S. I. 42 of 2014

CUSTOMS MANAGEMENT ACT, 2011

(*Act 22 of 2011*)

CUSTOMS MANAGEMENT REGULATIONS, 2014

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S. I. 42 of 2014

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(*Act 22 of 2011*)

CUSTOMS MANAGEMENT REGULATIONS, 2014

In exercise of the powers conferred by section 270 of the Customs Management Act, 2011, the Minister of Finance, Trade and Investment hereby makes the following regulations —

CHAPTER 1
PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Customs Management Regulations, 2014 and shall come into operation on the 1st day of June, 2014.

Interpretation

2. In these regulations, unless the context otherwise requires —

"Act" means the Customs Management Act, 2011;

"buying commission" means any fee paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the imported goods;

"carrier" means the person actually transporting goods or in charge of, or responsible for, the operation of the means of transport;

"carrier medium" means any physical object designed principally for use in storing a digital product by any method, and from which a digital product can be perceived, reproduced, or communicated, directly or indirectly, and includes, but is not limited to, an optical medium, a floppy disk, or a magnetic tape, but does not include integrated circuits, semiconductors and similar devices or articles incorporating such circuits or devices;

"CN22" and "CN23" means the special declaration forms for postal items specified under Schedule 1;

"Customs" shall have the meaning assigned to it under section 2 of the Act;

"customs value of imported goods" means the value of goods for the purpose of levying duties and taxes on imported goods;

"essential information" means information that is necessary for the assessment of a goods declaration which includes—

(a) description of goods;

(b) quantity and value of goods; and

(c) origin of goods;

"goods of the same class or kind" means goods which falls within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;

"identical goods" means goods that are the same in all respect, including physical characteristics, quality and reputation, where minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;

"imported goods", in relation to which the customs value has to be determined, means goods presented

to Customs at the time of entry for domestic consumption;

"incomplete declaration" means a bill of entry which does not contain all the essential information to facilitate the assessment of the goods declaration;

"postal items" means the postal articles as defined in the Postal Sector Act, when carried for postal services;

"postal operator" means any public postal operator or any person licensed to provide postal services under the Postal Sector Act;

"produced" includes grown, manufactured and mined;

"provisional declaration" means an undertaking by the declarant to produce a final and complete goods declaration or to provide supplementary information to Customs in order to receive immediate release of the goods;

"similar goods" means goods that, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same function and to be commercially interchangeable;

"Universal Postal Union" means the specialised agency of the United Nations on postal services.

CHAPTER 2
VALUATION OF GOODS

Determination of identical or similar goods

3.(1) In determining whether goods are identical or similar, the quality of the goods, their reputation and the existence of a trademark are among the factors to be considered.

(2) The identical goods or similar goods shall not include goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under regulation 8(1)(b)(iv).

(3) Goods shall not be regarded as identical goods or similar goods unless they are produced in the same country as the goods being valued.

(4) Any goods produced by a different person shall be taken into account only when there are no identical goods or similar goods produced by the same person as the goods being valued.

Related persons

4.(1) For the purposes of these regulations, persons shall be deemed to be related if—

(a) they are officers or directors of one another's businesses;

(b) they are legally recognised associates in business;

(c) they are employer and employee;

(d) any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;

(e) one of them directly or indirectly controls the other;

(f) both of them are directly or indirectly controlled by a third person;

(g) together they directly or indirectly control a third person; or

(h) they are members of the same family.

(2) All persons associated in business with one another where one person is the sole agent, sole distributor or sole concessionaire of the other persons shall be deemed to be related for the purpose of this regulation, if they fall under any of the categories referred to in subregulation (1).

Price actually paid or payable

5. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to Seychelles adjusted in accordance with the provisions of regulation 8, provided that—

(a) there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which—

(i) are imposed or required by law;

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods;

(b) the sale or price is not subject to any term or external condition for which a value cannot be determined with respect to the goods being valued;

(c) no part of the proceeds of any disposal, use or subsequent resale of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in terms of regulation 8; and

(d) the buyer and the seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes within the meaning of regulation 6.

Determination of transaction value

6.(1) In determining whether the transaction value is acceptable for the purposes of regulation 5, the fact that the buyer and the seller are related within the meaning of regulation 4 shall not be sufficient grounds for regarding the transaction value as unacceptable.

(2) The circumstances of the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price.

(3) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with regulation 5, where the declarant demonstrates that such value closely approximates one of the following, occurring at or about the same time—

(a) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

(b) the customs value of identical or similar goods as determined under the provisions of regulation 12; or

(c) the customs value of identical or similar goods as determined under the provisions of regulation 13.

(4) In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in regulation 8 and costs incurred by the seller in sales in which the seller and the buyer are not related, that are not incurred by the seller in sales in which the seller and the buyer are related.

(5) The provisions of subregulation (3) are to be applied at the initiative of the importer and for comparison purposes only.

(6) Substitute values shall not be established under the provisions of subregulation (3).

(7) If Customs determines that the relationship influenced the price, Customs shall communicate the grounds for the determination to the declarant and the declarant shall be given a reasonable opportunity to respond.

Form of payment

7.(1) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods.

(2) The payment may be made, directly or indirectly, in the form of a transfer of money, cash, letter of credit, negotiable instrument, or other acceptable method of payment.

(3) Any activity, including marketing activity, undertaken by the buyer on the buyer's own account, other than those for which an adjustment is made under regulation 8, shall not be considered as an indirect payment to the seller, even though it might be regarded as of benefit to the seller, and shall not be added to the price actually paid or payable in determining the customs value of the imported goods.

Adjustments of price actually paid or payable

8.(1) In determining the customs value under regulation 5, there shall be added to the price actually paid or payable for the imported goods—

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods—

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question; and

(iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services, where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable,—

(i) materials, components, parts and similar items incorporated in the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods;

(iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

(c) the royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller; and

(e) The following costs, to the extent that they are incurred by the buyer but not included in the price actually paid or payable

(i) the cost of transport of the imported goods to the port or place of importation;

(ii) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and

(iii) the cost of insurance.

(2) Any addition to the price actually paid or payable shall be made on the basis of objective and quantifiable data.

(3) Notwithstanding regulation 8(1)(c)—

(a) the charges for the right to reproduce the imported goods in Seychelles shall not be added to the price actually paid or payable for the imported goods in determining the customs value; and

(b) the payment made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the Seychelles.

Value of identical goods

9.(1) Where the customs value of the imported goods cannot be determined under regulation 5, customs value shall be based on the transaction value of identical goods sold for export to Seychelles and exported at or about the same time as the goods being valued.

(2) In applying this regulation, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) Where no such sale is found, the transaction value of identical goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(4) Where the costs and charges referred to in regulation 8(1) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods arising from differences in distances and modes of transport.

(5) Where more than one transaction value of identical goods is found, the lowest of such values shall be used to determine the customs value of the imported goods.

Value of similar goods

10.(1) Where the customs value of the imported goods cannot be determined under regulation 5 or 9, customs value shall be based on the transaction value of similar goods sold for export to Seychelles and exported at or about the same time as the goods being valued.

(2) In applying this regulation, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value.

(3) Where no such sale is found, the transaction value of similar goods sold at a different commercial level or in different quantities, adjusted to take account of differences attributable to commercial level or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

(4) Where the costs and charges referred to in regulation 8(1) are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods arising from differences in distances and modes of transport.

(5) Where more than one transaction value of similar goods is found, the lowest of such values shall be used to determine the customs value of the imported goods.

Application of valuation methods in reverse order

11. Where the customs value of imported goods cannot be determined under the provisions of regulations 5, 9 and 10, the customs value shall be determined under the provisions of regulation 12 or, when the customs value cannot be determined under that regulation, under the provisions regulation 13 except that, at the request of the importer, the order of application of regulation 12 and 13 shall be reversed.

