negotiable instruments will be made available to the carrier or owner without prejudice to the possibility of further seizure by or at the request of competent judicial authorities.

Article 100
Procedure for Handling Seized Cash by the Office of the Attorney General

1. Upon seizing any cash or bearer negotiable instruments under Articles 98 and 99 of this Regulation, the Customs Officials shall promptly transmit the seized items to the Office of the Attorney General.

2. The Office of the Attorney General shall provide a formal receipt or acknowledgment to the Customs Officials for the transmission of the seized cash or bearer negotiable instruments pursuant to paragraph (1) of this Article. This receipt should include details such as the date and time of receipt, a description of the seized items, including the amount of cash or type of negotiable instrument, any identifying features or markings, and the signatures of authorized personnel from the Office of the Attorney General acknowledging receipt of the seized items from the Customs Officials. This documentation shall serve as evidence of the transfer of custody of the seized assets.

3. Upon receiving the seized cash or negotiable instrument, the Office of the Attorney General shall ensure its safekeeping in a designated facility at the Central Bank of Somalia (CBS) allocated specifically for this purpose.

4. The Office of the Attorney General shall receive a custody receipt from the Central Bank of Somalia (CBS) upon the transmission of the seized cash or negotiable instrument. This receipt should contain details such as the date and time of receipt, a description of the seized items, including the amount of cash or type of negotiable

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instrument, any identifying features or markings and the signatures and official stamps of the receiving authority at the Central Bank.

5. To re-obtain custody of the seized cash or negotiable instrument from the Central Bank of Somalia (CBS), the Office of the Attorney General shall submit a formal request to the Central Bank, outlining the reasons for reclaiming custody and providing any necessary supporting evidence or legal justifications. Circumstances under which the Office of the Attorney General may seek to re-obtain custody may include the conclusion of legal proceedings related to the seized items, the determination that the items are no longer required as evidence or other lawful reasons specified by relevant regulations or court orders. Upon approval of the request, the Central Bank shall transfer custody back to the Office of the Attorney General, and both parties shall document the transfer with an official receipt.

Article 101
Maintenance and Exchange of Information on Cross-Border Transportation of Cash and Bearer Negotiable Instruments

1. The Customs Department shall:

(a) Ensure to maintain relevant information relating to the cross-border transportation of cash and bearer negotiable instruments, in cases where:

i. a declaration of an amount of Ten Thousand Dollars (USD 10,000) or more or the equivalent in local or any foreign currency is made; or

ii. no declaration or a false declaration has been made; or

iii. there is a suspicion of money laundering, associated predicate offenses or terrorism financing.

(b) Ensure that the information retained must include, at a minimum, the quantity of cash or bearer negotiable instruments, in USD, local currency or any foreign currency, declared or otherwise detected, as well as information allowing the identification of the carrier, or the parties concerned by unaccompanied transport.

(c) The information collected by the Customs Department under this Article shall be included in a database which allows this information to be exchanged efficiently, quickly and securely with the Financial Reporting Center, other competent domestic authorities as well as competent foreign authorities.

2. In case of suspicion of money laundering, associated predicate offenses or terrorism financing, or a failure to declare or a false declaration, the Customs Department shall ensure that it transmits to the Financial Reporting Center all the information cited in paragraph (1)(a) of this Article. This information will be communicated to the Financial Reporting Center as soon as possible and not later than within twenty-four (24) hours. The communication shall be made electronically to ensure the effective, rapid and secure exchange of information. The Financial Reporting Center shall, upon request, have access to all declarations of cash and bearer negotiable instruments within a period not exceeding fifteen (15) days.

3. The information collected by the Customs Department under paragraph (1)(a) of this Article must also be made available to other competent authorities, including the Immigration and Citizenship Agency, the Criminal Investigation Department of the Somali Police Force, the Office of the Attorney General, and any other relevant authorities upon their request. The communication of this information shall be made electronically to ensure the efficient, rapid, and secure exchange of information.

4. The information collected by the Customs Department under paragraph (1)(a) of this Article must be made available to foreign competent authorities, upon request, according to the international cooperation mechanisms in place. These exchanges shall, wherever possible, take place electronically to ensure the efficient, rapid, and secure exchange of information.

5. All information sharing by the Customs Department will be conducted by the Director of Customs Department, subject to the prior approval of the Director General for Revenue.

Article 102
Procedure for Forfeiture of Unclaimed Cash or Bearer Negotiable Instruments

1. If two (2) years have passed since a determination by the relevant competent authorities that seized cash or bearer negotiable instruments are not connected to any crime or ongoing criminal investigation, and if such cash or bearer negotiable instruments have neither been confiscated by the state nor claimed by the rightful owner, the Attorney General shall make an application to a competent court for the forfeiture of such cash or bearer negotiable instruments to the Federal Republic of Somalia. The rightful owner shall be notified before the court decision and shall be given an opportunity to object to the forfeiture by the state.