Deductive value

12.(1) Where the imported goods or identical or similar imported goods are sold in Seychelles in the same condition as that in which they were when imported, the customs value of the imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods, as the case may be, are sold in Seychelles in the greatest aggregate quantity, at or about the time of importation of the goods to be valued, by the importers thereof to persons not related to the importer, subject to deductions for—

(a) commissions usually paid or agreed to be paid or additions usually made for profit and general expenses, including the direct and indirect costs of marketing the goods relative to sales in Seychelles of imported goods of the same kind or class as the goods to be valued, irrespective of the country of exportation;

(b) the cost of transportation and the cost of loading, unloading, handling, insurance and associated costs incidental to the transportation of the goods from the port or place of export in the country of exportation to the importer's premises in Seychelles;

(c) where appropriate, the costs and charges referred to in regulation 8(2); and

(d) any duties and taxes paid or payable in Seychelles by reason of the importation of the goods or sale of the goods within Seychelles.

(2) Where the imported goods or identical or similar imported goods are not sold at or about the time of importation of the goods to be valued, the customs value shall, subject to subregulation (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in Seychelles in the same condition as that in which they were when imported, at the earliest date after the importation of the goods being valued, but not later than 90 days after such importation.

(3) Where the imported goods or identical or similar imported goods are not sold in Seychelles in the condition as imported, then, if the importer so requests in writing, the customs value shall be based on the unit price at which the imported goods, after further processing, aré sold in the greatest aggregate quantity to persons in Seychelles who are not related to the sellers of such goods, due allowance being made for the value added by such processing and the deductions referred to in subregulation (1).

Computed value

13.(1) Where the customs value of the imported goods cannot be determined under regulations 5, 9, 10 or 12, the customs value shall be based on a computed value which shall consist of the sum of—

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles; and

(c) the cost or value of all other expenses referred to in regulation 8(1).

(2) The Customs may not require or compel any person not resident in Seychelles to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value.

(3) The information supplied by the producer of the goods for the purpose of determining the customs value may be verified in another country by Seychelles authorities with the agreement of the producer and provided that the Government of the country in question does not object to the investigation.

Fall-back method

14.(1) Where the customs value of imported goods cannot be determined under regulation 5, 9 to 13, inclusive, the customs value shall be determined using reasonable means, consistent with the principles and general provisions of Article VII of the General Agreement on Tariffs and Trade 1994 and the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, on the basis of data available in Seychelles.

(2) Notwithstanding anything in this regulation, the customs value shall not be determined under this regulation on the basis of—

(a) the selling price in Seychelles of goods produced in Seychelles;

(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;

(c) the selling price of goods on the domestic market of the country of origin or exportation;

(d) the cost of production, other than computed values which have been determined for identical or similar goods in accordance with regulation 13;

(e) the price of the goods for export to a country other than Seychelles;

(f) a system of minimum customs values; or

(g) arbitrary or fictitious values.

(3) Where the importer so requests, the importer shall be informed in writing of the customs value under the provisions of these regulations and the method used to determine such value.

Exchange rate

15. Where factors used to determine the customs value of goods are expressed in a currency other than the currency of Seychelles, the rate of exchange published by the competent authorities of Seychelles, in effect on the date of importation shall be applied.

Carrier media

16. In determining the customs value of imported carrier media bearing data or instructions, customs value shall not include the cost or value of the data or instructions

(excluding sound, cinematic or video recordings), provided that this is distinguished from the cost or the value of the carrier medium.

Interpretative notes to this Chapter

17. The interpretative notes specified in Schedule 2 shall apply for the interpretation of this Chapter.

CHAPTER 3
MANIFEST FORM AND PROCEDURES

Exceptions

18. Any cargo brought into Seychelles shall be covered by a cargo manifest except for—

(a) passenger's accompanied baggage;

(b) fish caught by local fisherman and landed using their own vessels;

(c) currency imported in the maximum amount of $10,000 or equivalent; and

(d) goods imported through the post.

Cargo manifest

19. The carrier or the carrier's authorised agent shall electronically submit cargo manifest, to the Customs through the customs computer system and shall conform to the approved formats or manually capture the cargo manifest directly to the customs computer system—

(a) within 72 hours before the arrival of a vessel carrying the cargo; or

(b) immediately following the departure of an aircraft from its point of origin for cargo arriving by air.

Registration of manifest

20. The carrier or the carrier's authorised agent shall register the cargo manifest on the customs computer system and submit a printed copy thereof to the Customs, on arrival of a vessel or an aircraft in Seychelles and before the unloading of the cargo.

Non- release of goods prior to registration of manifest

21. With the exceptions set forth in regulation 18, cargo shall not be released from the Customs without prior registration of a cargo manifest.

CHAPTER 4
SUPPLY AND GRANTING OF STORES

Stores on board

22. Subject to regulation 24, any vessel or aircraft departing for a destination or place outside Seychelles shall b e entitled to take on board, exempted from duties and taxes, stores in such quantities deemed reasonable.

Supply and granting of stores

23. The procedures and conditions, for the supply and granting of stores to be taken on board an aircraft or vessel departing from Seychelles bound for an airport, port or destination beyond the territorial waters of Seychelles, shall be as follows —

(a) the master or commander of a vessel or aircraft or their representative shall submit an application to Customs in the forms specified under Schedule 3, containing the details of—

(i) the number of passengers and crew;

(ii) the length of the voyage or flight;

(iii) the quantities of such stores already on board;

(iv) the quantity of any goods which may be carried in any vessel or aircraft as stores for use on a voyage or flight to a destination outside Seychelles; and

(v) the description of vessel on which goods carried as stores is intended to be used; and

(b) the approval for the application of stores shall be subject to such quantities as the Assistant

Commissioner of Customs deems reasonable having regard to the matter specified under paragraph (a) *(i)* to *(v)*.

24. Subject to the limitations specified in section 22, goods shall be permitted to be shipped as stores without payment of the duty and tax on aircraft or in vessels of not less than 40 tons net tonnage register bound for a country or destination beyond the territorial waters of Seychelles.

Restriction of stores to size of craft

25. Where stores shipped or carried in pursuant to these regulations are landed or unloaded as a result of force majeure at any place within Seychelles, —

Force majeure

(a) the stores shall not be liable to forfeiture; and

(b) the owner and commander of an aircraft or master of a vessel shall not be subject to any penalties,

subject to condition that any duty and tax, other than excise duty and tax, payable under these regulation shall be recoverable as a debt owed to Government.

CHAPTER 5
SECURITY FOR TRANSIT AND TRANSSHIPMENT PROCEDURE

Form of security

26. Where a security is required to be lodged under the Act, such security shall be in the form of —

(a) cash;

(b) a certified cheque;

(c) bank guarantee;

(d) insurance guarantee; or

(e) any combination of security specified in paragraphs (a), (b) and (c).

Sufficient security

27. The forms of security shall be sufficient for all purposes of a bond or guarantee under these regulations and shall bind the guarantor to such security.

Validity

28. All security shall be valid for a period as may be specified in the bond or guarantee agreement and may be reviewed accordingly.

Amount of security

29. The Customs shall fix the amount of security, at a level equal to —

(a) the amount of the liability where that amount can be established based on the customs value of the goods; or

(b) an amount, as established by Customs based on available evidence of the liability which may be incurred.

Comprehensive security for transit or transshipment operations

30. The Customs may allow for a comprehensive security covering a number of transit or transshipment operations and the amount of such security shall be set at a level ccommensurate with the maximum possible revenue risk to cover each transit or transhipment operation at all times.

CHAPTER 6
DECLARATIONS FOR IMPORTATION OR EXPORTATION OF GOODS

Electronic declaration

31. All declarations, except a declaration under section 100 of the Act, for the importation or exportation of goods shall be submitted through the Customs computer system in the electronic declaration form set out in Schedule 4 and a printed copy thereof to the Customs.

Documents to be signed

32. The printed copy of the declarations for the importation and exportation of goods shall be signed.

Acceptance by Assistant Commissioner

33. The declarations complying with regulation 31 shall be accepted by the Assistant Commissioner of Customs without delay, provided that the goods to which they refer are presented to Customs.

CHAPTER 7
PROVISIONAL AND INCOMPLETE DECLARATION

Same form to be used

34. A provisional or incomplete declaration shall be completed using the same form as a complete goods declaration.

Requirements for declaration

35. Where a provisional or incomplete declaration is accepted under this regulation, the declarant shall provide Customs with all information required for a complete declaration within the following time frame —

(a) for perishable goods, within 48 hours; and

(b) for all other goods, within 3 months.

Release of goods

36. Where a provisional or incomplete declaration is accepted and the declarant has given security to the satisfaction of Customs for payment of any outstanding duties and taxes, the goods may be released without payment of any duty and tax chargeable in respect of the goods, subject to the condition that any such duty or tax shall be paid within three months.

Date of acceptance

37. The point in time for determining the rates of duties and taxes payable, and any other measures applicable to the goods, shall be the date of acceptance by Customs of the provisional or incomplete declaration.

Revocation of approval

38.(1) The Customs may revoke the acceptance of provisional or incomplete declaration where Customs determines that —

(a) the person has failed to comply with any requirement imposed by the provisions relating to the control of importation or exportation; or

(b) there are other reasonable grounds for the revocation.

(2) The Assistant Commissioner of Customs shall inform the declarant of its decision in writing.

CHAPTER 8
DISPOSAL OF GOODS

Measures to be taken by Customs

39. The Customs shall take appropriate measures to regularise goods including confiscation, seizure, abandonment, destruction or sale to dispose of goods.

Goods liabile to forfeiture

40. The goods that are liable to forfeiture may be seized and disposed of in accordance with these regulations where—

(a) the goods have been brought unlawfully into Seychelles or have been withheld from Customs supervision or control; or

(b) the goods are subject to prohibitions or restrictions, including those related to health, security and safety.

Goods deemed abandoned

41. The Assistant Commissioner of Customs shall advise the importer that if the status set forth in this regulation is not complied with within 21 days of notification, the goods in question shall be deemed abandoned and treated in accordance with these regulations where—

(a) the formalities necessary for the goods are not initiated within 30 working days after completing discharge for goods carried by sea or air;

(b) the goods have not been removed from Customs control area within 30 days after their release or clearance by Customs;

(c) the goods cannot be released because it has not been possible to undertake or continue examination of the goods within such period as Customs think appropriate for the reasons communicated to the declarant;

(d) required payments or a guarantee in respect of import or export duties and taxes, have not been made or provided within the period fixed by Customs; or

(e) the documents required before the placement of goods under these regulations have not been produced within the period fixed by Customs.

42.(1) Any notification under regulation 41 shall be deemed to have been duly served on the importer—

Notification

(a) if addressed to the importer and left or forwarded by post at his usual or last known place of abode or business or corporation, at its registered or principal office; or

(b) where the importer has no address within Seychelles, or the address is unknown, by publication of notice of abandonment in the *Gazette* or national newspapers.

(2) The date of notification shall be 3 working days from the date of posting or the date of the publication in the *Gazette* or national newspapers.

43. Where the Assistant Commissioner of Customs is satisfied that any goods presented to Customs is not in conformity with the provisions of the Act or these regulations, the Assistant Commissioner of Customs may require such goods to be destroyed and shall inform the declarant in writing accordingly.

Destruction of goods

Disposal of harmful goods and packaging

44. Notwithstanding regulation 43, where Customs determines that any goods under Custom's control are detrimental to health, Customs may direct that such goods, including any packing and containers in which they are packed be seized, and destroyed or otherwise dealt with in accordance with the relevant provisions of any written law.

Inspection by owner

45. Subject to regulation 44, Customs shall notify the owner of the goods in advance so as to allow him to inspect the goods prior to their disposal.

Appeal

46. The importer or the owner of the goods, as the case may be, aggrieved by a decision of Customs under regulation 40, 41, 42 or 45 may appeal to the Revenue Commissioner in accordance with section 32 of the Act.

Costs for destruction

47. Where goods are destroyed under these regulations, the costs incurred for the destruction of the goods, including the costs of the packaging and containers shall be borne by the importer or exporter.

No rights to accounting or compensation

48. Where goods are disposed of under these regulations, a person with any rights in those goods shall not be entitled to any accounting or compensation for their value.

Waste or scrap

49. Any waste or scrap remaining after destruction shall be liable, if taken into home use or exported, to the duties and taxes that would be applicable to such waste or scrap imported or exported in that state as required under the relevant Customs-approved procedure or use.

Abandonment

50. Imported goods may be voluntarily abandoned to Customs by the declarant or, as the case may be, the holder of the goods.

Costs to be borne by declarant

51. The declarant or, as the case may be, the holder of the goods, shall bear the costs of any destruction or other disposal of goods abandoned under regulation 50.

Sale by auction

52.(1) Where Customs sells goods which have not been declared within the time specified under these regulations, or could not be released, the proceeds of the sale, after deduction of any duties and taxes and all other charges and expenses incurred, shall be remitted to those persons entitled to receive them or held for their account for 4 years.

(2) Subregulation (1) shall not apply to the sale of goods by Customs where the goods have been voluntarily abandoned to Customs and in such cases all the proceeds of the sale shall remain with Customs.

Sale by public auction

53.(1) Where goods which have not been seized or subject to forfeiture are sold by Customs under these regulations, the sale shall be by public auction unless the goods are of a perishable nature.

(2) Any auction under these regulations shall be advertised in the national newspaper circulated in Seychelles, not less than 15 days before it is due to take place.

(3) The Assistant Commissioner of Customs shall appoint a person, who may be an officer, to act as auctioneer at any auction under these regulations.

(4) In every sale by auction, the auctioneer shall announce—

(a) the amount of duty, rent and charges due to Customs on each lot;

(b) that the bids taken will be inclusive of such duty, rent and charges;

(c) that any goods sold but not cleared within 14 days from the day of sale are liable to forfeiture; and

(d) any other special conditions that the Assistant Commissioner of Customs may attach to the sale of any lot.

(4) The Customs officers shall not be permitted to bid at an auction under these regulations.

Disposal of goods not sold at auction

54. Any goods not sold at auction under these regulations, and all prohibited goods forfeited, shall be destroyed or otherwise disposed of as the Revenue Commissioner may direct.

Disposal of counterfeit goods

55. The counterfeit goods shall be disposed of in accordance with the Chapter 13 as applicable to border measures.

Withholding of sale

56. Assistant Commissioner of Customs may, with the prior approval of the Revenue Commissioner, withhold the sale of any goods forfeited for use by the public service or otherwise dealt with in the best interest of revenue.

Disposal by re-exportation

57. Goods may be disposed of through re-exportation by applying the formalities, including commercial policy measures, applicable for goods being exported from Seychelles.

Notification prior to re-exportation

58. Prior to re-exportation of goods under regulation 57, the owner shall submit a notice for approval by Customs unless prescribed otherwise.

CHAPTER 9
USUAL FORM OF HANDLING

Usual form of handling

59.(1) Goods placed under Customs warehousing or a processing procedure or in a trade zone may undergo usual forms of handling intended to preserve them, improve their appearance or marketable quality or prepare them for distribution or resale.

(2) The following forms of handling shall not result in goods having a different harmonised commodity code for the purposes of import duties —

(a) ventilation, spreading-out, drying, removal of dust, simple cleaning operations, repair of packing, elementary repairs of damage incurred during transport or storage in so far as it concerns simple operations, application and removal of protective coating for transport;

(b) reconstruction of the goods after transport;

(c) stocktaking, sampling, sorting, sifting, mechanical filtering and weighing of the goods;

(d) removal of damaged or contaminated components;

(e) conservation, by means of pasteurisation, sterilisation, irradiation or the addition of preservatives;

(f) treatment against parasites;

(g) antirust treatment;

(h) treatment by—

(i) simple raising of the temperature, without further treatment or distillation process, or

(ii) simple lowering of the temperature;

(i) electrostatic treatment or ironing of textiles;

(j) treatment consisting in

(i) stemming or pitting of fruits, cutting up and breaking down of dried fruits or vegetables, rehydration of fruits, or

(ii) dehydration of fruits;

(k) desalination, cleaning and butting of hides;

(l) addition of goods or addition or replacement of accessory components as long as this addition or replacement is relatively limited or is intended to ensure compliance with technical standards and does not change the nature or improve the performances of the original goods;

(m) dilution or concentration of fluids, without further treatment or distillation process;

(n) mixing between them of the same kind of goods, with a different quality, in order to obtain a constant quality or a quality which is requested by the customer, without changing the nature of the goods;

(o) dividing or size cutting out of goods if only simple operations are involved;

(p) packing, unpacking, change of packing, decanting and simple transfer into containers, affixing, removal and altering of marks, seals, labels, price tags or other similar distinguishing signs;

(q) testing, adjusting, regulating and putting into working order of machines, apparatus and vehicles, in particular in order to control the compliance with technical standards, if only simple operations are involved;

(r) dulling of pipe fittings to prepare the goods for certain markets; or

(s) any usual forms of handling, other than the above mentioned, intended to improve the appearance or marketable quality of the

import goods or to prepare them for distribution or resale, provided that these operations do not change the nature or the performance of the original goods.