2. Once the forfeiture of the cash to the Federal Republic of Somalia is approved by the competent court, the forfeited funds shall be deposited into the Treasury Single Account (TSA) in accordance with the Public Financial Management (PFM) Act, 2019.

3. Upon approval of forfeiture by the competent court, bearer negotiable instruments shall be converted into cash. The cash proceeds shall thereafter be deposited into the Treasury Single Account (TSA) of the Government in accordance with the provisions outlined in the Public Financial Management (PFM) Act.

Article 103
Measures for Facilitating Trade and Preventing Illicit Financial Flows

1. The Customs Department shall in the management of the declaration system, ensure a focus on identifying risks related to money laundering, terrorism financing, or other illicit activities, while avoiding undue hindrance to legitimate trade transactions.

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2. The Customs Department shall conduct outreach programs and provide education to individuals and businesses on their obligations under the declaration system. This includes informing them about the system's purpose and the importance of accurate reporting, while assuring them that legitimate trade activities will not be unduly obstructed.

3. The Customs Department shall implement streamlined declaration processes to minimize disruption to legitimate trade activities. This may include developing electronic declaration systems or fast-track procedures for pre-approved traders.

4. The Customs Department shall adopt a risk-based approach to customs inspections and enforcement, focusing resources on high-risk transactions or individuals based on intelligence and profiling techniques, rather than subjecting all transactions to the same level of scrutiny.

Article 104
Pre-arrival/departure approval for bulky cross-border cash and negotiable instruments

1. In addition to the declaration required at the relevant port of entry or departure, financial institutions and entities engaged in international trade that are planning to transport bulky cash and negotiable instruments whose value exceeds the $100,000 threshold must obtain pre-arrival/departure approval, by completing the designated approval form provided on the Ministry of Finance's official website.

2. Completion of the approval form shall be undertaken either electronically or manually, with due diligence to ensure that all fields are appropriately filled. The completed form shall be promptly submitted to the Revenue Directorate of the Ministry of Finance through the designated channels specified on the official website. Submission shall be conducted well in advance and at least 24 hours before the planned transportation date to allow for adequate processing time. The completed form shall be accompanied by requisite documentation, including identification documents, proof of ownership or authorization, and any mandatory permits or licenses.

3. The Revenue Directorate shall undertake a thorough review of the submitted form and accompanying documentation to ascertain compliance with regulatory requisites and identify any associated risks. This review process may entail, when necessary, the validation of the transaction's legitimacy, background checks on involved parties, and assessment of potential illicit financial activities.

4. Upon successful completion of the review and approval process, the Revenue Directorate shall promptly communicate the approval decision to the applicant. Such communication shall encompass issuance of an approval notice or authorization document delineating the terms and conditions governing the approved transportation.

5. Compliance with the stipulated conditions and requirements outlined in the approval notice or authorization document is mandatory. This includes adherence to designated transportation routes, provision of timely notification regarding any

deviations from the approved plan, and unwavering compliance with pertinent laws and regulations throughout the transportation endeavor.

6. In accordance with Regulations, the cross-border transportation of cash and negotiable instruments is hereby classified as falling under the jurisdiction of export and import. Consequently, only the Ministry of Finance and its relevant Departments are authorized to grant approval for such transactions. Requests for approval must be exclusively directed to the Revenue Directorate of the Ministry of Finance, in strict adherence to prescribed procedures outline in this Article.

7. Failure to obtain pre-arrival/departure approval shall not incur penalties beyond the refusal to permit the departure of bulky cash and negotiable instruments from the Customs-controlled area or the release of such items upon arrival from the Customs-controlled area. This refusal shall persist until prior authorization is obtained, unless a violation against the required truthful declaration is committed.

Article 105
Penalties for Violations of Declaration Obligations

Violations against the declaration obligation under Part Seven of this Regulation shall be punished in accordance with the relevant provisions of the Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Act that is in force.

PART EIGHT
MISCELLANEOUS PROVISIONS

Article 106
Compounding of Offenses

Unless stated otherwise, all offenses specified in this Regulation shall be compoundable in accordance with the provisions outlined in Article 97 of the Revenue Administration Law, 2019.

Article 107
Numbering Format of the Regulation

In adherence to Article 61 of the Revenue Administration Regulation 2024 (Regulation No. 336-2024 of April 26, 2024), this Regulation shall be designated with the main number provided in the reference section of the approval letter, followed by a hyphen and the year in which the approval letter was issued, in accordance with the format specified in Article 61 of the Revenue Administration Regulation 2024.

Article 108
Entry into force and implementation of the Regulation

1. This Regulation becomes effective upon its publication on the Ministry of Finance website subsequent to its approval by the Minister of Finance.

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2. This Regulation is issued in Somali and in English. In case of any discrepancy, the English version of this Regulation will take precedence over the Somali version.

3. The Minister may, by order, defer or suspend the implementation of any chapter or article of this Regulation to allow for the smooth implementation of the Regulation.

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