Risk of fraud

60. The usual forms of handling under regulation 59(2) shall not be permitted if, in the opinion of the Assistant Commissioner of Customs, the operation is likely to increase the risk of fraud.

CHAPTER 10
WAREHOUSE BOND

Execution of bond

61.(1) The warehouse keeper shall execute a bond with Customs in the amount determined by the Assistant Commissioner of Customs sufficient to cover the total amount of potential duties, taxes and applicable levies for goods stored in the warehouse.

(2) The bond and security shall be renewed on an annual basis.

Warehouse keeper responsible

62. The warehouse keeper shall be responsible for maintaining sufficient securities for coverage of potential liabilities on all goods in the warehouse at all times.

Guarantee

63.(1) The warehouse keeper shall, prior to goods being warehoused, guarantee the bond by providing to Customs with a form of security, covering the full amount of duties, taxes and applicable levies for goods stored in the warehouse.

(2) Subject to the approval of the Assistant Commissioner of Customs, the securities may be in the form of—

(a) an insurance guarantee; or

(b) a bank guarantee.

(3) Notwithstanding the termination or expiration of the bond, the underlying securities shall remain valid until all outstanding obligations have been fulfilled.

Termination of warehousing bond

64. Where Customs has been notified that a warehouse keeper wishes to terminate a bond and if—

(a) goods secured by any bond have been cleared or are otherwise duly accounted for; and

(b) the amount due on account of such goods have been paid,

the Assistant Commissioner of Customs shall terminate the bond in full and release the securities.

CHAPTER 11
OBLIGATION TO LODGE PRE-DEPARTURE DECLARATION

Electronic declaration

65. Subject to section 192 of the Act, all exported goods shall be supported by a declaration submitted on Customs' electronic declaration system while complying with the following conditions—

(a) goods subject to any restriction or prohibition shall be authorised for export by the appropriate competent authorities and shall be supported by an export permit;

(b) goods intended for export shall not be re-landed in the Seychelles without permission from the Assistant Commissioner of Customs;

(c) goods shall be exported from a designated port or airport unless otherwise approved by the Assistant Commissioner of Customs; and

(d) goods intended for export shall be presented to Customs prior to loading.

CHAPTER 12
IMPORTATION AND EXPORTATION OF GOODS BY POST

Customs control and supervision

66. All goods imported or exported through the postal operator shall be subject to Customs control and supervision.

Postal items

67. Subject to the prohibitions or restrictions in force under section 63 of the Act, or any written law, importation of goods by post shall be allowed irrespective of whether the goods are intended to be cleared or released for home use or assign to any other Customs-approved procedure or use.

Regulations applicable to Postal traffic

68. Any other written law relating to importation of goods shall apply, *mutatis mutandis,* to goods imported or exported into or out of Seychelles by post from or to any place outside Seychelles as they apply in relation to goods otherwise imported or exported into or out of Seychelles.

Designated post offices

69. The Assistant Commissioner of Customs shall, in consultation with the postal operator, designate the post offices or other places at which the postal items may be cleared for customs purposes.

Clearnce of postal items

70. The clearance of postal items shall be carried out as soon as possible and Customs control shall be restricted to necessary measures required to ensure compliance with the laws and regulations which Customs is responsible for enforcing.

Responsibility for production and handling of postal items

71.(1) The postal operator shall be responsible for the conveyance, storage and production to Customs of postal items and, at the request of Customs, may open them for the purposes of Customs control.

(2) The Customs shall not, as a general rule, require the following categories of imported postal items to be produced for clearance—

(a) postcards and letters containing personal messages only;

(b) literature for the blind; and

(c) printed papers not subject to duties and taxes.

Postal operator to report

72. The postal operator shall report, by means of a manifest or in any other approved form, all goods or parcels arriving or departing from the Seychelles and shall produce such goods to Customs for clearance.

Powers in relation to postal items

73. A Customs officer, whether accompanied by the postal operator or otherwise, may —

(a) open any postal item irrespective of whether the addressee is present or not;

(b) examine, sample and list the contents of any postal item;

(c) assess any duties and taxes payable on the goods contained in any postal item;

(d) detain any such goods for payment of any duties and taxes payable

(e) detain any such goods pending enquiries relating to the dutiable or taxable nature of the goods or whether any prohibitions or restrictions apply to the goods; or

(f) seize any goods that are liable to forfeiture under any law or regulations in force.

Declaration of postal items

74.(1) All imports or exports by post shall be accompanied by a completed form CN 22 or CN 23, as the case may be, affixed to the postal item.

(2) The completed form CN22 or CN23, as the case may be, shall be construed as goods declarations.

(3) Notwithstanding subregulation (2), a separate goods declaration is required where —

(a) goods having a value exceeding SCR 5,000.00 in accordance with regulation in force;

(b) goods which are subject to prohibitions or restrictions on importation;

(c) imported goods to be placed under a Customs-approved procedure or use other than clearance for home use; or

(d) goods the exportation of which must be endorsed by Customs such as

(i) goods exported for repair or replacement; or

(ii) goods subject to claim for VAT refund or duty drawback.

Exportation of postal items

75.(1) The Assistant Commissioner of Customs shall not require postal items to be produced to Customs at exportation for the purposes of Customs control unless they contain goods —

(a) the exportation of which must be certified;

(b) which are subject to export prohibitions or restrictions;

(c) which are subject to export duties and taxes; or

(d) which are selected for Customs control on a selective or random basis.

Uncustomed goods

76.(1) Any uncustomed, prohibited or restricted goods, shall be subject to detention, forfeiture or seizure under the laws and regulations in force.

CHAPTER 13
BORDER MEASURES FOR PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Applications by rightsholder

77.(1) A rightsholder may submit an application to Customs, in accordance with the procedures and under the conditions set out in this Chapter, for the suspension of customs clearance of imported goods that are suspected of being infringing goods.

(2) Any application by a rightsholder for suspension of customs clearance of imported goods that are suspected of being infringing goods under these regulations shall be made in the form specified under Schedule 5.

(3) The Customs shall process the application received under subregulation (2) as early as practicable and shall allow the application if it *prima facie* satisfies the following conditions—

(a) the intellectual property right which relates to the goods subsists; and

(b) the applicant is the rightsholder of that intellectual property right.

(4) In order to determine whether the goods are infringing goods, Customs may request additional information from the applicant.

(5) Where Customs is not satisfied with an application due to lack of information provided, Customs shall not reject the application but shall notify the applicant and defer its decision pending submission of additional information by the applicant within 10 working days of the submission of the notification.

(6) An urgent application in which immediate action is required and where sufficiently specific information

concerning known shipments containing allegedly infringing goods is provided shall be determined immediately, and notification to the rightsholder shall be made as soon as practicable.

(7) Where the applicant has been granted an extension of the time limit for taking actions, such extension shall automatically apply to the appeal procedure referred to in these regulations.

(8) Where an application is rejected, Customs shall clearly state the reason for the rejection.

Suspension of clearance

78.(1) The Customs shall suspend clearance of the goods if satisfied that the goods are infringing goods covered by the application allowed under section 76(3).

(2) The suspension of clearance of goods under subregulation (1) shall be effective for 90 days unless the rightsholder—

(a) requested a shorter period; or

(b) applied for action in cases of specific shipments.

(3) The Customs shall refuse to suspend clearance of goods unless the rightsholder furnishes to Customs a security in the manner and amount that Customs may reasonably require to indemnify itself against any liability that may be incurred pursuant to such suspension, and to cover any expenses that may be incurred in effecting the suspension.

(4) The Customs shall inform all Customs offices immediately of the suspension with full particulars to enable them to act in accordance with the terms of the suspension.

(5) The Customs shall immediately inform the following persons of the suspension of the clearance of the goods and the reason therefore in writing—

(a) the importer, exporter, consignee or the consignor where their identity is known to Customs; and

(b) the applicant.

(5) The rightsholder shall inform Customs when his intellectual property right ceases to be valid or if he ceases to be the owner of the right for any reason whatsoever, in which event the application or suspension shall lapse.

Appeal against refusal

79. A decision taken by Customs on refusal of the application shall be subject to the appeal in accordance section 32 of the Act.

Suspension of clearance of goods by Customs on its own initiative

80.(1) The Customs may, on its own initiative, suspend the clearance of goods —

(a) in respect of which it has acquired *prima facie* evidence that the goods are infringing goods; or

(b) where there are reasonable grounds to suspect that the goods are infringing goods.

(2) Where Customs suspends the clearance of goods under subregulation (1), the provisions of sections 4 and 5 of the Act shall, *mutatis mutandis* apply.

Disposal of infringing goods

81.(1) Where Customs determines that goods are infringing goods, Customs may, upon the request by the rightsholder, order that the goods be forfeited and destroyed, where the rightsholder has provided adequate evidence to the satisfaction of Customs that the goods are infringing goods, and —

(a) the importer, the exporter, the consignee, the consignor, the owner of the goods, or the declarant who has been served by Customs with a notice of suspension, has been informed about the possibility of confiscation and destruction or disposal of goods and does not oppose the measure within 60 days after having been served the notice; or

(b) if after reasonable efforts by Customs the importer, exporter, consignee, consignor, the owner of the goods, or the declarant has not been identified, Customs may, without a court order and without the request of the rightsholder, forfeit and destroy or dispose of the goods.

(2) The Customs shall, while making an order under subregulation (1), take the following into consideration —

(a) disposal shall be outside the normal channels of commerce and in such a manner so as to minimize the risks of further infringements, and without detriment to the rights of the rightsholder;

(b) the rightsholder's proposed manner of destruction or disposal; and

(c) the effect on the environment of the manner of destruction.

(3) The Customs may, with the consent of the rightsholder, retain samples of the infringing goods for the purpose of training or education of Customs officials.

Re-exportation prohibited

82. In the case of counterfeit trademark goods, the re-exportation of the goods in an unaltered state, or subjecting them to a different Customs-approved procedure or use, shall not be permitted except in a case where the Assistant Commissioner of Customs determines that disposal of such goods in Seychelles may result to a security, health or safety risk.

Interpretation under this Chapter

83. In this Chapter, unless the context otherwise requires —

"counterfeit goods" means any goods, including packaging —

(a) bearing without authorisation a trademark which is identical to the trade mark of the rightsholder validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trade mark, and which thereby infringes the rights of the rightsholder of the trade mark in question under the laws of Seychelles; or

(b) infringing any other intellectual property right protected under the Industrial Property Act;

"Court" means the Supreme Court of Seychelles;

"infringing goods" means a counterfeit trade mark goods and pirated copyright goods, but excluding any goods of a non-commercial nature and intended for the importer's or consignee's own personal use contained in personal luggage or sent in small consignments;

"intellectual property right" means the rights granted to the rightsholder in respect of —

(a) copyright, under the Copyright Act, 2014; and

(b) industrial property, under the Industrial Property Act, 2014;

"pirated copyright goods" means any goods which are copies made without the consent of the rightsholder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right of the rightsholder under the laws of Seychelles;

"rightsholder" means a person, pursuant a written law is to be regarded as the owner of an intellectual property right, its successor in title, or its duly authorised exclusive licensee, whether an individual, a corporation or an association, authorised by any of the aforementioned persons to protect its rights;

"suspension" means the cessation of the customs clearance process by which goods enter Seychelles;

"trade mark" means any mark as defined under the Industrial Property Act, 2014, including registered marks, certification marks, collective marks, geographical indications and trade names.

SCHEDULE 1

[Regulations 2 and 74]

FORM CN 22

CUSTOMS CN22

May be opened officially (old C 1)

Part to be detached if the item is accompanied by a customs declaration, otherwise to be filled out.

(See instructions on the back)

Detailed description of contents	Value (Customs) *(specify the currency)*
Net Weight	Total value

☐ Gift ☐ Merchandise

I certify that this item does not contain any dangerous article prohibited by postal regulations.

Signature...

Instructions

If the value of the contents exceeds £ 270 only the upper part of this label should be affixed to the item and customs declaration CN23 should be completed.

The contents of your item **(even if a gift or sample)** must be described fully and accurately. Non- observance of this condition may lead to the delay of the item and inconvenience to the addressee, or even lead to the seizure of the item by the customs authorities abroad.

Your item must not contain any dangerous article prohibited by postal regulations.

FORM CN23

CUSTOMS DECLARATION CN 23

(Postal administration)

No. of item (barcode, if any) — May be opened officially — Important! See instructions on the back

From: Name / Business / Street / Postcode City / Country — Sender's Customs reference (if any)

To: Name / Business / Street / Postcode City / Country

Importer's reference (if any) (tax code/VAT No./importer code) (optional)

Importer's telephone/fax/e-mail (if known)

Detailed description of contents (1)	Quantity (2)	Net weight (in kg) (3)	Value (5)	For commercial items only: HS tariff number (7)	Country of origin of goods (8)
		Total gross weight (4)	Total value (6)	Postal charges/Fees (9)	

Category of item (10): ☐ Gift ☐ Documents ☐ Commercial sample ☐ Returned goods ☐ Other — Explanation

Office of origin/Date of posting

Comments (11): (e.g. goods subject to quarantine, sanitary/phytosanitary inspection or other restrictions)

I certify that the particulars given in this customs declaration are correct and that this item does not contain any dangerous article or articles prohibited by legislation or by postal or customs regulations

☐ Licence (12) No(s). of licence(s) — ☐ Certificate (13) No(s). of certificate(s) — ☐ Invoice (14) No. of invoice

Date and sender's signature (15)

Size 210 x 148 mm

SCHEDULE 2

[*Regulation 17*]

INTERPRETATIVE NOTES TO CHAPTER 2

GENERAL NOTE

1. Sequential application of valuation methods —

(1) Regulations 5 and 9 to 14 define how the customs value of imported goods is to be determined under these regulations. The methods of valuation are set out in a sequential order of application. The primary method for customs valuation is defined in regulation 5 and imported goods are to be valued in accordance with the provisions of this regulation whenever the conditions prescribed therein are fulfilled.

(2) Where the customs value cannot be determined under the provisions of regulation 5, it is to be determined by proceeding sequentially through the succeeding regulations until to the first such regulation under which the customs value can be determined. Except as provided in regulation 11, it is only when the customs value cannot be determined under the provisions of a particular regulation that the provisions of the next regulation in the sequence can be used.

(3) If the importer does not request that the order of regulation 12 and 13 be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value under the provisions of regulation 13, the customs value is to be determined under the provisions of regulation 12, if it can be so determined.

(4) Where the customs value cannot be determined under the provisions of regulation 5 and 9 through 13 it is to be determined under the provisions of regulation 7.

2. Note to regulation **5** —

(1) Use of generally accepted accounting principles —

(a) "Generally accepted accounting principles" refers to the recognised consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

(b) For the purposes of these regulations, the customs administration shall utilise information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the regulation in question. For example, the determination of usual profit and general expenses under the provisions of regulation 12 would be carried out utilising information prepared in a manner consistent with generally accepted accounting principles of Seychelles. On the other hand, the determination of usual profit and general expenses under the provisions of regulation 13 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in regulation 8 (1)(b)(ii) undertaken in Seychelles would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.

(2) Price actually paid or payable —

(a) The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments.

Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

(b) Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in regulation 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

(c) The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods —

(i) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

(ii) the cost of transport after importation;

(iii) duties and taxes of Seychelles.

(d) The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

(3) Subregulation (a)(iii) Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

(4) Subregulation (b) —

(i) If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include —

(a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;

(b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

(c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.

(ii) The conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in Seychelles shall not result in rejection of the transaction value for the purposes of regulation 5. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

3. Regulation 6 —

(1) Regulation 6 (1) to (3) provide different means of establishing the acceptability of a transaction value.

(2) Regulation 6 (1) and (2) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration has no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

(3) Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organise their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of regulation 2, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realised over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

(4) Regulation 6(3) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable

under the provisions of Article 1. Where a test under regulation 6 (3) is met, it is not necessary to examine the question of influence under regulation 6 (1) and (2). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in regulation 6 (3) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In regulation 6 (3) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

4. Regulation 6(3) —

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in regulation 6 (3).

5. Note to regulation 9 —

(1) In applying regulation 9, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used —

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

(2) Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for —

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

(3) For the purposes of regulation 9, the transaction value of identical imported goods means a customs value, adjusted as provided for in regulation 9 (2) to (4), which has already been accepted under regulation 5.

(4) A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognised that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of regulation 9 is not appropriate.

6. Note to regulation 10 —

(1) In applying regulation 10, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used —

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

(2) Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for —

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

(3) For the purpose of regulation 10, the transaction value of similar imported goods means a customs value, adjusted as provided for in sub regulation (2) and (3), which has already been accepted under Article 1.

(4) A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of regulation 10 is not appropriate.

7. Note to regulation 12 —

(1) The term "unit price at which goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is

sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

(2) As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	*Unit price*	*Number of sales*	*Total quantity sold at each price*
1-10 units	100	10 sales of 5 units	65
		5 sales of 3 units	
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units	80
		1 sale of 50 units	

(3) The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

(4) As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

(5) A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity	*Unit price*
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity sold	*Unit price*
65	90
50	95
60	100
25	105

(6) In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

(7) Any sale in the importing country, as described in regulation 12(1), to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in regulation 8(1)(b), should not be taken into account in establishing the unit price for the purposes of regulation 12.

(8) It should be noted that 'profit and general expenses" referred to in regulation 12(1) should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in Seychelles of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.

(9) The "general expenses" include the direct and indirect costs of marketing the goods in question.

(10) Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of regulation 12(1)(d) shall be deducted under the provisions of regulation 12(10(a).

(11) In determining either the commissions or the usual profits and general expenses under the provisions of sub regulation 1 of regulation 12, the question whether certain goods are "of the same class or kind" as other goods

must be determined on a case-by-case basis by reference to the circumstances involved. Sales in Seychelles of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of regulation 12, "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

(12) For the purposes of regulation 12(2), the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

(13) Where the method in regulation 12(3) is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

(14) It is recognized that the method of valuation provided for in regulation 12(3) would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in Seychelles that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

8. Note to regulation 13 —

(1) As a general rule, customs value is determined under these regulations on the basis of information readily available in Seychelles. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside Seychelles. In most cases the producer of the goods will be outside the jurisdiction of the authorities of Seychelles. The use of the computed value method will generally be limited to those cases where

the buyer and seller are related, and the producer is prepared to supply to the authorities of Seychelles the necessary costing and to provide facilities for any subsequent verification which may be necessary.

(2) The "cost or value" referred to in regulation 13(1)(a) is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

(3) The "cost or value" shall include the cost of elements specified in regulation 8(1)(a)*(ii)* and *(iii)*. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to regulation 8, of any element specified in regulation 8(1)(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in regulation 8(1)(b)(iv) which are undertaken in Seychelles shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

(4) The "amount for profit and general expenses" referred to in regulation 13(1)(b) is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles.

(5) It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in Seychelles and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on sales of the imported goods because

of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in Seychelles and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to Seychelles, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

(6) Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities Seychelles shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Section 37 of the Customs Management Act, 2011.

(7) The "general expenses" referred to in regulation 13(1)(b) covers the direct and indirect costs of producing and selling the goods for export which are not included under regulation 13(1)(a).

(8) Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of regulation 13, sales for export to Seychelles of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of regulation 13, "goods of the same class or kind" must be from the same country as the goods being valued.

9. Note to regulation 14—

(1) Customs values determined under the provisions of regulation 14 should, to the greatest extent possible, be based on previously determined customs values.

(2) The methods of valuation to be employed under regulation 14 should be those laid down in regulation 5, 9 to 13 but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of regulation 14.

(3) Some examples of reasonable flexibility are as follows—

Identical goods— the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of regulation 12 and 13 could be used.

Similar goods— the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of regulation 12 and 13 could be used.

Deductive method— the requirement that the goods shall have been sold in the "condition as imported" in paragraph 1(a) of regulation 12 could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

10. Note to regulation 8—

(1) Subregulation 1(a)(i) The term "buying commissions" means fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the goods being valued.

(2) Subregulation 1(b)(ii) There are two factors involved in the apportionment of the elements specified in regulation 8(1)(b)*(ii)* to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

(3) Concerning the value of the element, if the importer acquires the element from a seller not related to the importer at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to the importer, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

(4) Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, the importer may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.

(5) As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with the producer to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

(6) Subregulation 1(b)(iv) Additions for the elements specified in regulation 8(1)(b)*(iv)* should be based on objective and quantifiable data. In order to minimise the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

(7) For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

(8) The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

(9) For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside Seychelles in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of regulation 8.

(10) In another case, a firm may carry the cost of the design centre outside Seychelles as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of regulation 8 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

(11) Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

(12) In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside Seychelles.

(13) Subregulation (1)(c) The royalties and licence fees referred to in sub regulation 1(c) of regulation 8 may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in Seychelles shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

(14) Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the

imported goods if such payments are not a condition of the sale for export to Seychelles of the imported goods.

(15) Subregulation (2) Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of regulation 8, the transaction value cannot be determined under the provisions of regulation 5. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

11. Note to regulation 15 —

For the purposes of regulation 15, "time of importation" may include the time of entry for customs purposes.

12. *Note to Article 11* is provided for under section 32 of the Customs Management Act, 2011 —

(1) Section 32 provides the importer with the right to appeal against administrative decisions such as those against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

(2) Appeal shall be without penalty by the importer or any other person liable for the payment of duty. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

(3) Nothing in Article 11 as represented under section 32 of the Customs Management Act, 2011 shall prevent a Member from requiring full payment of assessed customs duties prior to an appeal.

13. *Note to Article 15* is provided for section 1 of the Customs Management Act, 2011 —

(1) Section 2 For the purposes of Article 15, which provides for definition under section 2 of the Customs Management Act, 2011, the term "persons" includes a legal person, where appropriate.

(2) Regulation 4(e) For the purposes of the Agreement, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

SCHEDULE 3

[Regulation 23(a)]

BOND FOR SHIPMENT OF STORES

Part A

I /We, ______________________________
of ______________________________ (the "Exporter")

and ______________________________
of ______________________________ (the "Surety")
hereby acknowledge that I am/we are bound to the Assistant Commissioner of Customs in the sum of SCR ______________ to be paid to the Seychelles Revenue Commission for which payment I/we bind myself/ourselves jointly and severally and also to my/our heirs, executors, administrators and assigns and every one of them firmly by these presents.
Dated this _____ day of _______________ year _________

I/We the above named intend to load as stores on board the ______________ (vessel/aircraft) now lying in the port/airport of ______________, the goods set forth in the attached Requisition to Ship Stores from Bond.

I/We understand that the conditions of this obligation are as follows —

(i) the goods shall be loaded on board the ______________ (vessel/aircraft) and shall be used as stores on the same vessel/aircraft or otherwise accounted for to the satisfaction of the Assistant Commissioner of Customs.

(ii) the packages containing the goods shall not be opened nor any of the goods therein taken out or altered, until the ______________ (vessel/aircraft) has left the place of final departure on her intended foreign journey.

That I/we further understand that the fulfillment of these conditions shall discharge this obligation, but that this obligation shall be and remain in force in the event of non-fulfillment of these conditions.

Signed, Sealed and Delivered by the above Exporter
____
____
} ___________(Seal)
Exporter

in the presence of:
____
____
} ___________(Seal)
Witness

Signed, Sealed and Delivered by the Surety:
____
____
} ___________(Seal)
Surety

in the presence of:
____
____
} ___________(Seal)
Witness

Official Stamp

Approved: ______________________________
(for) Assistant Commissioner of Customs

PART B

TO THE ASSISTANT COMMISSIONER OF CUSTOMS **Date: ...../...../....**

Sir,

I request permission to ship as stores from the Bonded Warehouse at this Port, on board the vessel ______________ whereof ______________ is Master, bound for ______________ the under mentioned articles, which I certify are *bona fide* intended for use for the vessel, viz:

Quantity and description of goods	Name of importing vessel and where from	When warehoused and by whom	Name of Bonded Warehouse

Yours faithfully,

....
Master/Agent/Provider

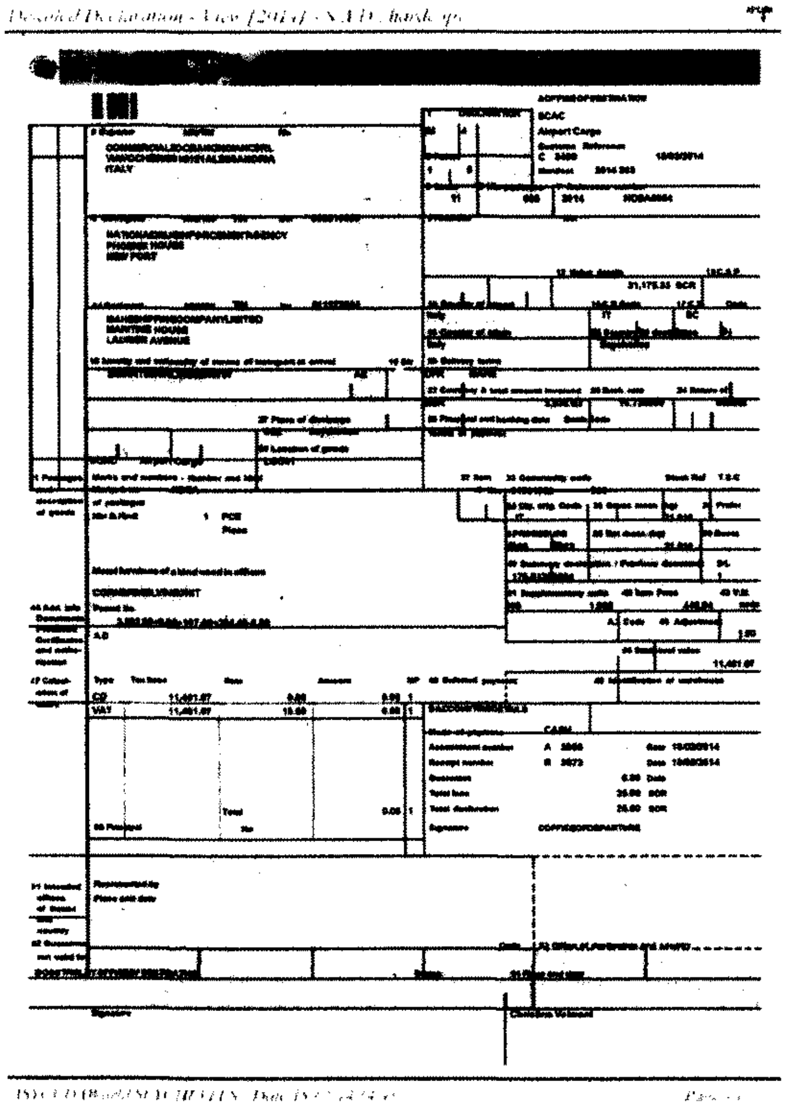
Permission granted this ________ day of ______________, 20__

....
for Assistant Commissioner of Customs

SCHEDULE 4

[Regulation 31]

DECLARATION FORM


[redacted]

Seychelles Revenue Commission

Customs Divison

2 Exporter No COMMERCIALE OCEANO INDIANO SRL VIA VOCHIERI 66 15121 ALESSANDRIA ITALY	1 DECLARATION: IM 4 — SCAC Airport Cargo Customs Reference: C 3490 18/02/2014 Manifest 2014 283 3 Forms: 1 5 — 4 Load 5 Items: 11 — 6 Nbr: 666 — 7 Reference: 2014 NDEA6684
8 Consignee No 806513585 NATIONAL DRUG ENFORCEMENT AGENCY PHOENIX HOUSE NEW PORT	12 Value details: 31,175.00 SCR — 13 C A P 15 Country of export: Italy — 15 C E: IT — 17 C D: SC — Code 16 Country of origin: Italy — 17 Country of destination: Seychelles
14 Declarant No 511278264 MAHE SHIPPING COMPANY LIMITED MARITIME HOUSE LAURIER AVENUE	20 Delivery terms: CFR MAHE 22 Currency & total amount: EUR 3,533.630 — 23 Exch rate: 16.739600 — 24 Nature of transac
18 Identity and nationality of means of transport at: EMIRATES AIRLINES EK0707 AE — 19: no	29 Office of entry/exit: SCAC Airport Cargo — 30 Location of goods: LOC01
27 Place of loading/unloading: SEZ Seychelles	FREIGHT 1: 27,988.6 — FREIGHT 2: 0.000 INSURANCE: 853.720 — OTHER: 2,333.00 — DEDUCTIONS: 0.000

ITEMS INFORMATION

Item	Type	Tax base	Rate	Amount	MP
Item No 1 — Commodity code 94031000000 Item Value 11,401.67 — Supp. units 1.0 KG Cty orig Code IT — Packages 1 Piece PROCEDURE 4000 422 — Gross mass (kg) 21.810 Permit No — Net mass (kg) 21.810 — Prefer Metal furniture of a kind used in offices CORNER SHELVING UNIT	CD VAT	11,401.670 11,401 670	0.000 15.000	0.00 0.00 0.000	1 1
Item No 2 — Commodity code 85442000000 Item Value 25,306.59 — Supp. units 250.0 KG Cty orig Code IT — Packages 250 Metre/Yarn PROCEDURE 4000 422 — Gross mass (kg) 21.810 Permit No AIP2014-3196 — Net mass (kg) 21.810 — Prefer Co-axial cable and other co-axial electric conductors CABLE 1 CORE	CD VAT	25,306.590 25,306.590	0.000 15.000	0.00 0.00 0.000	1 1
Item No 3 — Commodity code 85099000000 Item Value 4,294.37 — Supp. units 10.0 KG Cty orig Code IT — Packages 10 Piece PROCEDURE 4000 422 — Gross mass (kg) 21.810 Permit No — Net mass (kg) 21.810 — Prefer Parts for electro-mechanical domestic appliance with self-contained electric FLEX RUBBER PAD FOR POLISHER	CD VAT	4,294.370 4,294.370	0.000 15.000	0.00 0.00 0.000	1 1
Item No 4 — Commodity code 42032900000 Item Value 12,729.97 — Supp. units 150.0 NM Cty orig Code IT — Packages 150 Piece PROCEDURE 4000 422 — Gross mass (kg) 21.810 Permit No — Net mass (kg) 21.810 — Prefer Other gloves,mitten & mitts of leather or composition leather PROTECTIVE GLOVES	CD VAT	12,729.970 12,729.970	0.000 15.000	0.00 0.00 0.000	1 1

50 Principal I/We the undersigned being the Importer/Exporter/Agent do herby declare that the information declared on this entry is true and complete and accept conditions and requirements attached to the use of CPC declared therein, and comple with the provision of the Trade Tax Regulations Airport Cargo 18/02/2014	Account Number — 49 Identification of warehouse ACCOUNTING DETAILS Mode of payment: CASH Assessment number: A 3906 — Date 18/02/2014 Receipt number: R 3873 — Date 18/02/2014 Guarantee: 0.00 — Page Total fees: 25.00 Total declaration: 25.00

Seychelles Revenue Commission

Customs Divison

Manifest	2014 283		
Customs Reference	C 3490	18/02/2014	
Reference number	2014	NDEA6684	
Declaration	IM	4	
Forms	2	5	
Office of destination	SCAC	Airport Cargo	

ITEMS INFORMATION

Item No	Commodity code	Item Value	Cty orig. Code	PROCEDURE	Supp. units		Packages		Gross mass (kg)	Net mass (kg)	Description	Type	Tax base	Rate	Amount	MP
5	40151900000	5,879.29	IT	4000 422	100.0	NM	100	Piece	21.810	21.810	Mittens and mitts, of vulcanised rubber other than hard rubber PROTECTIVE GLOVES	CD VAT	5,879.290 5,879.290	0.000 15.000	0.00 0.00 0.000	1 1
6	90049090000	15,107.15	IT	4000 422	150.0	KG	150	Piece	21.810	21.810	Other protective wear PROTECTIVE GOGGLE WITH MASK	CD VAT	15,107.150 15,107.150	0.000 15.000	0.00 0.00 0.000	1 1
7	84818000000	716.29	IT	4000 422	1.0	NM	1	Piece	21.810	21.810	Other appliances for pipes, boiler shells, tanks, vats or the like PVC-U BALL VALVE	CD VAT	716.290 716.290	0.000 15.000	0.00 0.00 0.000	1 1
8	85369000000	7,553.41	IT	4000 422	1.0	KG	1	Piece	21.810	21.810	Other apparatus 24V ELECTRICAL ACTUATOR	CD VAT	7,553.410 7,553.410	0.000 15.000	0.00 0.00 0.000	1 1
9	85369000000	354.55	IT	4000 422	1.0	KG	1	Piece	21.810	21.810	Other apparatus ACTUATOR SUPPORT	CD VAT	354.550 354.550	0.000 15.000	0.00 0.00 0.000	1 1
10	84831000000	542.03	IT	4000 422	1.0	NM	1	Piece	21.810	21.810	Transmission shafts (including cam shafts and crank shafts) and cranks ACTUATOR S/S SHAFT	CD VAT	542.030 542.030	0.000 15.000	0.00 0.00 0.000	1 1
11	85381000000	6,441.73	IT	4000 422	1.0	KG	1	Piece	21.900	21.900	Boards,panels,consoles,desks,cabinets other bases for goods hd.85.37,not ELECTRICAL PANEL	CD VAT	6,441.730 6,441.730	0.000 15.000	0.00 0.00 0.000	1 1

Permit No — Prefer

SCHEDULE 5

[Regulation 77(2)]

APPLICATION FOR ACTION BY CUSTOMS DIVISION

PART 1

1. Date of receipt of the application for action by the Customs Division

DD/MM/YY: - ..../..../....

2. Seychelles Revenue Commission (Customs Division)
P. O. Box 50
Orion Mall, Republic of Seychelles

3. Details of applicant (i.e. rightsholder within the meaning of regulation 83 of the Customs Management Regulations, 2014).

NAME: ....
....

FUNCTION: ....
....

ADDRESS: ....
....
....

NO VAT: ....

TEL.: ....

MOBILE: ....

FAX: ....

E-MAIL: ....

INTERNET ADDRESS: ....
....

4. Confirmation of applicant (within the meaning of regulation 83 of the Customs Management Regulations, 2014) [1]

☐ Rightsholder (*) ☐ Rightsholder's representative (*)

☐ Authorised user of the right (*) ☐ Representative of authorised user (*)

*See box 9 (for additional information see "**Notes on completion**", Part 2 - A

[1] Tick the appropriate box (es).

5. Type of right to which application refers:

☐ Trade mark ☐ Industrial Design ☐ Geographical Indication for wines or spirits

☐ Geographical indication ☐ Protected plant variety ☐ Utility Model Certificate

6. I attach essential data on the authentic goods:

☐ Number of documents attached ☐ Number of photos attached

7. I attach specific information concerning the infringement:

☐ Number of documents attached ☐ Number of photos attached

8. I attach document(s) attesting to the fact that the applicant holds the right for the goods in question within the meaning of regulation 83 of the Customs Management Regulations, 2014.

☐ Number of documents attached

9. I am in compliance with regulation 78(2) of the Customs Management Regulations, 2014 indemnifying Customs against liability.

Indemnification attached: ☐

10. Any other information in the right holder's possession, e.g.:

- Country or countries of production Number of documents attached ☐
- Routes used by traffickers Number of documents attached ☐
- Technical differences between the authentic and the suspect goods: Number of documents attached ☐
- HS Tariff heading :______________
- Other useful information Number of documents attached ☐

11. Date of filling of application:

Date on which drawn up	Place	Applicant's signature*
DD/MM/YY: ...../...../.....	....	....

12. DECISION BY CUSTOMS (within the meaning of regulation 77(3) of the Customs Management Regulations, 2014.

☐ The application is approved

Registration Number of Application for Action: ....

Date	Place	Signature and stamp
DD/MM/YY: ...../...../.....	....	....

☐ The application is valid until: ..../..../....,

☐ The application has been refused

A reasoned decision stating the grounds for refusal and information concerning the appeal procedure are attached.

Date	Place	Signature and stamp
DD/MM/YY: ...../...../.....	....	....

13. ACKNOWLEDGEMENT OF RECEIPT

Concerning application made by .... (name of the applicant)

NAME: ....

PLACE AND DATE OF RECEPTION: ....

SIGNATURE AND STAMP: ....

* If the applicant is a representative of the right holder, he must provide proof that he is empowered to represent the right holder.

PART 2

NOTES ON COMPLETION

1. **MANDATORY INFORMATION ON RIGHTS AND ABILITY TO ACT:**

(a) Where the holder of the right makes the application himself—

(i) in the case of a right that is registered or for which an application has been lodged, proof of registration with the relevant office or lodging of the application,

(ii) in the case of a copyright, related right or design right which is not registered or for which an application has not been lodged, any evidence of authorship or of his status as original holder;

(b) Where the application is made by any other authorised users, in addition to the proof required under, the document showing authorisation to use the right in question;

(c) Where a representative of the right holder or of any other authorised users, in addition to the proof required under subparagraphs (a) and (b), proof of authorisation to act.

(d) Box 5 contains all geographical indications. Protected geographical indication means the official indications following the geographical designations for spirit drinks means the official designations following the Individual producers as well as groups and their representatives are entitled to make an application.

(e) Registration and specifications are required when an application is made for clause on protected geographical indication.

2. **WHAT DOES THE APPLICATION FOR ACTION HAVE TO CONTAIN:**

An application for action can be used by the right holder, free of charge, either as a preventive measure or where he has reason to think that his intellectual property right or rights have been or are likely to be infringed.

The application must contain all the information needed to make the goods in question readily recognisable by the customs, and in particular—

(i) an accurate and detailed technical description of the goods,

(ii) any specific information the right holder may have concerning the type or pattern of fraud,

(iii) the name and address of the contact person appointed by the right holder,

(iv) the security required of the applicant by regulation 78 of the Customs Management Regulations, 2014 and proof that the applicant holds the right for the goods in question.

3. **HOW TO FILE AN APPLICATION FOR ACTION:**

The right holder must submit his application for action to the relevant office referred to in Box 2 of the form. On receipt of the application, customs will process it and notify the applicant in writing of its decision within 30 working days. If the office refuses the application by reasoned decision, the applicant has the right of appeal.

4. **EXPLANATIONS OF THE MAIN BOXES TO BE FILLED IN BY THE APPLICANT:**

Box 3: Name, address and capacity of the applicant. Within the meaning of regulation 82 of the Customs Management Regulations, 2014, the applicant may be the rightsholder himself, a person authorised to use the intellectual property right or a designated representative.

The person, physical or moral, who fills in box 3 of the application for action must, in all cases, be the one who will provide the documents foreseen in box 9 of the application for action.

Box 4: Status of the applicant. Tick the appropriate box.

Box 5: Type of right concerned by the application for action. Tick the appropriate box.

Boxes 6-7-8-: These boxes are very important. Accurate, practical details must be provided to enable the customs authorities to quickly identify the goods detained (photos, documents, etc.). Specific information relating to the type or pattern of fraud will facilitate risk analysis. The information should be as detailed as possible to allow the customs authorities to identify suspect consignments simply and effectively using risk analysis. These boxes should be used to provide customs with more accurate intelligence in relation to products and so improve its understanding of trafficking. Additional supporting details can be provided such as: the pre-tax value of the legal goods, the location of the goods or their intended destination, particulars identifying the consignment or packages, the scheduled arrival or departure date of the goods, the means of transport used, the identity of the importer, exporter or holder.

Box 11: By signing this box, the right holder certifies that he accepts the terms of the regulation and his obligations.

Box 12: The duly completed and signed form must be submitted to customs.

MADE, this 30th day of May, 2014.

PIERRE LAPORTE
MINISTER OF FINANCE, TRADE AND INVESTMENT